**Fact-finding recommendations – practice aid**

This practice aid should be used to support thinking and decision making before a recommendation for a fact-finding hearing (FFH) is made to the court.

If there are disputed reports of domestic abuse and/or other forms of harm, do you consider a separate fact-finding hearing is necessary?

Use this as the basis of exploring the reports and the response to these in the telephone interviews and informing your decision as to the advice for fact finding.

**Thinking about recommendation for a fact-finding hearing:**

Fact-finding hearings should only be directed where they are relevant, necessary, proportionate and serve a clear purpose. When making this recommendation the report writer should have regard to the provisions of the Family Procedure Rules Practice Direction 12J, paragraphs 5, 16 and 17.

The court will need to consider whether there is other evidence available to the court that provides a factual basis on which it can proceed to make decisions or whether any disputed issues could form part of any final hearing.

The Cafcass guidance can be located here: [Fact-finding guidance.pdf](https://cafcass.sharepoint.com/sites/LegalAdvice/SitePages/Fact-Finding.aspx).

It sets out circumstances when a fact-finding hearing is not needed and the impact of delay.

Lady Justice Macur’s recently issued [Fact-finding guidance](https://www.judiciary.uk/announcements/fact-finding-hearings-and-domestic-abuse-in-private-law-children-proceedings-guidance-for-judges-and-magistrates/) is directed at the judiciary but should also inform the advice of FCAs with regard to the necessity of fact finding.

Only reported concerns that will have an impact on the welfare of the child and make a difference to the arrangements for that child, will need to be considered in fact finding hearing.

**Consider the following.**

1. How are the reported concerns likely to be relevant in deciding whether to make a Child Arrangements Order, or its terms?
2. Do you already have information, such as convictions or admissions or outcomes of LA assessments which provide a sufficient factual basis for the assessment?
3. Is it necessary to hold a fact-finding hearing to achieve this, or is there sufficient uncontested information available to:

* provide a factual basis for a Child Impact Report/Section 7 report
* provide a basis for an accurate assessment of risk and the impact of that risk upon the individual child
* provide a narrative to frame the discussion with the child
* allow the court to consider any final welfare-based order(s) in relation to child arrangements?

1. The position of the reported victim may influence the court’s decision about whether the fact finding is necessary. Can the alleged victim be supported to participate in any hearing, if this is felt to be necessary?
2. Identify whether any third-party disclosure orders will be necessary.

**Keep the child in mind**

* In considering a recommendation for a fact-finding hearing, have you also considered the current arrangements for the child and how those arrangements were decided?
* If recommending a fact-finding hearing, have you considered the interim arrangements and whether they are safe/ beneficial pending the outcome of the FFH?
* If you are concerned about current risk of harm complete a 16A risk assessment, being specific about what you are asking the court to do.
* Is it necessary to make a referral to the Local Authority?
* If you have recommended a fact-finding hearing, the steps and decisions above regarding referral/16A and interim arrangements should **be reviewed and discussed with a manager before a decision to close the case, pending the outcome of a fact-finding hearing.**

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| **Summary of analysis – to be recorded on the Child First record** |