



# The Family Court holds a First Hearing Disputes Resolution Appointment (FHDRA)

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# Who is this document for?

This practice guide is for all professionals involved with a child and family when an application under private law proceedings reaches a **First Hearing and Dispute Resolution Appointment** (FHDRA), in situations where sexual abuse of the child has been raised. It aims to help you understand what is happening, what it means for the child, and how you can contribute to safeguarding and supporting the child at this time. In order to keep the child at the centre of private family court hearings, it is important to note the rollout of the Child Focused Courts and how this may impact the courts' responses to applications. To learn more about the national rollout, you can read about the Child Focused Courts [here](#).

## 1. What happens at the FHDRA?

The FHDRA is a critical stage in private family law proceedings. It is usually the first time the parties attend court and is typically scheduled four to six weeks after an application for an order under the Children Act 1989 is submitted to the Family Court. (To find out what happens when the application is submitted, see our guide *An application to the Family Court is made under private law proceedings*. The FHDRA will be referred to as the 'first hearing'.

The primary purpose of the first hearing is for the court to identify the issues in dispute. In cases where child sexual abuse has been identified at the point of application to the family court or during the initial enquiries by the Cafcass Family Court Advisor, it may be that a referral to statutory services, such as the Police and Children's Services has already been made. In particularly complex cases where concerns have been raised by the Family Court Advisor, a **Section 16A risk assessment report** may have been filed to notify the Family Court of the concerns and protective actions taken.

During the first hearing, the private family court will consider the safeguarding information provided by the Family Court Adviser (FCA) (or Children's Guardian if they have already been appointed) and other professionals and determine the most appropriate way for the case to proceed to a just and timely resolution.

Both parents are required to attend the first hearing, and are often encouraged to participate in pre-hearing discussions beforehand, depending on level of risk and concern identified and in cases where child sexual abuse is a concern, mediation will most likely not be considered.

**There is no timescale for completing private law proceedings**, but the [Family Procedure Rules](#) (FPR) say that court proceedings should be timetabled so that the dispute can be resolved as soon as safe and possible in the interests of the child.

At the start of the first hearing, the court is yet to establish the facts of the case. This means it is unclear which allegations are supported by evidence. During this first hearing, the judge or magistrates, having read the application and other legal document(s) (outlined in our guide [An application to the Family Court is made under private law proceedings](#)), will hear submissions from the parties or their solicitors to understand the key areas of dispute and the safeguarding concerns.

The court will draw on all available information provided, and associated risks before making a range of case management direction.

In cases where child sexual abuse is not a concern, the court may decide that the proceedings can conclude because the parties have reached an agreement and there are no safeguarding issues. Alternatively, it may require more information to be gathered for consideration at a future appointment. If a Children's Guardian has not already been appointed this may take place, or the court may make a temporary order for the child's living arrangements and this will be considered further in this document.

## 2. How may the child be feeling?

The FHDRA is the first hearing in private family law proceedings, unless the Child Focused Court model is being used, and while the child is unlikely to be present, they may know something is happening and have some feelings about it. At this point, they may already be coping with the disruption of family separation and possible family conflict. The first hearing marks the beginning of a period of uncertainty that is likely to cause stress to the child and one or both parents. Supporting children, even very young children, in a developmentally sensitive way to understand what is happening in their family may help alleviate this stress.

The child is unlikely to know what a first hearing is or what to expect. At this stage their understanding is dependent on the information their parents have, or have not, shared with them; some parents may try to protect their child from the family law proceedings, while others may overshare or attempt to influence their child's views, hearing different versions from each parent. The child may or may not be aware of the proceedings and may have been spoken to by social workers or other professionals, if early help / family help, or statutory Children's Services are also involved. It is essential any communication with children is informative, without over-burdening the child with adult worries.

Research shows that many parents do not understand court processes and feel like bystanders, and so cannot give their children a clear understanding of what will happen at the first hearing. Where children receive limited information and mixed messages about their parents' separation and court proceedings, they may feel 'left in the dark' and fill this 'information void' with imagination, fear and anxiety.

If concerns relating to the child's sexual abuse have already been raised, the child may have spoken to a Children's Services social worker or Police officer about this as part of a statutory investigation, potentially leaving them feeling empowered and be relieved that their allegations have been taken seriously. However, they may also feel conflicted and responsible for the disruption to their family, believing they have been disloyal to one or both parents or 'caused trouble'.

If the child is aware that allegations of child sexual abuse and other harms have been made, they may feel uncomfortable, embarrassed or ashamed that this intensely personal information will be discussed by strangers in a family or criminal courtroom. The child may also be navigating mixed messages: they may have been encouraged to talk about their abuse by one parent and professionals who have told them that sharing these is safe, yet the court process, uncertainty and fear of repercussions may leave them feeling unsafe. They may also feel pressured or intimidated to keep secrets. If children are aware that their parents have made allegations (and, possibly, counter-allegations), they may feel conflicted loyalty and pressure to endorse one or both parents' allegations.

The first hearing marks a point where the Family Court becomes involved in making decisions about the child that were previously the responsibility of their parents. How the child feels about this will depend on their experience of care and abuse, their understanding of proceedings, how they are kept informed by their parents and professionals, how their emotional needs are supported, and how they are supported to participate in decisions that will affect their lives. Their emotions will also be influenced by their age, understanding and level of vulnerability. For example, neurodiverse children may experience family separation and family law proceedings as a sensory overload, while disabled children and those with health issues may feel particularly vulnerable and 'invisible'.

### 3. What decisions and directions may the court make at the FHDRA?

The directions made by the court at the first hearing will determine where the case will go next:

- The judge may make a **Child Arrangements Order**, and the proceedings can conclude, if the parties reach an agreement and the court is satisfied there are no safeguarding issues that prevent it from doing so.
- Where there are serious allegations of harm (such as child sexual abuse or domestic abuse) that are denied by the other parent, and the truth of these allegations is considered relevant to decisions about where the child should live and spend time, the judge may direct a **fact-finding hearing** to establish a factual basis for decision making; a Dispute Resolution Appointment will follow.
- If the judge decides that there is no need for a fact-finding hearing, a **Dispute Resolution Appointment** (DRA) will be scheduled to consider the filed evidence. A Child Arrangements Order may be made at the DRA if there are no further disputed issues, or the judge may reconsider whether to hold a fact-finding hearing.

If the judge does not conclude the proceedings, Cafcass or Children's Services may be directed to prepare reports or gather new information which will be reviewed at the fact-finding hearing or DRA; these reports will be discussed further in this guide.

Additionally:

- The judge may (if this has not been done already) **appoint a Children's Guardian** under [Rule 16.4 of the Family Procedure Rules](#), in complex cases or where the child's welfare is severely impacted by the proceedings. If this happens, the child is made a party to proceedings, and the Children's Guardian will appoint a solicitor to represent the child in court.

A Children's Guardian is only appointed in cases with 'significant unresolved difficulties'. Triggers may include serious and substantiated allegations of harm (including physical or sexual abuse), intractable parental conflict that is causing emotional harm to the child, complex medical or mental health issues concerning a parent or child, or situations where the child has a clear view that is inconsistent with the position of both parents. After consultation with Cafcass, it is the role of the court to direct the appointment of a Children's Guardian if they are satisfied this criteria is met.

- The judge may make a **temporary (interim) Child Arrangements Order** to decide where the child should live and who they should spend time with, in order to provide stability for the child while further enquiries take place.

## a) Deciding if a fact-finding hearing is necessary

Research and [judicial guidance](#) highlight the crucial role of **fact-finding hearings** in private law proceedings, particularly where there are allegations of harm, especially child sexual abuse and domestic abuse. If courts and practitioners do not follow proper procedures, the child may be forced to live with or spend time with someone who may abuse them.<sup>i ii</sup> However, research<sup>iii</sup> shows that fact-finding hearings aren't used consistently. There are times when cases move forward without a fact-finding hearing, even though the facts haven't been clearly established; this may impact the court's ability to make safe and just decisions where child sexual abuse is a concern.

Professionals at the FHRA can support the child by advocating for a fact-finding hearing if they think it is necessary. Legal representatives must clearly explain to the judge *why* findings of fact are necessary for a final welfare decision.

Where there are **allegations and counter allegations** of domestic abuse, child sexual abuse and alienating parental behaviours, the factual matrix is complex and must be addressed holistically. Research<sup>iv v</sup> shows that counter-allegations are frequently used to deflect from investigations into sexual abuse and silence the child and mother, often resulting in unsafe contact orders; they may shift the court's gaze away from the abuse and onto the mother's 'hostility'.<sup>vi</sup>

Professionals – particularly judges, magistrates, legal representatives and Cafcass social workers - should be vigilant around allegations and counter allegations and they are not being made to distract from child sexual abuse that may / may have already taken place.

Be alert to the possibility that the court process itself may be used by an abusive party to continue a pattern of coercion or control.<sup>vii</sup>

It is unlikely to be practical for allegations and counter allegations to be heard at separate hearings; [guidance from the Family Justice Council](#) says they should typically be heard at the same time in a fact-finding hearing. If a decision is made to do so, it's important that the fact-finding hearing:

- subjects all allegations and counter-allegations to the same evidence-based scrutiny so that all evidence and perspectives are fairly evaluated, there is a factual foundation for decision-making, and the child's welfare remains central to the proceedings
- views any counter-allegations of alienating parental behaviours through the prism of domestic abuse, including coercion and control.<sup>viii</sup>

**To decide whether a fact-finding hearing is relevant, proportionate and necessary**, the judge will clarify **what is being alleged and what is being disputed** by reviewing the **schedule of allegations and other evidence presented to the court** which the parents' legal representatives have compiled – see our guide [An application to the Family Court is made under private law proceedings](#).

If the judge decides to hold a fact-finding hearing, they will encourage the parties to ‘**narrow the issues**’ so that the number of allegations to be considered is focused and relevant to deciding the child’s welfare; the fact-finding hearing will consider only the **disputed allegations** in the schedule, while considering there may be a pattern of abuse that cannot be contained in a schedule. The judge will also decide who should give evidence at the fact-finding hearing, including **whether the child should give evidence**. This will only happen if the court decides the child has the sufficient maturity, intelligence, and emotional understanding to make their own decisions and comprehend the implications of giving evidence and has its own legal measures for this. You can read more about the decision making, considering the principles attached, known as ‘Re: W’ when deciding if a child should give evidence [here](#).

## How can you contribute to the decision?

Research<sup>ix</sup> shows that, in making safeguarding decisions around child sexual abuse, professionals and others involved in the family court process, sometimes apply the threshold of criminal law (‘beyond reasonable doubt’), as opposed to the appropriate standard of proof, ‘**balance of probabilities**’ – meaning that something is **more likely than not** to have happened. It’s important that:

- a Police or Crown Prosecution Service decision of ‘no further action’ should *not* be regarded as proof that sexual abuse did not happen.
- professionals presenting or evaluating evidence should explicitly state that criminal justice outcomes are distinct from welfare decisions – and the term ‘no further action’ should be considered to mean ‘no further Police action *at this time*’, to prevent the inference of safety or that the child was not abused
- decisions should not be based solely on criminal charges and convictions – the court should consider a wide range of information from Police (such as historical intelligence, non-recent and discontinued investigations, and any concerns regarding other adults in the household) alongside input and contextual evidence from professionals across multiple agencies.

*If you feel that a wider range of evidence needs to be considered before the court can reach a decision on the balance of probabilities, it’s appropriate to advocate for this evidence to be gathered and then reviewed at a fact-finding hearing. Using our [Signs & indicators template](#) can support those working with the child (including teachers, healthcare professionals) to build a picture of concern that can support referrals to statutory agencies for further consideration.*

## Is the court giving too much weight to what the child has and hasn’t said?

There is a widespread misconception that, if a child has been sexually abused, they will verbally report their abuse clearly and consistently. Research<sup>x</sup> <sup>xi</sup>contradicts this:

- Children often ‘tell’ through behaviour (e.g. regression, sexualised behaviour, self-harm) rather than words. The absence of a verbal report is not evidence they have not been abused.
- If a child retracts a statement, this should not be automatically viewed as proof that the abuse did not happen. Retractions are common, and are often the result of fear, pressure from family members, or a desire to stop the turmoil of the investigation or proceedings.

- Many children delay reporting sexual abuse for years or decades; research from the [Children's Commissioner](#) has found that most do not tell anyone throughout their childhood. If there was a delay between the alleged abuse and the child's telling someone about it, this should not be used to undermine their credibility in court.

*If you feel that the court needs to consider other evidence before deciding whether – on the balance of probabilities – the child was sexually abused, it's appropriate to advocate for a fact-finding hearing.*

### **Is the court considering other potential risks to the child which are often linked to child sexual abuse?**

Child sexual abuse shouldn't just be considered in isolation – courts and those working with the child should also be considering the wider family dynamic and any indicators of **domestic abuse, grooming, and other controlling or abusive behaviours, including towards animals in the home:**

- People who sexually abuse children often use domestic abuse to silence and control other family members and gain access to the child; evidence indicates that, where child sexual abuse is present, approximately 57% of cases also involve domestic violence.<sup>xii</sup> Considering both forms of abuse together helps the court to gain a more accurate understanding of the risks to the child.
- The court should assess how domestic abuse and coercive control affect a parent's ability to protect their child from sexual abuse, including considering evidence of how the person of concern may have groomed the child and the adults around the child.

*If you feel that the court needs to give greater consideration to the overlap between child sexual abuse and these behaviours, it's appropriate to advocate for a fact-finding hearing.*

### **Understanding sexual motivation and harm toward children.**

The main criterion for establishing whether a child has been sexually abused should be **harm to the child**

*If you feel that the court needs to give greater consideration to evidence of harm to the child in order to decide whether – on the balance of probabilities – they were sexually abused, it's appropriate to advocate for a fact-finding hearing.*

## **b) Making directions for further information**

The court will respond to the allegations of child sexual abuse and any other harms by making directions to gather evidence. Usually, the judge will direct that evidence is disclosed, and assessments are filed with the court before the fact-finding hearing (if one has been directed). Professionals should share information according to directions from the court and follow Working Together 2026 and Local Safeguarding Partnership procedures.

For information about how you can comply effectively with these directions, see our guide [Sharing information to tackle child sexual abuse](#).

## Directions to disclose evidence

The judge may direct that that evidence be disclosed from partner agencies to the court such as contemporaneous notes and records from health, education, or the Police. This is important contextual evidence that may help support the child's allegations. This evidence may be disclosed to people who are completing the assessments. If the child has participated in a medical assessment or ABE video recorded interview (VRI), this will be disclosed to the court if an order directing this is made.

## Directions for assessments by a Children's Services social worker or Cafcass social worker:

The judge may:

- **direct Cafcass or Children's Services to prepare a detailed Section 7 welfare report**, recognising that the child's welfare, wishes and feelings are central, if more information is needed but the allegations do not meet the threshold for a fact-finding hearing
- **direct Children's Services to complete a Section 37 report**, in cases where serious allegations such as child sexual abuse have been raised. This direction requires the local authority to investigate and report to the court, including whether they consider a public law application- for a Care or Supervision Order- necessary. However, a Section 37 report may contribute toward the private family court decisions without Children's Services seeking their own order to remove the child.

Section 7 or Section 37 report, **recommendations must be grounded in robust, evidence-based analysis**. Reports should outline detailed evidence on the *nature, extent, and specific impact* of any alleged harm, particularly in cases involving child sexual abuse, domestic abuse and patterns of grooming and coercive controlling behaviours. Explicitly link these findings to the recommendations on who the child should live and spend time with.

The purpose of these reports is to provide the court with comprehensive, evidence-based information that helps to clarify the circumstances surrounding the child and any allegations made. By gathering and presenting relevant evidence, the reports provide the judge with information and recommendations to support their decisions regarding the welfare of the child. The professional preparing the report should reach out to other professionals involved in the child's life to help understand the child's circumstances, including whether there are [signs and indicators of possible sexual abuse](#).

To learn more about the approach and tools that Family Court Advisers and Children's Guardians use when working with children and families, [read the Cafcass resources for professionals](#).

## Directions for an expert assessment

The parties may agree that an expert witness should be instructed under Part 25 of the Family Procedure Rules. Should the court agree, they will give permission for the instruction of the expert witness, this could include the completion of a specialist assessment. The expert may be a psychologist, a medical expert, an independent social worker (ISW), or another suitably qualified expert. They will be provided with a letter of instruction that sets out the scope of the

assessment and the specific questions to answer. The expert will prepare a report for the court.

### Directions to disclose evidence

The judge may direct that evidence be disclosed from partner agencies to the court, such as contemporaneous notes and records from health, education, therapists or the Police. This is important contextual evidence which may help support the allegations made in the parent's application. It may be disclosed to the professionals who are completing the assessments above. If the child has had a paediatric medical assessment or an Achieving Best Evidence video recorded interview, this will be disclosed to the court via an order for disclosure. More can be read about disclosure of therapy records [here](#).

## 4. Ways for the child to participate and have their voice heard

Where child sexual abuse is a concern, it is possible a Children's Guardian will already have been appointed under Rule 16.4. The Children's Guardian will seek to obtain information from other professionals who are working with the child and if the child is open to Children's Services, will make up part of the wider safeguarding system. It could be the Children's Guardian is directed by the court to complete a report on the child, to help the court understand the child's circumstances. The Children's Guardian is independent from the court and Children's Services. If a Children's Guardian has been appointed and the child does not agree with the Guardian's position, the court may consider whether the child should have separate legal representation, depending on their age and understanding. To understand more about the role of the Children's Guardian and how frequently they will visit the child, please see information on Cafcass [website](#).

## 5. How can professionals support the child and their resident parent or carer, before and after the FHDRA?

By drawing on principles of safeguarding, trauma-informed practice and judicial guidance, the professional network can help the child and other vulnerable family members in many ways. This section covers:

- Identifying vulnerability
- Supporting the child and family's emotional needs
- Keeping the child and resident parent informed

Whatever your role, remember that the support you give the child should be tailored to them, taking account of factors such as their age and stage of development; their sex; their ethnicity, religion and culture; any disabilities or learning difficulties they may have; and their sexual orientation and gender identity. Our practice guide [Taking account of diversity](#) contains more information. It is important to make no assumptions about a particular child. Some children

may welcome the intervention and decisions of the court; others may not. Some are keen to have their day in court, and make robust witnesses, while others may be more apprehensive and require more support.

## a) Identify vulnerability

All professionals – including the local authority social worker (if they are involved), the child's legal representative (if they have one), and the Children's Guardian (if one has been appointed before the FHDRA) – should talk to the child as soon as possible to establish any additional support needs and what would help them. Vulnerable adults who are party to proceedings, also need to be considered. [Practice Directive 3AA](#) says those professionals should **tell the court about any vulnerability factors that could limit a child's or another party's ability to participate in proceedings**; any vulnerabilities should be understood and raised at the FHDRA.

Children are automatically considered vulnerable by virtue of their age, and those who have been sexually abused are recognised by the Achieving Best Evidence (ABE) principles as **vulnerable and intimidated witnesses**.

Consider the child's specific vulnerabilities, which will depend on factors such as their age, their current relationship with the parent against whom the allegations have been made, the duration of the abuse, and any disabilities, mental ill health or other co-existing abuse concerns.

**Disabled children are at least twice as likely** to be sexually abused than non-disabled children<sup>xiii</sup>. If the child is disabled or neurodiverse, or has sensory/communication needs, there is an elevated risk that signs and indicators of possible sexual abuse may be missed or wrongly attributed to their condition. Ask yourself:

- How can the child be supported to communicate, particularly about any risks and their needs and vulnerabilities?
- What specific expertise, tools and communication strategies are necessary to support them?
- Would the child benefit from support from a **Registered Intermediary**? Think whether there needs to be an application to the court for a specialist intermediary to help the child understand the process and to increase their ability to participate.

**The parent(s) and other family members may also be vulnerable.** Investigate whether they are safe and how any vulnerabilities (including domestic abuse, mental health issues, substance use, or trauma) may impact on their capacity to protect or their ability to participate fully in proceedings.

Child sexual abuse often coexists with **domestic abuse** or **coercive controlling behaviours** in the family, which may impair the 'protective' parent's capacity to speak out, protect their child and implement a safety plan. It's estimated that domestic abuse is present in 49% to 62% of private family law cases<sup>xiv</sup>. Where domestic abuse is alleged, take a trauma-informed approach and respond with compassion, acknowledging their parent's pain, shock, confusion or anger. Avoid **unrealistic over-reliance** on their ability protect their child(ren). Ask yourself:

- Is there a history of domestic abuse, if so, how does this impact on the resident parent's safety, emotional wellbeing and independence?
- Is the resident parent financially dependent on the person of concern? If so, does this facilitate the person of concern's access to and influence in the family home?

To learn more, [read our Supporting Parents and Carers Guide](#).

## b) Support the child and family's emotional needs

There is a common misconception that the child cannot receive emotional support or therapy during a Police investigation, criminal proceedings or family law proceedings where child sexual abuse is a concern. This is not true: if you are the child's social worker or other professional working with the child and family, you should **refer the child for therapeutic support at the earliest opportunity**. The child's health and wellbeing should always be the determining factor in whether, when and with whom they can receive therapy – and you can help by **reassuring the child that what they say in therapy remains with the therapist unless it *has* to be shared to safeguard them**.

Children may not currently be ready for therapeutic support, and their needs should remain under review. Therapy can be accessed at any point; if they are not ready now, this can be revisited in the future. Be mindful that there can be long waiting lists for therapy, and work with other safe adults to consider how you all can support the child and each other.

To support the child and family's emotional needs effectively, you should consider:

- the child's immediate and long-term care, support and therapeutic needs
- the resident parent / carer's emotional and support needs, including their need for support to understand their child's needs
- the immediate and long-term care and support needs of other children and vulnerable people in the home, not least because they too may have been sexually abused
- the care, support and therapeutic needs of any children in the home who have engaged in harmful sexual behaviour.

To learn more about how you can support the child and their family, see our guides:

- [Supporting the child's emotional health and wellbeing](#)
- [Supporting the child's physical health and wellbeing](#)
- [Supporting the child's relationships with their family and friends](#)
- [Supporting the child's education](#)
- [Supporting parents and carers: A guide for those working with families affected by child sexual abuse](#)

## c) Keep the child and the 'protective' parent informed

Keeping the child engaged and informed is a way of ensuring their voice is heard and they are at the centre of their case. How you do this will depend on their age, understanding, preferences and specific needs. Helping children to understand and participate is an important

part of keeping them safe and making good decisions. When they feel heard and understood, they are more likely to share information relevant to ensuring fair and safe decisions. Hold in mind how children report information, so you can continue to build the picture of concern that will be presented to the court.

While the following advice is child focused, the resident parent is likely to benefit from it too. The first hearing sets the scene for how proceedings will run, so professionals should take some time to ensure the child and resident parent are well-informed about it. Private law proceedings are confidential, and the family may have limited involvement with professionals at this stage, including legal representatives if they are self-represented. This poses some challenges to ensuring the child understands and feels heard. While some activities are the sole responsibility of statutory professionals like Cafcass, Police or social workers, other professionals can be part of a multi-agency response and provide important information and support.

### “Help us understand”

Children (and parents) going into private law proceedings for the first time will usually not understand what a first hearing is, why it is important, and what decisions are made there.

Children consistently express distress from being kept ‘**in the dark**’ about their parents’ separation and the court process<sup>xv</sup>.

*“Don’t leave me to guess what’s going on. My voice needs to be heard and I need to be able to express it in my first language.”<sup>xvi</sup>*

Supporting the parents to understand family law proceedings may help the child to understand. Cafcass have prepared a range of [resources, advice and guidance](#) to help separated parents.

#### Resources

Any professional can support children and parents by ensuring they have access to **adequate and timely information** presented in child-focused and accessible ways. This may include sharing resources that explain the court process, who is making decisions, the possible outcomes, the length of the process, and how their views will be considered.

The [Family Justice Young Peoples Board \(FJYPB\)](#) has prepared a range of resources tailored to children, including:

- a [glossary](#) explaining some of the words and phrases which children and young people may hear during a case in the Family Court
- a [video](#) that explains how Cafcass helps children and young people involved in the Family Court.

The FJYPB has also produced [top tips for professionals](#) working with children and young people in family justice proceedings.

Supporting the parents to understand family law proceedings may help the child to understand. Cafcass have prepared a range of [resources, advice and guidance](#) to help separated parents.

The Family Rights Groups has helpful information about private law proceedings, [here](#). Parents may need support to find a solicitor and this can be done via The Law Society who provide information [here](#), or the Family Rights Group provides information, [here](#).

To find a local or national support service for children who have been sexually abused or support or advice for their parent, follow [this link](#).

Children may also have questions about their parent's separation. Some parents may think that they are protecting the child by not sharing information, however, this 'information void' might be filled in by the child with imagination, fear and anxiety. Any professional with a good working relationship, can support a parent to find a clear and age-appropriate narrative about the separation and proceedings. It is helpful to understand the narrative that parents have shared with the child, which may be conflicting. It is also helpful to think through what the child already knows (or might know) and how to find a balance between too much information and not enough.

Children may not have the opportunity to speak to a professional before the first hearing. Where an investigation has happened, a Children's Services' social worker or Police officer may need to discuss next steps with the child before the first hearing. They should **consider what the child already knows and might need to know, especially if it is part of the child in need / child protection plan**. As part of the Child Focused Court rollout, the child may have been spoken to by a Cafcass social worker and this could be documented within a Child Impact Report (replacing s.7 reports) and shared with the court. Either way, the child may have questions or might benefit from discussing the following:

- the overall purpose of the proceedings – to decide who they should live and spend time with
- the purpose of the hearing
- who will be at court
- what they will talk about at the hearing
- how the child can participate in other hearings
- what decisions could be made at the first hearing, how the decisions will be made.

Where the judge is likely to direct, or does direct a fact-finding hearing, it may be helpful to discuss:

- what further assessment might be necessary (if any), and how the child might be involved
- what a fact-finding hearing is, why it might be held, and whether the child would want to provide evidence at it – being clear this may not be appropriate and why this may not happen
- how the final decisions about care arrangements will be made and,
- who will feed back to the child on the outcome of the first hearing, considering your professional role and involvement with the child.

If further assessments have been directed or a date set for a fact-finding hearing, this may make the child wonder why the existing evidence is not enough. Help them understand how the judge makes decisions. You can find out more in our guide [The Family Court holds a fact-finding hearing](#).

When explaining the role of a fact-finding hearing, some children may want to provide evidence, while others may be reluctant to do so. Either way, they may feel worried about it. Help them to think through what it will be like. Talk them through the special measures that are available and how they can support their participation. Help children who ‘want their day in court’ to think through how their expectations might not align with reality. Ultimately it will be the Judge’s decision whether the child gives evidence based on a set of legal measures. To learn more about special measures and children giving evidence in court, read the Family Justice Council guide [here](#).

### “Help us feel heard and understood”

Children report that they often feel unheard in private law proceedings, believing that professionals and courts are indifferent to their views. Even when they get to have a say, they can feel that their opinion doesn’t make a difference. This is particularly distressing when they have experienced violence and abuse<sup>xvii</sup>.

**Opportunities for the child to feel heard and understood may be dependent on the outcome of decision-making when a referral is made to Children’s Services.** A Multi-Agency Child Protection Team (MACPT) single or joint enquiry may be the first opportunity for the child to share their account with someone outside the family. The decision on *how* and *when* the child will be spoken to is formally made at a Strategy Discussion (or Strategy Meeting).

See the [Child Sexual Abuse Response Pathway](#) to understand these steps and the role of social workers, Police, health and other professionals. Next steps might include a single or joint enquiry by the MACPT. [The Child may be formally interviewed by Police](#) and they may [participate in a medical examination](#).

**When talking to children and there is an open investigation, criminal proceedings or pending fact finding hearing:**

- Avoid asking too many questions or questioning them about their account, this can have serious implications. It may influence their account or be perceived by the court or parties as coaching, influence or intimidation
- Focus on supporting their emotional wellbeing, education and any physical needs
- If they offer up new information, ensure that this is shared with the allocated social worker or Police

Our [Communicating with Children Guide](#) contains advice on talking to children about child sexual abuse, how children talk about sexual abuse, the barriers they face to talking about it, and how you can encourage them to share what has happened to them.

## 5. Where next?

- [the judge will direct a fact-finding hearing](#)
- [Dispute Resolution Appointment \(DRA\)](#)
- Or return to this [response pathway summary guide here](#).

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