



/guide

Your questions answered

PROCEEDINGS FOR CHILD ARRANGEMENTS IN COURTS RUNNING THE PATHFINDER PILOT

A pilot scheme has been launched in a small number of family courts to test a new approach to deal with court cases involving disputes with parents about arrangements for their children.

If your case proceeds in one of these courts, the procedure will be different to that used in most other family courts.

The aim of this pilot is to improve the experience of parents and children using the family court system.

This guide provides an outline of how a typical application within this pilot scheme might proceed. Your case may follow a different route, since the court will consider each case individually depending on the issues involved.

In addition, since this is a very new process, the judges involved may deal with matters differently and at this stage it is not possible to predict for certain how each case will proceed. Please consider the information set out below as a guide to assist you with your case and how it's likely to proceed, but with no guarantee that your case will follow this path exactly.

At every stage of the proceedings the judge will consider whether non-court resolution, such as mediation, is possible and if this is the case, there may be a break in the legal process to allow this to happen. Parents are also encouraged to consider non-court resolution even if court proceedings are ongoing.

- The parent considering making an application to court should attend a mediation information and assessment meeting (MIAM) unless an exemption applies meaning this not necessary or required. The MIAM is an opportunity to find out about whether mediation, or another form of non-court dispute resolution, might be suitable for them.
- If the parent takes the view that an application to court is necessary, they make the application to court in either a Form C100, C79 and C1A (if appropriate in the circumstances of the case). The Court will usually review and issue the application within 1-2 days.
- A judge or legal adviser will read and consider the information contained in the application, this is called "Initial Gatekeeping". At this stage, the judge or legal adviser will decide if there is a need for an urgent hearing. This might happen, if there is, for example, a risk of harm to a child, or a risk that one parent may remove the child from the country. If this is the case, the judge will give instructions for what evidence needs to be collected before the hearing. They will give a date for the hearing to take place so that the urgent issue can be decided. Depending on the extent of the issues in a case and if these are all dealt with on an urgent basis, the judge may make an interim or final order at this stage and some cases will not have to progress any further. This is something that would only happen in exceptional circumstances.
- If there is no need for an urgent hearing, the next stage is known as "Information Gathering and Assessment". The judge will order a report called a Child Impact Report, and this will normally be available around 6 weeks after the Initial Gatekeeping stage. The judge will also determine which authorities need to be involved in the information gathering and will consider whether a DASH Report (Domestic Abuse, Stalking, Harassment and Honour Based Violence Assessment) is appropriate.
- A CAFCASS officer will normally prepare the Child Impact Report, although other professionals such as social workers may also be involved. The CAFCASS officer will talk to each parent and obtain information about their circumstances, backgrounds, wishes and other relevant information. They will also carry out safeguarding checks to ensure the child or children involved are not at any risk of harm. They will also engage with the child or children, in a way which is consistent with their welfare needs and appropriate to their age and understanding. This may involve a face-to-face meeting with the child, or contact may be made in another way, depending on what is considered the best way to meet the needs of the child concerned.
- The author of the Child Impact Report will make recommendations to the judge about what should happen next and what is in the best interests of the child or children. This may be a referral to out-of-court services such as mediation, or other support services; or a recommendation that there should be a court hearing.
- If there is a court hearing, it may be to make a decision about what arrangements should be made for the children involved; this is called a Decision Hearing.
- Alternatively, an additional hearing may be necessary so that the judge can get a better understanding of the factual background of the circumstances of the case. This is called a Fact Finding Hearing. A Fact Finding Hearing may be necessary where there are allegations of abuse and / or welfare issues relating to the children. A judge will use this hearing to determine the truth or otherwise of those allegations. Following this, a Decision Hearing can take place.
- If a Decision Hearing is recommended, then the judge will normally order the parents or parties involved to file statements to explain what they would like to happen and why. They will fix a date for the parents and the author of the Child Impact Report to attend court, with their representatives.
- In some cases, the judge might look at the contents of the Child Impact Report and make an order even before the Decision Hearing takes place, for example to ensure that arrangements for the children to see parents are in place pending the hearing.
- The judge will also decide if there should be any more evidence or information provided before the hearing itself.

- At the Decision Hearing, the judge will consider all the issues and make decisions on those matters which are not agreed between the parents and how best to communicate those decisions to the child. It will be for the judge to decide how the hearing is conducted, for example, they may decide to hear evidence from each of the parties, or they may decide to limit what each party may say to legal argument alone, rather than evidence.
- Once the decisions have been made, the judge may list a Review, normally between 3-12 months after the Decision Hearing. This is to check in with the parents involved, to ensure that the arrangements are working well for the child. The Review will not usually involve a hearing, it is a means of contacting the parties and children to ensure the arrangements put in place are working for all parties. A summary of the Review outcome will be added to the Child Impact Report.

Please note that this is a guide only and there is no guarantee your case will proceed exactly as above.

Need more information?

Call our Client Care Team on **0330 838 7456**
to speak with one of our specialist family lawyers
or visit **www.stowefamilylaw.co.uk**

