



# Putting your children first

## Divorce and Separation



Anyone who has been through a family break-up or who has lost contact with their children knows how difficult it can be. It is often very upsetting and stressful for everyone, especially children. Research also shows that continuing conflict between families can harm children. That's why it is usually best if families can reach a safe agreement about their children without going through the full family court process, which is often costly and lengthy.

If you need a bit of extra help to reach an agreement about your children, you could consider mediation. A mediator is an independent person who helps people come to an agreement without being on anyone's 'side'. You can find out more about mediation by going to the .gov website: [www.gov.uk/looking-after-children-divorce](http://www.gov.uk/looking-after-children-divorce). There are also other options available including Separated Parents Information Programmes (SPIPs) – ask for a copy of our Separated Parents Information Programme factsheet for more information. You can also order a free copy of the Parenting Plan booklet, which provides helpful information to parents who are in the process of separating, by going to [www.tsoshop.co.uk](http://www.tsoshop.co.uk). If you do decide to make an application to court, you must have attended an initial meeting with a mediator called a 'Mediation Information and Assessment Meeting' (MIAM), or be able to show that you do not have to attend because you meet one of the specified exemption criteria. If you make an application to court without having attended a MIAM and you have not claimed a valid exemption, the court may direct you to attend one on receiving your application or at the first hearing.



### What does Cafcass do?

Our most important job is to make sure that the children and young people we work with are kept safe. If your case is referred to us by the courts, we will try to help you and the other adult (sometimes called a 'party') in the case reach a safe agreement about your children. Every family is different and every case is different. The following is a general guide to what may happen in your case.

### What will happen in my case?

After the court has received the application from either you or the other party, the court will usually refer the case to us and set a date for the 'first hearing'. Before the first hearing, we will usually do the following:

- \* carry out checks with the police and the local authority to find out whether there are any known welfare or safety risks to your children.
- \* in most cases, phone you and the other party to find out if either of you have any concerns about the safety and welfare of your children.
- \* provide the court with a short report on the outcomes of the safety checks and any phone interviews with you and the other party.

### What will happen at the first hearing at court?

The aim of the first hearing is to see whether it is possible for you and the other party to make a safe agreement about your children which the court can then endorse. There will usually be a Cafcass worker at the court who will often be asked by the court to meet separately with you and the other party to try to help you reach an agreement and to find out:

- \* what you can agree on.
- \* what you still disagree about.
- \* whether there are any areas of concern, such as allegations or findings of domestic abuse or child protection concerns.



The Cafcass worker's role is to tell the court what they think is best for your children based on their assessment of your case.

If you and the other party can reach an agreement, and the court is satisfied that this is safe and in your children's best interests, it may be possible to end the process at this stage by making a 'consent order'.

However, if you are not able to agree, or there are concerns about the welfare of your children, the court may:

- \* order a 'finding of fact' hearing if there have been allegations of domestic abuse that might affect the outcome of the case.
- \* after a finding of fact of domestic abuse, order a party to take part in a domestic violence perpetrator programme.
- \* refer you and the other party to a mediation assessment meeting or ask us to help you reach an agreement.
- \* order you and the other party to take part in separated parenting classes (SPIPs).
- \* ask us to carry out more detailed work with your family and to write a report about your children's welfare (known as a Section 7 report).



## What does Cafcass' more detailed work involve?

If the court has asked us to produce a Section 7 report, a Cafcass worker will nearly always talk to your children (depending on their age and understanding) about their wishes and feelings and what they would like to happen.

The Cafcass worker will not ask your children to make a decision or to choose between you and the other party.

The Cafcass worker will usually talk to your children alone.

The Cafcass worker will also spend time with you and the other party. They may also speak to other people such as family members, teachers and health workers. Having made these enquiries, they will write a report advising the court on what they think should happen.

In most cases you will be able to see the Cafcass report before the court hearing. If you are unhappy with the report, it is important that you let the court know about your concerns.



## What will the court decide?

The court will make the final decision about what should happen to your children after reading the Cafcass worker's report and listening to what you and other people in the case have said. The court will pay particular attention to your children's wishes and feelings but may not always do what your children want. The court will make a decision based on what it thinks is best for your children. The court's decision is set out in a 'court order' which you must stick to. If you are not happy with the court's decision, you must raise this at court – you cannot make a complaint to us about the court's decision.

Throughout the whole process the Cafcass worker will be able to answer any questions you may have.

It is outside our remit to provide legal advice. You can visit [www.gov.uk/looking-after-children-divorce](http://www.gov.uk/looking-after-children-divorce) for advice options, including how to find a solicitor. You may also wish to access FamilyLives at [www.familylives.org.uk](http://www.familylives.org.uk) for general advice.



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