



Cafcass Cymru Private Law Reform

Private Law Proceedings: What to expect when the Court appoints a Rule 16.4 Children's Guardian

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If the family court decides to make your child or children a party to private law proceedings, it will order Cafcass Cymru to appoint a children's guardian to represent them. The family court will only do this if the case involves a difficult or complicated issue. Practice Direction 16A and Rule 16.4 of the Family Procedure Rules set out the court rules about appointing children's guardians and their role.

What is a rule 16.4 children's guardian?

- The children's guardian gives advice to the court and makes sure your child's interests and voice are heard in the proceedings.
- The children's guardian will be a qualified social worker who acts as an independent person to focus on what is best for your child.
- They will also appoint a solicitor to act for your child in court. The appointment of a children's guardian does not affect who has parental responsibility for your child.
- Their role ends when the court makes a final order.

What does the children's guardian do?

- The children's guardian will talk to your child and other family members.
- The children's guardian will take time to understand your child's situation and what is important to them.
- The children's guardian understands that your child may feel confused or worried, and that their thoughts and feelings may take time to process.
- They will make sure that your child understands what is happening in the proceedings and that they have a right to participate in them.
- The children's guardian will work with you and your child's other parent or carer to try to help you reach a safe agreement about what should happen, they will also make a professional recommendation to the family court.

How often will the children's guardian see my child?

- Every family is different, but the children's guardian will usually meet with your child several times, and see them together with both parents or carers where it is safe to do so.
- The children's guardian will decide with your child how they would like their voice to be heard in the proceedings and will usually arrange for them to meet their solicitor.

Who else does the children's guardian talk to?

- The children's guardian may talk to your child's school, or other professionals who are working with your family.
- If your child has a social worker from the Local Authority (children's services), the children's guardian will usually talk to them and might attend meetings arranged by them.
- If your child has a social worker working directly with them, the children's guardian will discuss with you and the social worker about how best to engage with your child, to make sure that your child does not feel they are talking to too many professionals.

How will the children's guardian tell the court what they think?

- The children's guardian will usually write two reports for the court.
- The initial report will focus on what issues need to be investigated or resolved, and how long this is likely to take.
- The children's guardian will also usually write a report at the end of their work, to set out their recommendations about what order will best meet your child's needs and keep them safe.
- The children's guardian will always try to discuss their recommendations with you before filing their report.

Will the children's guardian always go along with what my child wants?

- No. There may be times when the children's guardian makes recommendations that are different from what your child wants.
- This is because they might have a different view from your child about what is needed to keep them safe, or to meet your child's needs.
- Even if the children's guardian has a different view, the report will include your child's wishes and feelings.
- The children's guardian will explain their recommendations carefully to your child and to you.

What if I don't agree with the children's guardian?

- If possible, the children's guardian will try to help the adults in the case reach a safe agreement about what will best meet your child's wishes and needs.
- You will have the opportunity to tell the court if you don't agree with the recommendations and the court will listen to each party's views before coming to a decision.
- Family proceedings can be difficult and stressful, and we understand that people can become upset and frustrated at times. Cafcass Cymru will treat you and the other parties with courtesy and respect, and we ask that you do the same.

How long will the case last?

- We aim to complete our work with your family as soon as possible, so that the court can make its decision.
- We understand that long court proceedings are stressful and can have a negative effect on children's emotional wellbeing and that of parents and other family members.
- Please keep all appointments that the children's guardian makes with you and your child. If you move, or change your contact details or solicitor, please tell Cafcass Cymru straight away.

How can I contact the children's guardian?

- The children's guardian will provide their office telephone number and email address. You will be able to leave a message if they are not available.
- The children's guardian will try and return calls promptly, but there may be times when they are on leave or have court commitments which mean they cannot get back to you straight away.

What if I am worried about my child?

- If you have immediate safeguarding concerns about your child then you should contact the Local Authority (children's services) or, if you believe there is an imminent risk, the police.
- Cafcass Cymru is not a statutory safeguarding agency, we will make a safeguarding referral to the Local Authority if we are worried about a child's safety or wellbeing.

What if I am worried about my safety?

- If you feel that you are at risk of, or have experienced domestic abuse, it's best to discuss this with the children's guardian as soon as you can. If there are allegations of domestic abuse, the court must have regard to Practice Direction 12J.
- You can contact the Live Fear Free Helpline on 0808 80 10 800 or visit the website at <https://gov.wales/live-fear-free>. This service is offered to both women and men and also provides advice to family members who may be concerned about someone.