

What's the court process for direct access children cases?

This section applies where you're making an application for the court to consider your children's arrangements if you're separated or divorced from their other parent. It's also the process that the court goes through where there's an application for leave to remove – that is, to relocate with a child or children to a different country.

Before you can make an application to court for an order relating to children, you must by law organise a meeting with a mediator, who will give you information about mediation and other dispute resolution options. This meeting is known as a Mediation Information and Assessment Meeting (MIAM). In some urgent cases, if there are domestic abuse or child protection issues, or if you have tried mediation but it has not been successful, you may be exempt from attending a MIAM, but most people have to. The mediator will sign the form on which you make your application to the court (usually a C100) to show that you have fulfilled the requirement for a MIAM. 4PB has barrister mediators who can provide MIAMs if required.

There is a court fee payable when the application is filed at court. The court will set a date for the first hearing in your case, the First Hearing Dispute Resolution appointment ("FHDRA"), which both parties must attend. This may be in front of the lay justices in the family court, or possibly a district judge; higher levels of judge may get involved if the issues are particularly difficult.

The court's aim at this hearing is to identify the areas of dispute, outline the issues on both sides and to decide what evidence needs to be collected before the outcome can be decided. For example, a report from CAFCASS (specially trained children's court social workers) about the children's wishes and feelings, statements from each of the parties, or reports from experts. You or your direct access barrister will be expected to speak to the judge or lay justices at this hearing and explain what you want to happen and why. The court will sometimes make an interim

order at this hearing and put in place arrangements that will last until a later date.

The court is likely to set the date for the final hearing in about 4 months or more, depending on the circumstances.

At the final hearing, your direct access barrister will take the court through your application forms, any statements, and then your arguments. All parties then give evidence, first the applicant and then the respondent, and then anyone else involved, including the CAFCASS officer. Before giving evidence, each witness needs to swear an oath (or affirm) that they will tell the truth. When you give evidence your direct access barrister starts by asking you questions, then you will be cross-examined by the other person or their legal representative. The judge can also ask questions. Then the court will make its decisions, based on the law and the evidence it has heard.

In court cases about children, each side usually has to pay their own costs. If one party has tried to mislead the court or conducts the litigation in an inappropriate way the court might order that person to pay all or part of the other person's costs, but this is unusual.

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