



/guide



Your questions answered

HOW TO: **MANAGE CHILDREN HEARINGS** **IN THE FAMILY COURT**

[Watch the supporting 'Manage Children Hearings in the Family Court' video](#)

This Stowe talks: How to guide explains how to manage children hearings in the family court.

One of the biggest considerations for separating parents is agreeing how their children will spend time with each parent.

For most of them, it is possible to reach an agreement together or through other forms of dispute resolution, such as mediation or negotiation through solicitors.

Unfortunately, some separating parents struggle to agree and reach the point where an application to the family courts is necessary to resolve the situation and obtain a child arrangements order.

Before you can apply to the court, you must have tried to attend mediation to resolve matters. If mediation proves unsuccessful or not appropriate by the mediator, for example, if there are domestic abuse allegations, you will receive a certificate which will allow you to start the application process.

How do you start children proceedings in the family court?

You start children proceedings in the family court by completing the form C100. The application will usually be issued and heard in the court closest to the child's home, unless other proceedings are already underway.

Once the court receives the application, they will set a date for the first hearing and send a copy of the application notice to the respondent. The respondent has 14 days to file an

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acknowledgement with the court that they have received the application and whether they oppose it.

If any allegations are to be raised as part of your application, this can be brought to the court's attention by completing form C1A. This includes any abuse from the respondent against both the applicant and the child. Allegations can be made in relation to any physical, emotional, psychological, financial, sexual and drug and alcohol abuse.

Once proceedings have been issued and before any hearings take place, all parties will be contacted by a Children and Family Court Advisory and Support Service officer, also known as CAFCASS.

The officer is an independent social worker experienced in assisting parents and children in a dispute. Both parties will have the opportunity to express their views to the CAFCASS officer, who will identify the issues and explore possible areas of agreement.

The CAFCASS officer will undertake background checks on all parties to determine whether the family is known to social services and whether anyone involved in the case has a criminal record.

The CAFCASS officer will consider whether the results of those enquiries are relevant to the child's safety and wellbeing, and a safeguarding letter will be sent to the court for the first hearing.

What can be decided at a children hearing?

The family court has the power to make various orders regarding children. These can include:

- A Child Arrangements Order - an order that determines where a child will live, how often they should spend time with each parent, and whether there should be an order for shared care.
- A Specific Issue Order - an order that covers a particular issue, for example which school the child should attend, whether they should participate in a religious ceremony, or if they should have a particular vaccination.
- A Prohibited Steps Order - These orders prevent something from being done in relation to the child, for example being taken out of the country, spending time with a specific person, or their name or school being changed.

What factors does a court consider when agreeing child arrangements?

When making an order, the child's welfare will be the court's paramount consideration. The court has a 'welfare checklist' of factors it will pay close attention to when making a decision.

The 'welfare checklist' includes:

1. The child's wishes and feelings
2. Their physical, emotional and educational needs
3. The likely effect on the child of any changes in their circumstances
4. The child's age, sex, background and any characteristics which the court sees as relevant
5. Any harm the child has suffered or is at risk of suffering
6. How capable each parent is of meeting the child's needs, or any other person the court sees as relevant
7. In addition to these factors, the court has the power to consider any other factors they consider relevant to ensure the welfare of the child.

What are the different types of children hearings?

If you have to go to the family court to reach an agreement on arrangements for your children, the process involves various hearings depending on the case.

There are three key stages in most Children Act applications. However, it is important to note that most matters settle at the first hearing, and it is unusual for a case to go to the final hearing stage.

In a straightforward case, you can expect the proceedings to take an average of 6-9 months to reach the Final Hearing.

What is the first hearing in children proceedings called?

The first hearing is called a First Hearing Dispute Resolution Appointment, an FHDR for short.

This is where the parties should try to negotiate a settlement outside of court. If resolution is not possible, the judge will determine what steps need to be taken before the case can be decided.

The court will set a timetable and consider whether it is necessary for the parties to provide written evidence through

witness statements, and if any expert reports are required, for example from CAFCASS, the Local Authority, a Doctor or Educational Psychologist.

If a CAFCASS report is ordered, it may be at least 12 weeks until the next hearing. The CAFCASS officer will visit the parties in their homes, meet with the child, and may contact schools and other professionals involved in the child's life.

The CAFCASS officer will then prepare a report and make recommendations to the court, which often carries significant weight with the Judge.

At the FHDRA, the court will also consider whether it is necessary for further hearings to be listed before the final hearing, for example a Dispute Resolution Appointment or a Fact Finding Hearing.

What is Dispute Resolution Appointment?

A Dispute Resolution Appointment is usually listed following receipt of any expert reports and to ensure all directions have been complied with, or whether further evidence is required. The judge will again encourage parties to try and reach an agreement.

What is a Fact Finding Hearing?

A fact finding hearing is required, where the judge needs to decide whether any allegations made by either party are true.

Parties will be cross examined on their evidence, and if necessary, experts involved in the case will be called. The judge will hear the evidence and make findings of fact. Any fact finding hearing will take place before the final hearing.

What is a Final Hearing?

If no agreement is reached at the previous hearings, then all parties and the CAFCASS officer must attend the final hearing. Most final hearings are usually held in private, with only the parties and their legal teams permitted to be present.

At the final hearing, the judge will decide the issue after reading any reports and statements, hearing oral evidence from the parties and experts, and arguments about the law.

If there is enough time, the judge will give their judgment and make an order at the end of the final hearing, explaining how they reached that conclusion. If there is not enough time, it may be that the judgment is timetabled on a future date to allow the judge to consider the evidence and prepare a written judgment.

What happens next?

If an order is made at court, this order will be sealed and legally binding.

It is important that any implementation of the order is dealt with in accordance with the order, and it is therefore vital to seek legal advice and support if you are unsure about what you are expected to do.

If an agreement was reached with the other parent, and children proceedings were not necessary, it is still advisable to obtain a child arrangements order setting out the agreement.

This ensures it is legally binding and will help protect you from any further issues in the future. It is important that this is drafted by a solicitor before submission to the court.

The importance of legal advice

Going to the family court can be daunting, and it is important that you seek legal advice from a family lawyer.

Family lawyers are specialists in this area and qualified to advise you on your legal position throughout. They are experienced in guiding clients through the court process, so will ensure your case is well-prepared, you have all the relevant paperwork and evidence required, and your case is progressing, as it should be in line with the court directions.

Having the right person by your side can also help dial down the stress, so you can approach the hearings with the information and support you need to make well-informed decisions from a calm and measured place.

While there are exceptions, it is rare for either party to be awarded legal costs in Children Act proceedings. Each party should expect to cover their own costs.

Useful links

Online application for a child arrangement order: <https://www.gov.uk/looking-after-children-divorce/apply-for-court-order>

C100: Apply for a child arrangements order <https://www.gov.uk/government/publications/form-c100-application-under-the-children-act-1989-for-a-child-arrangements-prohibited-steps-specific-issue-section-8-order-or-to-vary-or-discharge>

Form C1A: Provide supplemental information when making or responding to allegations of harm and domestic violence <https://assets.publishing.service.gov.uk/media/601aa128e90e07128691d2ab/c1a-eng.pdf>

C79: Apply to the court to enforce a child arrangements order <https://www.gov.uk/government/publications/form-c79-application-related-to-enforcement-of-a-child-arrangement-order>

CB1: Guidance document on family court applications that involve children, what to expect in family legal proceedings, and which orders you can apply for. <https://assets.publishing.service.gov.uk/media/5fff01268fa8f563fd0c474a/cb1-eng.pdf>

C8: Apply to keep your details private in the family court https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/993551/c8-eng.pdf

Help with court fees

Find out more about help paying court fees here: <https://www.gov.uk/get-help-with-court-fees>

You can apply for help with court fees online here https://helpwithcourtfees.service.gov.uk/checklist?_ga=2.49897317.291397894.1693818360-2023738386.1683294732

Or download and complete Form EX160, for help with court fees here https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1139233/EX160_0422_save.pdf

Search for your local family court <https://www.gov.uk/find-court-tribunal>

Additional support

CAFCASS advises the family courts about the welfare of children and what is in their best interests <https://www.CAFCASS.gov.uk/>

For more Stowe talks: How to videos and further free resources, visit: <https://stowefamilylaw.co.uk/support>

Need more information?

Call our Client Care Team on **0330 838 7456** to speak with one of our specialist family lawyers or visit www.stowefamilylaw.co.uk

