

Children Court Proceedings (Non Financial)

Court Application

Every application regarding non-financial issues for children is referred to Cafcass (Children & Family Court Advisory & Support Service) for them to carry out safeguarding checks.

You will be contacted by Cafcass before the first hearing, so that they can gain further information from you and the other party for them to prepare an initial safeguarding letter to the Court.

This sets out both parents' views on the situation and whether or not Cafcass will be involved further after the First Hearing and Dispute Resolution Appointment (see below).

The Approach of the Court

The Court's paramount consideration is the welfare of the children. This means that the Court will primarily look at the children's interests ahead of what you, or your former partner, might desire.

In reaching its decision the Court will consider a number of factors. These are:

- The ascertainable wishes and feelings of the children (the older the children, the greater the significance of this factor).
- Their physical, emotional and educational needs.
- The likely effect on them of any change in circumstances.
- Their age, sex, background and any characteristics which are relevant.
- Any harm which they have suffered, or are at risk of suffering.
- How capable are you, your former partner and any other relevant person of meeting their needs.
- Any other powers open to the Court.

First Directions Appointment

When the Court first receives an application, it will fix a first directions appointment (Court Hearing), known as FHDRA. This is the opportunity for the parties to try and reach an agreement with the Cafcass Duty Officer trying to assist the parties.

If agreement is reached, then it may be that an Order will be made confirming the arrangements. In the event that an agreement cannot be reached regarding the whole application, then the Court will hear, very briefly, what the application is all about and decide how the case should proceed.

The Court can make interim orders relating to the application, often with regard to levels of contact etc. pending any final decision. Sometimes, particularly if problems arise during the proceedings, or your case is particularly complicated, there may be more than one directions appointment before the final hearing.

You must attend every directions appointment. At the hearing, many different forms of directions can be made. The most common relate to the filing of Statements and the preparation of a Cafcass Report.

Statements

Witnesses can only be called to give evidence at the hearing if they have first made a written statement. Everyone who makes a statement should be prepared to come to Court and give evidence.

If you are seeking a Child Arrangements Order for the children to live with you, and you are living with someone other than your former partner (or you intend to do so), then that person should make a statement and give evidence.

If the Court does not hear from your new partner, it may be reluctant to make an Order effectively requiring children to live with you and your new partner.

The Officer will then prepare a written report which may, or may not, contain recommendations to the Judge about what is best for the children. Unfortunately, Cafcass Officers are very busy and most reports are not ready until about three months after the first directions appointment.

Further Directions Appointment

Where a Cafcass Report is carried out, the Court will usually list a further directions appointment (Court hearing). At the directions appointment, the recommendations contained within the report are discussed in an attempt to reach agreement.

If you and your former partner cannot agree arrangements for the children, then the matter will be listed for a final hearing.

Final Hearing

These hearings can last for more than a day, depending on what is at issue between you both. You and your witnesses have to attend to give evidence.

The Order

It is likely that the Court will make an Order of one form or another so that everyone knows exactly where they stand and what the future arrangements should be.

The Court can also grant an Order, which has not been specifically applied for. Say, for example, your former partner applies for a Child Arrangements Order for the children to live with them but the Judge decides that the children should live with you, the Judge can make a Child Arrangements Order in your favour, even though you have not applied for it. This just makes the situation clearer for everybody.

However, please note that as of March 2022, the Ministry of Justice announced that Dorset and North Wales will be part of a pilot scheme in relation to private law children cases. Our friendly family solicitors will be able to discuss this scheme with you should this apply to your case.

Further information and assistance

If we can help you with further information, please contact our Client Enquiries Team:

Chele Holmes / Christine Chant

Client Enquiries Team

01202 499255 / 01425 610100 askus@frettens.co.uk