

# **Scoil Mhuire**

## **Custody and Separation Policy**

### **Introduction and Rationale**

The separation of parents following marital or non-marital difficulties is extremely traumatic for all parties involved and this is particularly true where children are concerned. The issue of marital and non-marital separation will be approached with sensitivity and with a clear focus on the well-being of children when in the care of Scoil Mhuire Abbeyside. This policy will try to provide clear parameters regarding the school's approach to the issue of parental separation.

### **Guardianship**

In a marital relationship both parents are joint guardians. In a non-marital relationship the mother is automatically the guardian of any children. It is open to the natural father to be appointed a guardian through the courts.

### **Parental Separation**

There may be a number of different situations in which parental separation takes place.

- “no formal/legal arrangements in place for custody/access to children
- Custody and access of children set out in a mediation agreement (no formal legal standing)
- Separation Agreement/Deed of Separation (negotiated between both parties Solicitors)
- District Court Orders for Custody and Access;
- Decree of Judicial Separation (Circuit and High Court) may deal with custody/access
- Foreign Divorce/Decree
- Irish Decree of divorce.

### **Custody and Access of Children**

Parents, although separated following marriage breakdown, remain the legal guardians of their children. In cases of marital breakdown the issue of custody and access arise.

Arrangements range from both parents sharing joint custody or with one parent having custody and the other parent having access.

Irrespective of the issue of custody in marriage breakdown, parents remain as joint guardians of their children and their legal obligations and rights as guardians remain unaltered.

Custody may be defined as the daily care and control of the child. The right of custody is only one of the rights that arise from the guardianship relationship between parent and child. Guardianship gives both parents a say in all matters affecting the welfare of their child/children whether physical, religious, moral, social and educational – irrespective of the issue of custody. As guardians, parents continue to have rights in relation to their upbringing of their child. Essentially the issue of guardianship supersedes that of custody

### **Implications for Scoil Mhuire**

- a) Where separation between guardians exists the school will afford the same rights to both parents in matters affecting the welfare of their child/ren unless precluded by court order.
- b) Access to a child will only be denied to a guardian where there is a court order denying that access or where TULSA have engaged with the school and the school is informed that there is a concern in relation to child protection.
  - When a child spends time in two homes, the school should be provided with both sets of emergency/contact numbers.
  - In the absence of a custody arrangement, both parents will be treated as equal partners in terms of parenting rights and responsibilities.
  - Regarding the collection of the children from school, the school need to be informed of any changes in collection arrangements by note.
  - It is school policy to give separate parent/teacher meetings only if the school is informed of such a need. Once agreed, any arrangements for meetings will be communicated through a note home/text to each party.
  - It is assumed that when we wish to communicate with parents regarding their child, the parent who is contacted (i.e. the parent with whom the child principally resides) will inform the other parent of meetings, arrangements, etc.
  - Regarding notes, school communication via schoolbags, school reports, etc., it is assumed that the parent with whom the child principally resides will keep the other parents informed.
  - The school cannot be asked to withhold a child from either parent, in the absence of a custody arrangement/court order or child protection concern.
- c) During school hours, children are under the control of the principal and teachers who are in “loco parentis”. Where a parent (or other family relation of either side) seeks to use the school as a venue for information access to his/her children, the principal and teacher should decline the occurrence of this.
- d) Where custody and/or the collection/delivery of children to/from school are in dispute and brought to their attention, teachers should bring the matter to the principal.
- e) Appropriate information, relevant to the child, regarding family structure etc., may be passed on from teacher to teacher within the school as part of normal professional communications.
- f) Generally, the prior written consent of both parents should be sought where outside agencies (psychologists, social workers etc.) are seeking a report or are seeking to write a report on a child. However, there may be circumstances where it may not be appropriate to obtain the prior written consent of the parents (e.g.) cases involving alleged child abuse. In such cases the terms of “Children First” will be followed.

### **Success Criteria**

This policy will be reviewed in terms of how it provides clarity to the situations regarding custody and separation that occur in the school over the next five years. Feedback from staff and parents will inform that review.

### **Review**

This policy will be reviewed in September 2021.

Ratified by the Board of Management on the 29<sup>th</sup> of November 2016