

## Children Matters: First Hearing

### What can I expect?

Any application which comes before the Court for parental responsibility, a child arrangement order or any other orders under Section 8 Children Act 1989, will tend to be dealt with in the same way, after April 2014, when all family courts were unified as a single Family Court regardless of who sits and decides the case. Even Family Magistrates are now regarded as Judges of the Family Court.

You cannot apply to the Court for an Order unless you have first attended a Mediation Information & Assessment Meeting (MIAM) with a Family Mediator. The only exceptions are for urgency, domestic violence and similar cases.

The Court will send everyone notice of a **First Hearing**. They try to make sure that the first hearing is listed as quickly as possible after the application. It may take between 3 and 5 weeks. That is partly because the Court's timetable is already full up, partly because initial safeguarding checks have to be made by local Children's Services. Emergencies can of course be heard much more swiftly – typically, by pushing someone else's case out of the list!

When the case is first heard the Court is trying to find out what needs to be done with the case, to make progress. It is therefore regarded as a “Directions” hearing. The first thing the Judge wants to know is whether the parties can be persuaded to reach agreement, even at this late stage.

### Meeting CAFCASS

You don't spend much time with the Judge at a first hearing. You are usually invited to go into a side room with someone from CAFCASS – the advisory service who help Courts understand the issues involved in a case. **You will not be forced to go into the meeting with your “ex” if there is a real fear of violence or intimidation.** CAFCASS people are usually skilled social workers, with particular training and experience in children matters. They pick up valuable information from the way the parties speak to each other, and listen as you each describe how you view the case. You may both be asked questions. CAFCASS are an important part of the Court's work. They gather information, and sometimes make recommendations.

The parties then go into the court room with their legal representatives and the CAFCASS officer. The legal representatives briefly describe to the Judge their client's view of the case, and what they would like to happen. If a party has no legal representative, he or she would be prompted to explain their case by the Judge. If legal representatives are present, you

## What does the Court do?

The Judge decides what steps need to be taken. It might involve the making of a **report** by CAFCASS. This could be a limited report, taking about 6 weeks, or a full report, which would need about 12 - 16 weeks. It would be written after CAFCASS have further meetings with the parties, and usually after meeting the children also.

The “**wishes and feelings**” of the children are relevant, particularly if the children are about 8 or older. Those wishes are not by themselves conclusive. So much depends on the child’s age, maturity and understanding.

The Court may also make other directions. It is possible that parties will be asked to file **statements** explaining their position, and some of the background history. Courts are not too keen on parties filing statements, because it tends to “polarise” the case and if anything, can tend to widen the gap between the parties.

The most recent innovation in Children Act proceedings is to send both parents to **information workshops** known as “SPIP”. This stands for “Separated Parents’ Information Programme”. It is a single 4-hour workshop or two 2-hour workshops, usually run by the Family Mediation Service in each party’s home area. Even if you live in the same area, you wouldn’t be expected to attend the same session as your “ex”.

In SPIP workshops, parties will meet other parents “in the same boat”. They will typically have discussions, see videos, and be given material to read. The workshops are intended to try to persuade parents who are opposing contact, residence etc. to re-examine their motives and be sure that they are making their decision truly “in the child’s interest”.



## Bottom line

Initial hearings are usually brief and are very much regarded by the Courts as a “problem solving” meeting. Priority is given to trying to restore contact, defuse tension, find out if any major issues have arisen and if so, to look into them, and in all other ways to make the case ready for further investigation in a second or later hearing. You should regard the first hearing as very much the first step on a journey. It is so hard for parents to look at the needs of children without referring back to their own emotional state. This is often where the difficulty lies. The Courts try to help the parties tell the difference, so that the child’s needs can be truly addressed.