



The family court responds to an application made under private law proceedings

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Who is this document for?

This practice guide is for all professionals involved with a child and their family when a parent makes an application under private law proceedings which identifies concerns relating to child sexual abuse. Professionals include court officers, legal representatives, Cafcass social workers, Children's Services social workers and police officers. The guide helps you understand what happens at the application stage, what it means for the child, and how you can contribute to safeguarding and supporting the child at this time.

1. How does the Family Court respond when an application is made in private law proceedings?

Family Law Proceedings in England and Wales are governed by a single, overriding principle enshrined in [Section 1 of the Children Act 1989](#): "the child's welfare shall be the court's paramount consideration". This 'paramountcy principle' shapes every action taken and every decision made by the Family Court and the professionals who assist it.

Private law proceedings concerning children usually begin when a parent or person with parental responsibility makes an application (using form C100) with the Family Court. However, grandparents and others involved in the child's life, may make an application for various reasons. The application is used to apply for orders under Section 8 of the Children Act 1989, such as a **Child Arrangements Order** to determine where the child lives and who they spend time with.

(Other types of order that can be applied for include a Prohibited Steps Order to prevent a parent from taking a certain action, and a Specific Issue Order to resolve a specific dispute about upbringing.)

At the point of application to the family court by a parent, where there are allegations of harm to the child or a parent – including through sexual, physical or emotional abuse, or neglect, of the child – the applicant must also complete the 'Allegations of harm and domestic violence' form (supplemental information form C1A) to provide specific details of the alleged harm.

Submission of form C1A to the Family Court is a critical step, as it formally sets out the specific allegations and safeguarding concerns from the very beginning of the case, triggering an immediate and proactive response from the court and Cafcass (set out below).

This form acts as the formal notice to the court and the other party of the specific allegations. It immediately alerts people to safeguarding risks and the court can consider at the earliest opportunity whether a Fact Finding Hearing should be held under [Practice Direction 12J](#), which outlines the procedure the Family Court should follow when allegations of domestic abuse or other harms are raised; this should ensure that any resulting Child Arrangements Order protects the child and the 'protective parent' from harm.

At the point of application to the court by a parent, the Children and Family Court Advisory and Support Service (Cafcass) will be notified. Cafcass employ experienced social workers who are independent from Children's Services and the court.

The court will then decide if a Family Court Advisor is to be appointed (a social worker who is employed by Cafcass) who will advise the court in their decision-making process. The appointment of a Family Court Advisor may not take place immediately.

Where private family law applications are more complex, such as those identifying concerns relating to child sexual abuse, a Children's Guardian may be appointed by the court. For more information about Children's Guardians, see the [Cafcass website](#). In cases where concerns for a child's welfare are high, the judge may direct a [Rule 16.4](#) (where the Family Court Advisor threshold may move to that of a Cafcass Children's Guardian).

In applications where concerns such as child sexual abuse are present, Children's Services may conduct [Section 47 child protection enquiries](#) at the same time. Children may or may not remain open to Children's Services and the court may ask for a disclosure of documents from them.

If Children's Services are concerned that neither parent is able to care or protect the child at this point, they may seek their own legal advice regarding a Care or Supervision Order ([please see our document here](#)).

In cases where a safe and 'protective parent' has been identified, they can be encouraged to seek **Child Arrangements Orders** or **Prohibited Steps Orders** through private family law to formalise safety measures and access support from community agencies or early and family help provisions, without the oversight of statutory Children's Services.

Cafcass are notified by the court

The initial safeguarding process by Cafcass involves several key steps:

- The Cafcass Early Intervention Team **screens both application forms** (C100 and C1A) to identify and highlight any immediate risks to the child or the parent caring for the child
- **Cafcass makes enquiries with police and Children's Services** to determine whether the family is known to them and whether there are any existing child protection concerns.
- A Family Court Advisor conducts **separate telephone interviews with both parents**. The purpose of these interviews is to understand the reasons for the application, to give each parent an opportunity to raise any safeguarding concerns they have, and to **assess the nature, severity, and impact of the abuse that has been named in the application**. Cafcass social workers will always consider whether parents are in a safe place to speak freely.

A Children's Guardian will be appointed under Rule 16.4 of the Family Procedure Rules if the court makes the child a party to proceedings. The court will discuss this decision with Cafcass, considering the nature and concern that may sit outside of the remit of the already allocated Family Court Advisor. It could be that the Family Court Advisor already allocated to the child remains in place but takes on a slightly different role.

Pre-FHDRA work is generally focused on identifying adult-reported risks. It relies primarily on information from Children's Services and police, alongside preliminary risk screening with the two parents. This early review process by Cafcass ensures that essential safeguarding information from multiple agencies and involved parties is provided to the court at the FHDRA.

The rollout of the new Child Focused Courts will rely heavily on earlier consideration of the child's welfare and more about the rollout of this approach can be read about [here](#).

2. How may the child be feeling?

When private law proceedings begin, including if a parent has raised concern that their child has been sexually abused by the other parent, or a parent's partner (possibly alongside other harms), the child is likely to be feeling a complex range of emotions.

The child may already be coping with family separation and possibly family conflict. Their home life is likely to have been disrupted: they may have moved home (possibly into temporary accommodation) and possibly even changed schools. One of their parents may have left the family home and children's understanding of their parents' separation will be varied. It will depend on their age and understanding, what their parents have told them, and what they have seen and heard. It is unlikely that they will have the full picture or understand the complexities of adult relationships and separation. They are likely to have gaps in information and understanding which they will fill with imagination, fear and anxiety. Early stages of separation may feel uncertain and scary; children who have had time to adjust may have settled into a new 'normal'. Parental relationships where conflict is present, may add to barriers for children talking about their abuse, due to torn loyalties and fear of repercussions.

The child may or may not know that an application has been made to the Family Court. Again, this will depend on what their parents have told them, or what they have seen and heard. Again, they may 'fill in' information gaps with their own account and assumptions. If they experienced an ongoing pattern of conflict before one of their parents made the application, they are likely to be feeling depressed, torn and anxious.

A child who has contact with their non-resident parent may have heard conflicting stories about the separation and court application; this can feel confusing and frustrating. At this stage, the child may not have had involvement with any professionals involved with the court process and may be completely dependent on their parents for information about what is happening and why. Many parents report that they don't understand family law proceedings, so they may not be able to explain things to their child.

The application for private family law proceedings marks the beginning of the court process. How the child feels at this stage may depend on their experience of care and of abuse, their understanding of what the court has been asked to decide and how this might affect them, and the information they have received from each of their parents and any other adults they are in contact with. Their feelings will also be influenced by their age, understanding and vulnerability. They may feel particularly anxious and uncertain, particularly if they have had little or no previous involvement with professionals in this arena. The process often feels daunting: the child may worry about being asked to share personal and distressing experiences in an unfamiliar, formal environment. This can compound feelings of vulnerability and isolation, especially if they are already navigating complex family dynamics and fears about the consequences of telling someone about the abuse. The prospect of participating in legal proceedings may intensify the child's sense of conflicting loyalties and the fear of further disruption to their family life.

3. What initial action does Cafcass take?

In cases where child sexual abuse is a concern, Cafcass may make an immediate safeguarding referral to the Police and Children's Services.

If a referral to Children's Social Care is necessary, it must be made promptly. If a Family Court Advisor identifies that a child is suffering, or is likely to suffer, significant harm based on information shared during the initial screening process they are statutorily obliged to take immediate action, irrespective of the procedural stage. This involves:

- making an immediate (same-day) referral to Children's Services and/or the police, and
- simultaneously informing the Family Court of the concerns by submitting a risk assessment report (as required by [Section 16A of the Children Act 1989](#)).

The **Section 16A risk assessment report** notifies the Family Court of the concerns and protective actions taken. The report must specify:

- the risks that have been identified
- evidence supporting the identified harm or risks
- protective actions taken (e.g. referral to Children's Services or the police)
- what action Cafcass is asking the court to take, such as listing an urgent hearing if required.
- This alert mechanism is not a full assessment or a tool to challenge court decisions, but a supplementary action to raise significant concern.

If an immediate referral to Children's Services is necessary, it should follow the local referral procedures. The referral must clearly detail the concerns, providing evidence of the harm or risk of future harm to help the local authority decide on its course of action (see our guide [Making a referral to children's social care or reporting to the police](#)). Even if the child is known to Children's Services and subject to current involvement, the allocated social worker may not be aware of the information taken by the Cafcass social worker and a referral following the local safeguarding procedures should be followed.

Children's Services may consider:

- Whether a strategy discussion or meeting is required
- if the triage identifies a need for support rather than immediate safeguarding, the family may receive support through **Family Help**
- where there is a concern of **significant harm**, the referral moves to the **Multi-Agency Child Protection Team (MACPT)** for a Section 47 enquiry and any necessary action, such as a medical assessment, a single or joint agency investigation
- or there may be no further action at this time.

For information about each of these possible steps, see our guides:

- [A multi-agency strategy discussion or meeting is held](#)
- [Children's social care lead a multi-agency assessment](#)

- [Children's social care lead a child protection enquiry \(often as part of a joint enquiry\)](#)
- [The child has a medical examination](#)

Additionally, the police may decide to conduct a criminal investigation, as part of which there is likely to be a formal 'Achieving Best Evidence' (ABE) interview with the child; see our guides [An Officer in the Case is assigned to the police investigation](#) and [The child is formally interviewed by the police and children's social care.](#)

While parental consent is not required to make a safeguarding referral, **it is considered good practice to inform a parent or carer beforehand – but only when it is judged safe to do so**. If the Cafcass social worker decides not to inform them (because doing so would place the child at immediate risk of harm or prejudice a police investigation), the reasons must be recorded.

A referral should be made to Children's Services according to local arrangements where contacts and referrals can be triaged to the right level of service.

Cafcass provide a Safeguarding Letter to the court

In situations where no immediate concerns for a child's safety have been raised, triggering safeguarding steps detailed above, the Family Court Advisor prepares a short report for the court based on the information they have, known as a Safeguarding Letter (sometimes referred to as a Schedule 2 Letter). The Safeguarding Letter is an important legal document for the FHDRA, as it:

- summarises the information gathered from the police and local authority checks
- details the allegations and responses provided by the parties during the telephone interviews
- provides Cafcass's initial safeguarding analysis and recommendations on how the case should proceed.

Note that the Safeguarding Letter is a routine report prepared for the first hearing in nearly *all* private law cases; it differs from the Section 16A risk assessment report (see above), which is an urgent, non-routine report filed only when a Family Court Advisor believes a child is at risk of significant harm.

The Safeguarding Letter and Section 16A Risk Assessment are both filed directly with the court, detailing concern that may have triggered referrals to statutory services, should this be the case. The documents are served on the parties, provided there is no risk that this will compromise the safety of the child or a vulnerable adult.

The Schedule of Allegations

In situations where significant concerns have been raised by a party in proceedings (one of the child's parents) the court may request a **Schedule of Allegations** to help it decide at the FHDRA whether a fact-finding hearing will be necessary. This is a table that lists each specific allegation of child sexual abuse and any coexisting harms, alongside the other parent's response (either admitting, denying or providing their own context for each specific point) and any other evidence presented before the court.

The schedule, which will be compiled by the parents' legal representatives. It is important to ensure that the allegations in the schedule are **focused on the factual issues** relevant to the hearing.

If a fact-finding hearing is held, it will **focus only on the disputed allegations**. Please read more about the Fact-Finding Hearing in our guide [here](#).

4. How can professionals support the child and the parent or caregiver they are living with?

At the start of private family court proceedings, it is not always clear if the parent or carer looking after the child is a person of safety and protection. As the child's case moves through the court process, professionals working with the child may find the child tells them things that cause them to be concerned about child sexual abuse and other co-existing harms. The involvement of the private family court should not cause delay to local safeguarding procedures being followed, and referrals to statutory services, such as the Police and Children's Services being made.

Private family law processes often place additional stress on the parent / carer the child is living with, and it is important that professionals draw on the principles of safeguarding, trauma-informed practice and judicial guidance, when offering support. The professional network around the child can help them and other vulnerable family members in many ways when allegations of child sexual abuse are made within private law proceedings. This section covers:

- supporting the child and family's emotional needs
- keeping the child informed and supporting their participation
- mitigating the impacts of family law proceedings, and the potential involvement of Children's Services and the police, on the child.

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 any 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) Supporting 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: 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*. Be mindful that there are certain circumstances where therapy notes can be disclosed by direction of the court.

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.

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 parent who has been assessed to safely care for the child and their 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.

Any therapeutic support should have clear ground rules and should be mindful of any open investigations and the potential to impact or influence any evidence the child may give in criminal law proceedings or family law proceedings. The therapist should avoid questioning the child about their account or asking too many questions which could be perceived as coaching or influence. Check with statutory and legal professionals about any ground rules that might enable the child to receive support without impacting on proceedings.

To learn more about the impact of child sexual abuse and family law proceedings, and how you can support the child and their family, read 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](#)

b) Keeping the child informed and supporting their participation

At the application stage, children are likely to be dependent on their parents for information, unless Children's Services are involved following a referral from Cafcass, or another professional working with the child. The child may already be open to Children's Services when one of the parents makes an application to the private family court and it may be that a multi-agency team are already involved, meaning a known professional can discuss the process with the child. The parents may or may not have instructed legal representatives, following the application to the private family court, depending on whether they can afford it, are eligible for free representation, or wish to be represented in court.

“Help us understand”

Children (and parents) going into private law proceedings for the first time will usually not understand court processes, professional roles, and what to expect. Children and families who have been through proceedings before may have some understanding, but this should not be assumed; they may also have an emotional response, depending on their previous experience.

Helping the parents to understand family law proceedings may support them in helping their child understand what is happening too. Cafcass has prepared a range of [resources, advice and guidance](#) to help separated parents.

Any other professionals involved with the child and family at this stage – including the parents’ legal representatives, Children’s Services and the police – can support the child by providing them with reliable information about family law proceedings. For example, the [Family Justice Young Peoples Board \(FJYPB\)](#) has 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 developed [top tips for professionals](#) working with children in family justice proceedings.

“Help us feel heard and understood”

At this stage, **opportunities for the child to feel heard and understood may depend on the outcome of decisions, if a referral has been made to Children’s Services.** A joint enquiry may be the first opportunity for the child to share their account with someone outside the family. A multi-agency strategy discussion/meeting will formally decide *if, how and when* the child will be spoken to. Our guide [Children’s social care receive the referral and decide next steps](#) describes the initial decision-making process.

Decisions about next steps will depend on the child’s circumstances. Professionals involved in this decision-making process should hold in mind that:

- children who have been sexually abused in the family environment are vulnerable and intimidated, and may struggle to tell anyone what has happened to them because they may still be in an unsafe environment and dependent on someone who has abused them;
- children share experiences of abuse gradually, often in snippets over time;
- the child may have had limited contact with professionals so far, and limited opportunities to tell them what has happened or to build a relationship with them – you need to consider how the child can feel supported to talk to a trusted professional at their pace;
- The acrimony that often exists in family court processes can add a complex dynamic to the barriers that already exist to prevent children from ‘telling’
- our [Communicating with Children Guide](#) explains more about the barriers that children face in telling anyone about their abuse.

Initiatives like the **Child Focussed Courts** where Cafcass social workers have engagement with the child earlier in the process are designed to enhance the voice of the child from the outset, on the principle that children's participation should not depend on the subsequent identification of welfare concerns.

c) Mitigating the impacts of family law proceedings

As noted earlier, a child is likely to feel a wide range of emotions – including anxiety, uncertainty, confusion and frustration – at the beginning of family law proceedings. If you talk to them and understand how they are feeling, you can identify their support needs and take action to meet those needs or help them access support elsewhere – see above.

An assessment, enquiry or investigation by Children's Services, at the same time may increase the child's feelings of anxiety and disempowerment and exacerbate their internal conflict of loyalty and fear of consequences. They may grapple with the burden of believing that sharing information about abuse is disloyal to one or both parents, and will result in the disintegration of their family unit, the criminalisation of a parent, or their own removal into care. These protective interventions may be experienced by the child as a threat to their known world, forcing them to navigate a crisis where the boundaries of privacy and autonomy are entirely removed.

5. Where next?

In cases where there are no significant safeguarding concerns, both parents may meet and participate in **pre-hearing discussions / mediation (Mediation Information and Assessment Meeting, known as MIAM)**, with the support of a legal representative. Mediation is unlikely to be appropriate and exemptions from the mediation process may apply where there are safeguarding concerns, including concerns / allegations of child sexual abuse, mediation would not be appropriate.

If no **pre-hearing discussions** take place, or if they do not result in a final agreement, the case will progress to a [First Hearing and Dispute Resolution Appointment \(FHDRA\)](#).

Alternatively, if a referral to Children's Services has led them to seek their own legal advice, they may [decide to go into care proceedings](#).

Or return to this [response pathway summary guide here](#).