

Contact /Residence

Application

The application is made on a standard form to the appropriate court. This will usually be the local County Court close to where the child or children reside or an application can be made to the Principal Registry in London depending on the complexity of the case.

Direction's Appointment

The first court hearing will be a direction's appointment. This is usually within 4 to 6 weeks of the making of the application. It is not the full hearing but rather an opportunity for the Judge to assess the matters in issue, the evidence required and any reports which should be prepared.

The usual directions (or guidance) will be given by the Judge and these may include to file a statement of their case or for a CAFCASS Report to be prepared.

Conciliation

Particularly in contact applications, attempts will be made to try and see if matters can be agreed satisfactorily between the parties.

The court will enlist a Children and Family Court Advisory and Support Service (CAFCASS) Officer who will normally see both parties before the direction's appointment for this purpose. The Judge will encourage both parties with the help of the CAFCASS Officer who is a professional children's advisor to try and seek settlement to prevent the matter proceeding through the court any further.

The CAFCASS Officer may see both parties after the direction's appointment to try to agree matters between them. In some County Courts, the first hearing will be a conciliation appointment for one hour before a CAFCASS Officer.

In either case, the court will fix a date for the matter to be reviewed.

No Order

If it proves possible to agree arrangements between the parties, then the court may well not make any order at all. This is called the 'No Order Principle'.

This is because the philosophy of the Children Act is to leave parents to get on with the upbringing of children without interference from a court unless difficulties and disputes make it necessary for a court to intervene.

Before making an order, a court has to decide whether making the order is better for the child or children than not making an order. Where there are agreed arrangements between the parties, the tendency will be for this 'balancing' decision to be made in favour of making no order.

Welfare Report

Where it is clear from the outset or becomes clear following conciliation attempts that no agreement can be reached between the parties, a Welfare Report prepared by a CAFCASS Officer may be needed. As already mentioned, one of the directions made at the direction's appointment may well be for the preparation of such a Report.



Nockolds LLP
Solicitors

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Family Team

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The preparation of a Welfare Report can take 2 and 6 months because of the work involved and the strains on the CAFCASS Service which is constantly being reported on in the media.

You will have the opportunity of seeing the Welfare Report before the final hearing of the application. Its contents may very well influence the decision whether or not to proceed to a full hearing.

Full Hearing

If no agreement has been reached between the parties with the help of the CAFCASS Officer, the Solicitors and/or Barristers, the court and the Judge, then a final hearing will be listed. All parties will need to attend and the CAFCASS Officer may be asked to attend. Both parties will give evidence. The Judge will make a decision and will often heavily rely on what is said by the CAFCASS Officer.

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