



## **Cafcass Cymru Private Law Fact Sheet**

### **The Role of Cafcass Cymru in Private Law proceedings**

**(January 2024)**

Sometimes separated families can't agree on what arrangements are best for their children, and so somebody in the family, most often a parent, applies to the family court for a court order. The court usually asks Cafcass Cymru to provide a report about the family, to help make sure that any court orders made are safe, and in the children's best interests.

### **What is the role of Cafcass Cymru and what happens when a private law application is made?**

- Cafcass Cymru provides a voice for every child in Wales that is involved with the Family Justice System. Cafcass Cymru's main responsibilities are:
  - to promote the welfare of children
  - to give advice to any courts about applications made to it
  - helping children to be represented in proceedings
  - providing information and advice for children
- When the family court receives a private law application form, this is usually sent to us to prepare a report.
- The type of report that Cafcass Cymru prepares and the court process for your family depends on which court you apply to and where in Wales you live. This is because some courts in Wales are part of the Investigative Approach pathfinder pilot ('Pathfinder'), while other courts are operating under the usual private law Child Arrangements Programme (CAP).
- Cafcass Cymru will allocate a practitioner to work with your family and prepare a report for the court. The adult participants usually also receive a copy. The report will help the court to decide how to manage the proceedings, and the adults will then receive a court order which either asks them to attend a court hearing and / or makes other directions.
- The different reports that Cafcass Cymru may prepare are explained below. Sometimes, if children already have a social worker from children's services, the court might ask children's services to prepare the report, instead of Cafcass Cymru.
- Whichever court process your family is involved in, the aims of Cafcass Cymru are the same – to work respectfully and openly with your family, and to help the court to make timely decisions that are:
  - safe for everyone in the family
  - in children's best interests
  - take account of children's wishes and feelings and,
  - avoid delay.

## **An application has been made in a 'Pathfinder' Court – what happens now?**

- The Pathfinder aims to reduce the amount of time families are involved with the family court, while prioritising the safety of children and their parents/carers and promoting a problem-solving approach to making child arrangements. If you have previously been involved in any private law proceedings, you will notice a difference in your involvement with the family court and Cafcass Cymru.
- The report that the court asks Cafcass Cymru to write is called a Child Impact Report. In most cases this will be filed with the court before the court makes any decisions.
- As a first step, the allocated practitioner will gather information from safety checks with the police, local authorities and talk to the adults involved about the application and what has brought them to the family court.
- We will listen to the reasons that the family have asked the court to make an order, and any safety or welfare concerns they or the children may have.
- We will ask the adults to think about what arrangements would work best for their children, and what it is that the children need in order to be safe and to meet their best interests. If it is safe to do so we will help the family to agree arrangements.
- Our work with you may involve several meetings or discussions with family members by video call, or face-to-face meetings or telephone.
- An important aim of Pathfinder is strengthening the Voice of the Child, by making sure that the court and adults can focus on what is best for the children in the family from the start, making sure that children are offered the opportunity to have their say, and to participate in the decisions that are being made about them. The Cafcass Cymru practitioner will usually speak to the children of the family before writing the Child Impact Report, unless there are reasons that this would not be appropriate or in their best interests.
- Depending on the issues for your family, we may also want to speak to others who are involved such as the children's school, or services that are supporting either parent / carer. If you have experienced or are experiencing domestic abuse, the Cafcass Cymru practitioner will talk to you about making a referral to a domestic abuse service so that they can offer support and undertake a specialist risk assessment with you.
- The Child Impact Report will summarise the work we have done. We send the report to the court, and the adults involved in the case usually receive a copy. The court will then decide the next steps and will aim to make a decision for the children as early as possible. Sometimes the court needs more information and might ask Cafcass Cymru or another agency for a further report.

## **An application has been made in a Child Arrangements Programme (CAP) Court – what happens now?**

- The court usually asks Cafcass Cymru to prepare a short report called a Safeguarding Enquiries Report (SER), which focusses on whether there are any safeguarding concerns for the children or any adult participants. The report is usually sent to the adult participants as well as the court.
- The Cafcass Cymru practitioner will arrange a telephone interview with each adult participant and will ask about any current difficulties or concerns for their own or their

children's safety, the usual arrangements for the children, and the information gathered from safety checks with the police and local authorities.

- The SER informs the court of whether there are any safeguarding issues and whether the case is suitable to be listed for a First Hearing Dispute Resolution Appointment (FHDRA). This is a hearing at which a Cafcass Cymru officer is available to try to help the adults to reach agreement about the application.
- If the SER identifies safeguarding issues, or other reasons that a FHDRA is not suitable for your family, the court is likely to list the application for a Directions hearing, and / or might order Cafcass Cymru, or a local authority, to provide a Child Impact Analysis (CIA) report.
- A CIA is a more in-depth report which considers the children's wishes and feelings and needs along with the views and issues of the adults in the family. The allocated practitioner will want to hear about the concerns of the adults and children and what they think should happen and may also speak to other people supporting your family (such as the children's school or other support services). They will work alongside the family and help them reach a safe agreement if this is possible.
- The CIA will be sent to the court and the adults involved and the court will usually ask the adults to attend a court hearing in order to resolve the case.

### What can I expect from a Cafcass Cymru practitioner?

- You can expect the Cafcass Cymru practitioner to establish and maintain a respectful professional relationship with family members, and that they will treat you with respect and sensitivity, listen to you and clearly explain any difference in their views.
- You can expect the Cafcass Cymru practitioner to safeguard each child and ensure their voice is heard, taking time to listen to and understand children's lived experience and concerns.
- You can expect the Cafcass Cymru practitioner to be aware of the impact of trauma and to recognise that the responses of any individual, particularly survivors of domestic abuse and other forms of harm, can be affected by previous trauma experiences, and to take care that their practice does not retraumatise victim-survivors.

### How long will the proceedings last?

- Each family is individual, and therefore it will take different amounts of time before the court is able to make a final decision, the court will decide the timetable.
- The court will make a final decision after reading all reports and listening to what everyone has to say. Sometimes the court will need more than one report and there may be several court hearings.
- In particularly complex cases, the court may make the child party to proceedings under Rule 16.4. Further information about Rule 16.4 appointments can be found here for [adults](#) and here for [children](#).
- In reaching a decision, the court will pay attention to the child's wishes and feelings but the final decision may not always reflect what the child wants to happen. The court will make its decision based on what is best for the child based on all the available information and will set this out in a 'court order'.