

Court's Procedure

In many cases satisfactory arrangements for the children cannot be made between the parents and an application to the court has to be issued.

When this happens an application is issued and listed at court within 4-6 weeks to avoid any delay to the child.

Although all cases are unique as all children are different the court procedures that may be involved in your case are set out.

The court will then list your application for a short directions hearing which you must attend. It will only last for half-an-hour or so. Your former partner, will be required to attend as well.

In some cases there is a scheme know as Dispute Resolution and a duty Cafcass Officer will be in attendance at court to assist in the progression of the case. In some cases the court appointment can be adjourned for a period of 6-8 weeks to see whether dispute resolution can be progressed away from the court arena with both parties and the Cafcass officer meeting and seeing if agreements can be set in place and worked with. A short report can then be feed back to the court for the next directions hearing and progress can be monitored.

At that hearing a judge will look at your application and the documents filed at court and make an order for directions. He or she may require both of you to file a statement setting out your respective cases. It is usual for your statement to be filed first as you are the applicant. Your former partner will then have the opportunity to respond in his statement to your arguments. Sometimes, you will be given the opportunity to reply to your former partner's statement.

If the Court feels that there are substantial issues which a Judge will have to determine which involve the Welfare of the Children that the Judge may request that a Child and Family Reporter from the CAFCASS Service (Children and Family Court Advisory and Support Service) prepare a full report for the court. The Court will specify the scope of the report and provide a date for it to be filed. This is generally 16 weeks from the date of the Directions Appointment.

If a Report is prepared by Cafcass then it unusual for the court not to follow the recommendations made by the Cafcass Officer. If a report is appropriate in your case then we will consider its conclusions carefully with you before deciding how to proceed.

In some cases the Judge will feel that it may be premature to involve Cafcass straight away and therefore it may be possible for the parties to agree interim arrangements which could take place for a trial period before the matter coming back to court to see if the arrangements have worked or Cafcass do then need to become involved.

As you can see, a directions hearing is purely procedural. Neither of you will be required to give evidence at court.

Once all the evidence has been filed the matter is then listed for a further Directions Appointment before the Judge who will determine whether the matter is capable of amicable resolution or needs to be listed for a contested hearing. It is not unusual for there to be gaps of a number of months between attendances at court. It is also not unusual for there to be a number of attendances at Court to look at different scenarios which may result in the resolution of your case without the matter being listed for a final hearing.

In some cases it may be necessary to ask for an urgent Interim hearing for a specific issue to be determined before a final hearing. It will become clear at the First Directions Appointment whether this will apply in your case.

Finally if an amicable resolution cannot be reached the court will list the matter for a final hearing.

If you have not been able to reach an agreement by the time of the final hearing, then the final hearing will take place

If your case does proceed to court, the usual procedure would be for your barrister to take the judge through your application forms, any statements, and all documents and then to put your case. You will then be required to give evidence on which you will be cross-examined by your former partner's barrister. You may be re-examined or asked further questions by your barrister in respect of any matters arising out of the cross-examination process.

Your former partner will then be required to give evidence too. They will be cross-examined by your barrister. They may be subsequently re-examined by their own barrister. Your former partner's barrister will then put their case. Your barrister will then conclude. The judge will then make his or her decision, usually giving a full and reasoned judgment. Sometimes he or she will reserve judgment. This means that the judge does not give his decision on the day, but lists the

matter for a further short hearing a week or so later and then give judgment.