

FACT SHEET

# How To Guide: Children Proceedings

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## Step 1: Establish the Type of Order You Want

Establish which type of order you want the court to make. The types of order in private children proceedings are:

- » Child arrangements - who a child should live with and who a child should spend time with;
- » To determine a specific issue in relation to a child (such as which school the child should attend);
- » To prohibit certain steps being taken in relation to a child (such as the removal of a child to a different country);
- » Parental responsibility;
- » Appointment of a guardian.

## Step 2: Are You Entitled to Make the Court Application?

Establish whether you are entitled to make the court application, or if you need the court's permission to make the application.

## Step 3: Meet with a Mediator

Unless an exemption applies, you will need to meet with a mediator, who will sign the form that is used to start court proceedings. This meeting is known as a Mediation Information and Assessment Meeting (MIAM).

The purpose of the MIAM is for the mediator to discuss with you whether mediation

may be a suitable forum to negotiate rather than the court process being used.

If you remain of the view that court input is required, the mediator should sign the form so that it can be sent to the court.

#### Step 4: Apply to Court

The court will send a copy of your application to all persons who are named as the respondents in your application. That should include those with parental responsibility for the child, the child's parents and any relevant person, such as whom the child lives with. Those people will need to complete a form to confirm to the court that they have seen your application.

The court will also send a copy of your application to The Children and Family Court Advisory and Support Service (CAFCASS).

CAFCASS is a group of specialist social workers who assist the court and help individuals to agree issues in relation to children if possible.

On receipt of the application, CAFCASS will check whether there has previously been any local authority or police involvement. CAFCASS will also speak to all relevant parties to obtain their views and concerns.

CAFCASS will then prepare a letter to the court (which is also sent to the parties) before the first court hearing. The letter will likely also contain some recommendations for ways to progress (or sometimes, to conclude) the case.

#### Step 5: Attend Court Hearings

The court will set down a timetable upon the receipt of the application, which will include the date of the first court hearing, known as the First Hearing Dispute Resolution Appointment (FHDRA).

At the FHDRA, the court will establish whether it is possible for the parties to reach an agreement on some or all of the issues, and if not, will set down directions to progress the case.

Directions are actions that need to be taken by the parties and/or CAFCASS. These may include:

- » That the parties each prepare a written statement which sets out what they want the court to order and why;
- » That CAFCASS has to prepare a detailed report, to comment and advise on any issues or concerns identified by them, and their recommendations.
- » The attendance of parties on a separated parents information programme (SPIP);
- » The instruction of an expert, such as a psychiatrist, to give an opinion on issues in dispute, such as the effect of one parent's behaviour on a child, or a child's ability to be able to have an opinion that should be given weight in the proceedings;
- » The arrangements for the child pending the next court hearing.

In complex cases, it is sometime necessary for there to be more than one directions hearing, as issues arise as the case progresses.

The second hearing is known as the Dispute Resolution Appointment (DRA). The purpose of this hearing will be for the judge to encourage the parties to reach an agreement, usually taking into account the recommendations in the CAFCASS report.

If an agreement cannot be reached, the court may make further directions for steps that need to be taken before the next, and final, hearing.

A final hearing will take place, and the court will make a decision at that hearing.