

Dispute over an issue relating to children and/or arrangements for children

**Prior to issuing proceedings**

Consider Non Court based solution: e.g. mediation, collaborative law, arbitration or solicitor led negotiation.

If intend to proceed with court: Compulsory attendance at a MIAM (unless an exemption applies).

**Application to Court**

Complete Form C100 (with Form C1A if the Applicant wishes to make allegations of harm and domestic violence, and attaching a parenting plan if prepared).

The Application form(s) must be sent to the court with the court fee or form EX160 if claiming exemption.

Referred to Gate Keeping Officer at Court.

**Safeguarding checks:** On an application for a Child Arrangements Order (but not necessarily for a prohibited steps order or specific issue order) CAFCASS identify any safety issues by carrying out safeguarding enquiries and within 17 days of receipt of the application.

At least 3 working days before the First Hearing the CAFCASS officer must report to the Court in a safeguarding letter.

**Service and Acknowledgment**

The court will issue the proceedings, which are served on the Respondent and CAFCASS at least 14 days before the hearing (unless the court has directed otherwise).

The Respondent must send an Acknowledgment (Form C7) and C1A (if appropriate) to the court within 14 days after receiving the application, unless the court has specified a shorter time period.

**First Hearing and Dispute Resolution Appointment [FHDRA]**

Purpose is to assist the Court to identify the issues and decide how best to progress the application.

Interim contact may be considered.

The Court can also address if further information is needed for the Court to make a decision e.g. give directions for police evidence, a report from CAFCASS, statements from the parties, whether to appoint a children's guardian etc.

Parents may also be directed to attend a SPIP.

If issues of domestic abuse are raised, the Court must follow the guidance set out in the [Family Procedure Rules Practice Direction 12J](#)

If either domestic or child abuse are alleged a Separate Finding of Fact Hearing may be necessary.

**Dispute Resolution Appointment [DRA]**

Court and the parties review the matter in light of the information now available.

The Court can list as many DRAs as it feels necessary.

**Final hearing**

This is a longer hearing where the Court makes a final decision. It may hear evidence from both parents and CAFCASS or social care if they are involved.

The Court makes its decision with reference to the welfare checklist of factors set out in the [Children Act 1989](#).

**Consent Order:** If the parties reach agreement, they can ask the Court to make an order at any point in the proceedings.

## Definitions

**Applicant:** The person making the court application/asking the court to make an Order.

**Arbitration:** A privately funded, out of court, form of dispute resolution which can provide an outcome if matters proceed on a contested basis. It is a highly adaptable process where both parents work with their appointed arbitrator to manage the case. If agreement cannot be reached the arbitrator will make the decision.

**CAFCASS / CAFCASS Cymru – Children and Family Court Advisory and Support Service:** CAFCASS represents children in cases in the Family Court. They are an independent agency who advise the Court in relation to children's safety and what is in their best interests.

**CAFCASS Report:** A welfare report, prepared under section 7 of the Children Act 1989. The report will be on such matters relating to the welfare of that child as are required to be dealt with in the report. The report may be in writing or oral.

**Child Arrangements Order:** These orders set out who the child lives with or spends time with and what the arrangements will be. If a party is granted a 'live with' order, then they will automatically have parental responsibility for the duration of that order. The orders can be very specific and can cover arrangements during term time and school holidays/ special occasions or can be more flexible and leave areas to be agreed between the parties.

**Child Arrangements Programme:** A process that applies where a dispute arises between separated parents and/or families about arrangements concerning children. It is designed to assist families to reach safe and child-focused agreements for their child, where possible out of the court setting. If parents/families are unable to reach agreement, and a court application is made, the CAP encourages swift resolution of the dispute through the court.

**Children's Guardian:** A person (usually a specialist social worker) appointed by the court to look after the interests of a child in the case.

**Collaborative law:** A family law process which involves both parties engaging their own collaboratively trained solicitors. Both parents and their solicitors agree in writing not to go to court. All issues are discussed in 4 way meetings, whether in person or remotely, through video conferencing.

**Consent Order:** When parties reach an agreement which resolves the dispute, the judge may agree to make that agreement into an order called a consent order.

**Dispute Resolution Appointment:** This is a court hearing which takes place to explore if the dispute can be sorted out with the help of a judge. The Court and parties review the matter to see whether the key issues can be resolved or narrowed and consider whether it can be used as a final hearing. If not, the court will determine what the issues are and provide case management directions to final hearing.

**Fact Finding Hearing:** A court hearing set up for the court to decide on issues of fact or allegations which are in dispute.

**Family Procedure Rules 2010:** The rules of court which govern family cases.

**Final Hearing:** When the court imposes a final decision on the parties.

**First Hearing and Dispute Resolution Appointment:** This is a court hearing which takes place at the beginning of the court's involvement. A FHDRA would normally take place between 4–6 weeks following the issuing of the application due to COVID-19 some courts are dealing with delays due to backlogs of applications and timescales may vary. Both parties must attend (with legal representatives). CAFCASS usually attends this hearing.

**Gate Keeping Officer:** The nominated District Judge and/or nominated Legal Adviser responsible for deciding which level of judge in the family court should initially deal with an application. The application is considered within one working day of the date of receipt by the Gate Keeper. Where it appears that an urgent issue requires determination, the Gate Keeper may give directions for an accelerated hearing.

**Interim Contact:** Contact/time spent with a parent that takes place between the first court hearing and the final hearing. If interim contact cannot be agreed at FHDRA a separate hearing may need to be listed to deal with that prior to the DRA.

**Mediation:** A confidential and impartial family law process. Together with your chosen mediator, the parties set the pace and agree topics for discussion and frequency of meetings. The mediator helps facilitate a supported conversation and has a responsibility to try to help parents focus on what is best for the children. Mediation is not about relationship counselling, but helps parents to try to reach an agreement on the arrangements for their children.

**MIAM – Mediation Information and Assessment Meeting:** This meeting provides information about the mediation process. It is conducted by a trained mediator who will assess whether mediation is suitable taking into account the particular circumstances of the case. It should be held within 15 working days of contacting the mediator.

**Parenting Plan:** A written plan worked out between parents after they separate covering the practical issues of parenting. The Plan can help clarify the arrangements needed to put in place to care for children after separation, without having to go to court

**Practice Direction 12J:** Part of the Family Procedure Rules 2010 that sets out how the court should deal with allegations of domestic abuse.

**Prohibited Steps Order:** An order providing that a specified step, which could usually be taken by a party in meeting their parental responsibility for a child, cannot be taken without the consent of the Court. Examples of such steps include authorising medical treatment, changing a child's school or changing a child's surname.

**Respondent:** The person or people receiving the court application.

**Safeguarding and Safeguarding checks:** Assessing safety/risk of harm. CAFCASS make enquiries about the adult parties named in the application. They make police national computer checks [PNC] at level one and then decide based on the results if enhanced police checks are needed. They also check with the local authority if the family is known to them. A CAFCASS officer then telephones all parties to conduct risk identification telephone interviews and if risks of harm are identified, may invite parties to meet separately with the CAFCASS Officer before the FHDRA to clarify any safety issue. They then put all of the relevant information into a safeguarding letter which is sent to the Court and all parties.

**Separated Parents Information Programme (SPIP):** a course which encourages parents to put children first whilst separating. The programme deals with how to manage difficulties, communication between parents and the impact of conflict upon children. Parents can self-refer [there may be a cost in this case] or can be ordered to attend by the Court [in this case the course is usually free].

**Service of Proceedings:** If possible at the time of issue (processing by the court), and in any event by no later than one working day after issue, or in courts where applications are first considered on paper by no later than two working days after issue, the court shall provide the Applicant with: (i) A copy of the application form C100 (together with the Supplemental Information Form C1A) (ii) Notice of Hearing (iii) Acknowledgment Form C7 (iv) A blank Form C1A, (if required) (v) Information leaflets for the parties (which must include the CB7 leaflet), Unless the Applicant requests to do so, or the court directs the Applicant to do so, the Court will serve the Respondent(s) with the documents above.

**Specific Issue Order:** An order relating to a specific question about a child's upbringing. Examples include which school a child will attend, which religion a child should follow and whether a child can go on holiday abroad.

## Children Act 1989

The Children Act 1989 provides as follows in Section 1(1):

- (1) the child's welfare is the court's paramount consideration;
- (2) delay is likely to be prejudicial to the welfare of the child, and
- (3) a court order shall not be made unless the court considers that making an order would be better for the child than making no order at all.

In Section 1(3) the Act provides a welfare checklist, being a list of factors that a court has to consider before making, varying or discharging an Order. The factors include:

- The ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding).
- Physical, emotional and educational needs.
- The likely effect on him of any change in his circumstances.
- Age, sex, background and any characteristics of his which the court considers relevant.
- Any harm which he has suffered or is at risk of suffering.
- How capable each of his parents, and any other person in relation to whom the court considers the question to be relevant, is of meeting his needs.
- The range of powers available to the court under the Children Act 1989 in the proceedings in question.