



# When a final decision is made at the issues resolution hearing (IRH) or final hearing

## Contents

|  |           |
|--|-----------|
| <b>Who is this document for? .....</b>   | <b>2</b>  |
| <b>1. What happens when a judge makes a final decision?.....</b>   | <b>2</b>  |
| a) The issues resolution hearing.....  | 3         |
| b) The final hearing.....  | 4         |
| <b>2. How may the child be feeling? .....</b>  | <b>5</b>  |
| a) Anticipating the final decision.....  | 5         |
| b) After the final decision has been made .....  | 5         |
| <b>3. Compiling the final evidence and care plan before the IRH .....</b>  | <b>6</b>  |
| a) Weighing up the evidence .....  | 6         |
| b) Considering options for care of the child.....  | 8         |
| c) When parties don't agree on the child's best interests .....  | 9         |
| <b>4. The final decision.....</b>  | <b>9</b>  |
| Considering any intersecting criminal proceedings .....  | 10        |
| <b>5. How can professionals best support the child and their family, before and after a final decision is made?.....</b> | <b>11</b> |
| a) Keep the child informed and supporting their participation.....   | 11        |
| b) Support the child's emotional needs .....   | 15        |
| <b>6. Where next? .....</b>  | <b>16</b> |
| <b>References .....</b>  | <b>17</b> |

# Who is this document for?

This practice guide is for all professionals working with a child and family when there are concerns of child sexual abuse and care proceedings have reached the issues resolution, or final hearing where the case may conclude.

## 1. What happens when a judge makes a final decision?

Care proceedings complete when the judge makes a final order – a legally binding decision about the longer-term care and future living arrangements; considering if this is to be with the **child's parent(s), family member or another care** – or decides that they will not make an order. The judge's decision is based on consideration of *all* the evidence made available to the court where child sexual abuse and other coexisting harms are a concern, including any findings made at a fact-finding hearing (see our guide [When the judge directs a fact-finding hearing](#)).

**The family court does not need to wait for any criminal proceedings to complete before making a final decision.**

If a final order is made, it could be:

- No order.
- a Supervision Order (requiring Children's Services to advise, assist and befriend the child – who remains at home or has returned home – and their family)
- a Care Order (giving parental responsibility to Children's Services while the child goes into foster care or another care setting; the child's parents retain *limited* parental responsibility).
- Kinship Care under a Child Arrangement Order, Care Order, or a Special Guardianship Order (gives parental responsibility to a suitably assessed family member or friend. Parents retain parental responsibility, but it is limited).
- a Care Order and Placement Order, where adoption is the care plan; the Care Order gives parental responsibility to Children's Services (as above), and the Placement Order (made at a later hearing) authorises Children's Services to place a child for adoption, and transfers parental responsibility to the adopter.

**Remember that the judge's ability to make a safe and just decision is dependent on the evidence that has been presented to them.**

A final order can be made at two points in care proceedings: at the **issues resolution hearing** (IRH) or early final hearing (EFH) if all the parties have reached an agreement, or subsequently at a **final hearing** if there remain areas of dispute between the parties.

An **advocates meeting** will take place no later than seven working days before the IRH. Legal representatives will review the evidence and the positions of the parties, to identify which issues remain disputed and how they can be resolved. The aim is for everyone to

arrive at court with a clear picture of what they need the judge to focus on to resolve the disputed issues.

The main questions are whether the parties agree or disagree about:

- the facts of the case
- whether the events caused significant harm or put the child at risk
- whether the judge can make a welfare decision based on the agreed or established facts

| The judge will ask the parents via their legal representative:<br>"Do you agree with what Children's Services has written in their Threshold Statement?"   |  |
|--|--|
| <p><b>What it means to agree</b></p> <ul style="list-style-type: none"> <li>•The Facts: The parents admit that the events described (e.g., a specific incident of child sexual abuse or a period of neglect) actually happened.</li> <li>•The Impact: The parents accept that these events caused significant harm or put the child at risk.</li> <li>•The Result: If everyone agrees, the court no longer needs to spend time proving if things happened. Instead, the focus shifts entirely to the Welfare Stage: "Now we know the risks, what is the best plan for this child's future?"</li> </ul> | <p><b>What it means to disagree</b></p> <ul style="list-style-type: none"> <li>•The Facts: The parents deny or dispute the event described happened, or happened as described.</li> <li>•The Impact: The parents reject that these events caused significant harm or put the child at risk. This means they do not think the threshold criteria for making an order is met.</li> <li>•The Result: If there are disputes over the facts or the threshold, the judge may direct a final contested hearing where evidence is heard to resolve the disputed issues.</li> </ul> |

## a) The issues resolution hearing

The IRH moves the focus from establishing **what happened** (fact-finding) to determining **what should happen** ('welfare and permanence'). The IRH is the **last opportunity** for everyone involved in the court case to **agree** on who the child should live and spend time with.

The final decision for the child should be made within the statutory 26-week timescale in accordance with the Public Law Outline (PLO) set out in [PD12A FPR 2010](#). The **date** for the IRH (usually any time from week 18 to week 26) will have been set as part of the case management order made at the case management hearing (CMH) – see our guide [A case management hearing is held](#). It will be scheduled to take place *after*:

- all assessments have been filed, including expert assessments and assessments of family and friends
- the fact-finding hearing has completed (if one has been deemed necessary)

- the final social work **evidence and care plan** and the Children's Guardian's **final analysis** have been filed with the court.

This ensures the judge has all the evidence needed to make a safe and just decision.

**If the parties agree and there are no disputed (or contested issues)** the IRH can be used as the final hearing. Sometimes, if there are minor disputes, the judge will hear submissions from the legal representative or oral evidence from the parties to help resolve the disputes at the IRH.

**If there are disputed issues that cannot be resolved at the IRH** and which prevent the court from making a final decision about the child's welfare, a contested final hearing will be scheduled. It is not necessary to resolve all issues, *only* those that relate to the threshold for making the final order. If a final hearing is directed, the IRH will be used to:

- **Narrow the disputed (or contested) issues** so the final hearing will focus on only disputed issues that relate to the threshold for making the final order.
- **Set a date for the final hearing**, within the 26-week limit wherever possible; the reasons for any necessary extension will be recorded in the case management order that is issued at the conclusion of the IRH
- **Give directions for final evidence and statements**, such as a focused addendum report from the social worker or Children's Guardian to address specific points arising from the IRH. The judge will direct parties to file final position statements in advance of the final hearing, clearly stating their position on the final evidence and care plan and the issues remaining for the judge to decide.
- **Set out a witness template** which specifies who will provide oral evidence at the final hearing, about which points, and how much time is needed for cross-examining each witness. This structured approach ensures that the judge and court time are secured and will inform a realistic time estimate for the final hearing. Usually, the social worker and Children's Guardian will give evidence, and expert witnesses may be called if necessary
- **Set out any special measures** which vulnerable witnesses might need, including the parents.
- **Make administrative directions** about the preparation of a comprehensive court bundle, to make sure all parties have the important information to make a safe and just decision.

## b) The final hearing

At the final hearing, **the judge will hear evidence from the witnesses** agreed in the witness template. In public law cases, children are formal parties and are represented by a Children's Guardian and their legal representative. The child's wishes, feelings and evidence are typically conveyed to the court via:

- their Children's Guardian's final analysis
- the child's Achieving Best Evidence (ABE) video recorded interview (VRI), conducted by the police and/or a social worker

- the social work evidence, which includes contextual evidence from people in the child's network (usually admissible as hearsay evidence)
- in some cases, a letter written by the child to the judge, or a meeting with the judge.

Usually, the child and family are protected from giving evidence, but sometimes it is considered necessary. If the child or any other vulnerable witness has to give evidence, the judge will have set out special measures at the IRH.

Public family law proceedings are held in private and do not permit the public to be present. Accredited journalists and legal bloggers can report on some family court cases involving children under a Transparency Order (TO), which operates as an injunction. The TO sets out the reporting parameters, with **strict** rules to protect the identity of the child, and other family members usually included. You can read more about the types of hearings journalists are able to attend here – [Jurisdictional guidance to support media access to courts and tribunals: Family courts guide \(accessible version\) - GOV.UK](#)

## 2. How may the child be feeling?

A child involved in family court proceedings is likely to feel vulnerable and anxious about the legal process and the impact that the final decision will have on their life. Even when there are no obvious signs, the emotions of children going through this process should not be underestimated.

### a) Anticipating the final decision

Before the IRH or final hearing, the child is likely to be anticipating the outcome. The road to a final decision – after investigation, assessment and multiple hearings – will probably have felt like a lengthy and disempowering process that has been difficult to fully understand and be involved in. They are likely to be worrying about what will happen following the final decision, and what this will mean for them and other vulnerable people in their family. If it has been decided that it is necessary for the child to give evidence at the final hearing, they are likely to be feeling apprehensive.

### b) After the final decision has been made

The final decision about who the child will live and spend time with is **a significant, life changing milestone** in an often long and uncertain journey. It marks the end of that period of uncertainty and the beginning of a new chapter in their life.

The final decision will mean different things to each child. For example:

- a child who has been in interim care during the proceedings might return to their parent(s)' care, move to live with another carer (e.g. in foster care, or with a family or friend), or be placed for adoption
- a child who has remained at home during proceedings might come into care, move to live with a family member or friend, or continue to live with their parent(s).

Whatever the decision, there will be a sense of finality about it, and it is likely to lead to complex emotions – especially if it is against the child's wishes or they feel unsafe. A final

decision could come as a relief for many children. But even where the child is satisfied with the decision that has been made, they are likely to feel some complex emotions and uncertainty about what their next chapter will look like.

**If there are concurrent and ongoing criminal proceedings**, the final care decision may not feel final for the child.

### 3. Compiling the final evidence and care plan before the IRH

The social worker responsible for the child in care proceedings is required to make recommendations to the court regarding where the child should live and who they should spend time with. These complex decisions have significant immediate and long-term effects on children and families, often eliciting strong emotions.

Where facts have been found about child sexual abuse, a decision must be made about whether the child's safety can be assured in the home.

#### a) Weighing up the evidence

- Once the information that has been gathered enters to the court arena, it becomes evidence that the judge will use to make safe and just decisions. Social workers will prepare and submit the final evidence and care plan prior to the Issues Resolution Hearing (IRH), once all the evidence has been submitted. When presenting evidence to the court, Children's Services' social workers should carefully weigh up the evidence in creating a suggested care plan for the child. This enables the court to make decisions based on:
- any ongoing involvement of the person of concern in the child's home, family network or community. Are they still a presence or influence in the child's life? What restrictions can be put on them, how will these restrictions be monitored, are they realistic, and is the person responsible for managing these restrictions able to enforce them, such as the other parent or a member of the child's family?
- the roles and responses of *all* family members (including non-abusing parents, brothers and sisters, grandparents and other family members) - consider the risk of collusion, minimisation, denial, and historic patterns of abuse or violence and this impact this may have on being able to safely care for the child. Has the family moved from a place of initial shock, to believing and being able to support the child?
- risks of further abuse, denial or retaliation from the family, extended family or community, considering cultural context. Also note risks if the parent caring for the child is dependent on the person of concern – consider financial dependence, co-dependence, immigration status (such as linked visas), or vulnerabilities such as pregnancy, alongside wider family dynamics and roles and 'scripts' within the family
- direct or indirect evidence of grooming and how the person of concern may have manipulated the child, their parent(s) and siblings, and other adults (including professionals); professional grooming (where practitioners are manipulated to delay or derail protective action) is a key risk

- the impact of the abuse and subsequent investigation on the parent(s) caring for the child, and whether they have the capacity and ability, to provide safe protection or are themselves traumatised or fearful
- whether non-abusing family members can recognise risk, set boundaries, safeguard effectively, and resist manipulation or intimidation by the person of concern
- the impacts of coexisting harm (such as domestic abuse, parental mental health issues or substance use issues, and physical or emotional harm or neglect) on the child
- the direct and indirect risk to siblings, either as potential targets or as witnesses/secondary victims of abuse
- the possibility of other types of sexual abuse including technology-related harm or exploitation, sibling sexual behaviour and abuse or harmful sexual behaviour.

Recognise that online harm and abuse may also involve sexual abuse within the known family network, including making sexual abuse images within the home, or uploading recordings of non-recent abuse taken prior to the current digital age. Child sexual abuse material (CSAM) may be used to coerce or control the child. To learn more about different types of child sexual abuse by adults, [read the CSA Centre's typology](#).

- whether evidence gathering (including Achieving Best Evidence interviews, medical assessment, and digital forensics) has been robust, trauma-informed, and timely
- whether professionals' minimisation of child sexual abuse, including in court, has shaped the case (e.g. framing abusive behaviours as "just non-contact abuse", "just bad parenting", "just unboundaried" or "just a counter allegation" or "alienating behaviours")
- whether there has been an over-reliance on the child making clear statements during the video recorded interview, resulting in important observations about the signs and indicators being missed or deprioritised (e.g. "we haven't got the evidence as the child hasn't said anything")
- whether the evidence can be connected based on known behavioural patterns – recognising, for instance, that sexual abuse often begins with grooming in intra-familial and extra-familial settings, including grooming of family members or within domestic abuse relationships, which then escalates.

It's important to recognise that, if a person of concern attempts to keep their behaviour secret, this suggests a level of **cognitive awareness** that the behaviour is abusive, defies social norms, and crosses safeguarding and criminal legal standards. The effort to maintain secrecy is often interpreted as evidence of **intentionality**: if their behaviour were benign or accidental, they would not perceive the need to conceal it.

Secrecy serves as a functional component of the abuse process, used to isolate a child. It is not just a byproduct of abuse but a **deliberate tactic** to bypass the 'protective shield' of protective adults, carers and professionals. For a child, keeping a secret is rarely a choice made with full agency; rather, it is a response to the manipulation of their natural loyalty and trust. The child often maintains secrecy due to the **internalisation of blame**. A significant barrier for children to tell anyone they have been or are being abused is the fear of what will happen once the secret is known.

## When facts are not found

In some instances, the court may not have 'found facts' about child sexual abuse or other harms but professionals still have concerns relating to child sexual abuse.

Children's Services cannot rely on those concerns to inform the court's decision-making and care planning, even if concerns remain. This can have significant implications for planning around who the child should live with and spend time with, and for future safeguarding decisions and resources.

## b) Considering options for care of the child

When deciding what to recommend in the final care plan:

- **Reflect on the child's safety** – What will it mean for them if they remain at home or return home? What is the future risk of sexual abuse or other harms? How can their safety within the family environment be ensured?
- **Consider the whole child** – their safety, developmental needs, trauma impact, living environment, and relationships with siblings and both protective and non-protective adults. The child's voice, lived experience and any special needs (including neurodiversity) must be central to the care plan.
- **Take a trauma-informed approach** – consider the child's physical, emotional and psychological safety. Long-term care planning must support recovery, therapy and resilience-building.
- **Safety planning** – if you will recommend that the child remains in the family home, what is the safety plan and what support do the resident parent(s) need to implement it?

**Where friends and family members have been put forward to be assessed as potential alternative carers**, it is important to ask the child how they feel about them. Research shows that rushed assessments, the presumption of safety, and bias that 'family is best' can contribute to poor decision-making. While most assessments are robust, there is evidence from research that some children have been sexually abused after having been placed with kinship carers without adequate assessment <sup>ivx vii</sup>. To learn more about understanding the child's placement needs, finding the right carer and considering family and friend placements, [read our guide here](#).

When recommending who the child should spend time with, consider:

- the risk to the child, particularly from any person suspected of (or colluding with) abuse – it's vital to assess **direct and indirect risks** such as ongoing grooming, intimidation, emotional manipulation or enabling by other adults
- how the child's wishes, feelings and relationship history with each significant adult can be weighed against any **grooming, coercion or emotional pressure** that may have shaped their expressed views
- the historical caregiving role, patterns of support or threat, and emotional safety provided by each adult – examine whether there's a history of **protective action or minimisation/denial of abuse**

- consideration to risk of sexual harm in non-recent reporting. For example if a grandparent is being assessed to care for their grandchild but their own child said they had been sexually abused by that parent, resulting in no further police action at that time, has this been appropriately analysed and revisited?
- whether brothers and sisters or extended family could **support (or undermine) the child's stability and recovery** – explore family loyalties, potential for denial, and emotional harm of divided or unsafe contact
- coexisting concerns (such as **domestic abuse** or **substance use**, for example) relating to the child's parent(s) and other family members, taking on board reports from family members.
- recognise that **quality of contact** is more important than quantity of contact.

If a child can't live with their parents because it is not safe, their social worker and the family court should speak to them and their family about where they will live. The judge in the family court should listen to what everyone has to say. It's their job to make safe decisions for that child and their family. They should make a decision as quickly as they can<sup>1</sup>.

Children's Services should ensure the care plan complies with [The Care Planning, Placement and Case Review Regulations 2010](#). Research in Practice have produced guidance on [Care planning for children in proceedings](#).

### c) When parties don't agree on the child's best interests

The parties – parents and people with parental responsibility, Children's Services, and the Children's Guardian – may not always agree on the child's best interests.

Cafcass and the Association of Directors of Children's Services (ADCS) have issued [practice guidance](#) for what should happen when the Children's Guardian and Children's Services fundamentally disagree about the safety and best interests of the child, and therefore about the final evidence and care plan.

The guidance provides advice on structuring a meeting, to take place before Children's Services submit the evidence and care plan and the Children's Guardian submits their final analysis report. The purpose of this meeting will be to:

- understand the points of agreement and difference, and the evidence base being relied upon
- identify any gaps in information
- agree a shared explanation for the differing views that Children's Services and the Children's Guardian will share with the court
- agree how the points of difference will be explained to the family and the child.

This is **not** a decision or direction making meeting, nor is it a pre-court hearing for questioning, prejudging or positioning.

## 4. The final decision

To make a final decision, the judge follows four steps:

1. The judge will check if the legal standard (**threshold criteria** under Section 31(2) of the Children Act 1989's are met before making a care or supervision order.
2. Meeting the legal standard does not guarantee that an order will be made. The judge will apply **the welfare test** to determine what is in the child's best interests, guided by:
  - the "No Order" principle (s.1(5)), which means an order should be made only if it benefits the child
  - the "Delay" principle (s.1(2)), that any delay in proceedings is likely to prejudice the child's welfare
  - the Welfare Checklist (s.1(3)), used to structure the welfare analysis.
3. The judge will apply **the proportionality test** to ensure that decisions adhere to Article 8 of the European Convention on Human Rights. This means ensuring that any interference with a child's right to family life is conducted lawfully, pursues a legitimate aim, is necessary and proportionate, and employs the least intrusive means available.
4. The judge will **scrutinise the final care plan** to ensure it considers **all realistic and viable options**, including returning the child to their parent(s), placing them with family or friends, long-term foster care, or adoption.

## Considering any intersecting criminal proceedings

Intersecting criminal and family proceedings may be a source of great concern for the child and those supporting them. **Family Court proceedings do not need to pause to allow criminal prosecutions to be completed**, as the child's immediate welfare and safeguarding are a higher priority than establishing anyone's criminal guilt. The focus in the Family Court is on establishing the facts to a civil standard of proof (on the **balance of probabilities – 'it is more likely than not that the harm has occurred'**); in contrast, the criminal standard of proof is '**beyond reasonable doubt**', meaning that the jury or judge must be completely convinced, or "sure", that the defendant is guilty.

Neither the police nor the Crown Prosecution Service (CPS) are parties to family law proceedings, nor will they have been present, unless called to give evidence at the fact-find hearing, which is not common. It is more likely the police records would have been shared with the court for analysis. Likewise, Children's Services are not a party in criminal proceedings. However, the criminal and family courts do exchange some information about the case as provided by law. The [Protocol and Good Practice Model: Disclosure of Information in Cases of Alleged Child Abuse and Linked Criminal and Care Direction Hearings \(October 2013\)](#) provides guidance and good practice in relation to the disclosure of evidence between local authorities, the police and the CPS:

- Children's Services should ensure that documents relating to family court proceedings are *not* included in the files to be examined by the police. Instead, they will provide a list of such documents without describing what they are (e.g. by providing a copy of the redacted court index), in order for the police and/or the CPS to apply to the Family Court for disclosure.
- Children's Services **can** disclose documents relating to Family Court proceedings to a police officer who is a member of a dedicated child protection unit and/or is exercising powers of [Police Protection](#) under section 46 of the Children Act 1989, but only if the

disclosure is for the purposes of child protection and not for the purposes of the criminal investigation.

- Children’s Services can disclose to the police, documents (e.g. pre-existing medical reports) which are lodged at court or used in the proceedings and already existed before the Family Court proceedings commenced.
- The appropriately redacted text or summary of a judgment given in the Family Court proceedings can be included in the files to be examined by the police
- Where material is disclosed to the police, it cannot be further disclosed to any other parties (e.g. the CPS) for the purposes of the criminal investigation, without the express permission of the Family Court.

For more information about the child’s testimony and special measures in Criminal proceedings, [read our guide here](#).

For more information about intersecting proceedings, read the [CPS’s Guidelines on Prosecuting Cases of Child Sexual Abuse](#).

## 5. How can professionals best support the child and their family, before and after a final decision is made?

Much can be done to support the child and their family at this time. Some actions can be taken by any professional supporting them; others are for specific professionals in the family justice system to take. It is important for all professionals to ensure that the child and their other family members understand the help and support available.

This section covers:

- keeping the child informed and supporting their participation – including if they are required to give evidence at the final hearing
- supporting the child’s emotional needs.

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) Keep the child informed and supporting their participation

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

keep them safe and make good decisions. An ongoing dialogue through proceedings may help the child to share information that is important to a safe and just decision. Hold in mind how children report information so you can continue to build the evidential picture.

### “Help us feel heard and understood”

Children who feel heard and understood during proceedings feel more empowered and report higher levels of satisfaction with the outcomes, regardless of whether decisions are aligned with their preferences. When a child understands the court’s decision, they may also be more likely to accept it.

The Children’s Services social worker will include the child’s wishes and feelings in their evidence and care plan, and the Children’s Guardian will make their own independent enquiries. Ensuring children are truly heard and understood means building a relationship and actively listening. If the child has come into care at an urgent hearing, it is important to get an update on how they have settled in and hear any changes to their wishes and feelings **before the issues resolution hearing**. The child should be involved in their care planning: there should be a clear picture of who they want to live with and spend time with. Help them consider what safety looks like and feels like to them.

*“Listen to me to understand me not to answer or plan for me.” [15]*

*“Always listen to the children you are working with. Help us to feel confident enough to express our wishes and feelings.”*

*“Listen and genuinely hear us because this is what will make the most difference.”*

*“Trust that we know what we want, even if we’re young. Represent what we are saying no matter what your interpretation. Also, think about what a child is not saying to you, do they feel afraid to talk to you?”*

[Cafcass policies](#) for children’s guardians working with children and families set out clear [public law practice standards](#) and guidelines on [engaging with and seeing children](#) to form the best possible understanding of what life is like for them and their wishes and feelings.

### “Help us understand”

Children (and most parents) won’t understand what an IRH is, how it is different from a Final Hearing, why it is important, and what to expect. The social worker and the Children’s Guardian both have a responsibility to meet with the child to ‘ascertain their wishes and feelings’ **before submitting their final evidence and care plan and the Guardian’s final analysis respectively**. They should also explain what will happen at the issues resolution hearing and final hearing, and give the child an opportunity to ask questions. While it is unlikely that the child will need to give evidence, it is important to talk to them about the possibility and understand how they feel about it. The Family Justice Young Peoples Board (FJYPB) provides the following encouragement for professionals:<sup>ii iii</sup>

- “Make sure all plans for us are made with us.”
- “Help us understand what happens in family court proceedings, step by step. Check in all the time to make sure that we know what is happening and why.”

- “court terminology is very confusing. I may not understand what an order is or what it means. Talk to me and make sure I understand what decisions have been made about my life and write clearly about them in my file and how it will affect me”
- “Help us to understand the reasons behind the recommendations that you make and record our thoughts about them in your reports.”

**Before the issues resolution hearing**, support the child to understand:

- the purpose of the IRH and (if one is needed) the final hearing
- that a decision could be made at the IRH or at a final hearing
- who will be at court
- what they will talk about
- how the child’s views will be shared with the court and will influence what happens
- how the child can participate in proceedings (see below)
- what decisions will be made
- how the decisions will be made
- how you will inform the child about what has happened at the IRH.

Tailor your explanation to the child’s age and stage of development, always checking that they have understood.

**After the issues resolution hearing**, be sure to follow the plan you agreed with the child about how to keep them informed.

If a final hearing was directed, help them understand:

- when it will be and what it means for them
- the timetable that has been agreed
- any suggestion or decisions that were made about how they will participate
- whether they will need to give evidence, and what support is available to help them do so

Always ask the child whether there is any more information that they would like to share with the court.

## Ways to support participation

Supporting the child’s participation in the IRH or final hearing will depend on their age, understanding and specific needs. There are a range of resources available and ways to support participation.

**The court may decide that it is necessary for the child to provide evidence to the final hearing.** Historically children were protected from attending court or providing evidence, especially in cases of child sexual abuse, but it has become more common. Some children ‘want their day in court’ while others might feel more hesitant about providing evidence. The Family Justice Council (FJC) has prepared [Guidelines in relation to children giving evidence in family proceedings](#) to help decide what is best.

At this stage, the facts are established (either by agreement or by the judgment from the fact-finding hearing). The focus of the final hearing moves to the threshold for making an order and the proportionality of the care plan developed by Children's Services. This means the questions should focus more on the child's future, the viability of the care plan, and the parent(s)' current and future capacity to meet the child's needs. The child may be asked to contribute to decisions about who they live with and spend time with, but it is more likely that their views will be represented by the Children's Guardian or in a letter to the judge. If they do provide evidence, they may be asked about the care they have received and the care plan; this could be upsetting to the child.

If the child (or any other vulnerable witness) is to give evidence at the final hearing, a **ground rules hearing** (GRH) will be scheduled beforehand. The sole purpose of the GRH is for the judge to establish and reach agreement upon the specific **special measures** (or **participation directions**) that will be used to ensure that the witness can participate effectively, and that the quality of their evidence is maximised without causing them undue fear or distress. The special measures available to the child are the same as if they provide evidence in a fact-finding hearing.

**The child may benefit from being appointed an intermediary**, who can be with them in court to help them understand and answer questions. They do this by:

- passing on questions from the court to the child, making sure the child understands what is being asked
- sharing the child's answers back to the court
- explaining the questions or answers if needed, so that everyone fully understands what is being said.

The intermediary's job is simply to help with communication during the court process; they do not give advice or tell the child what to say. To learn more about the role of the intermediary, see the Practice Guidance prepared by the President of the Family Division, [The use of Intermediaries, Lay Advocates and Cognitive Assessments in the Family Court](#)

Children can feel more in control and closer to decision making if they can speak to or hear from the people making decisions about their lives. The FJYPB reminds professionals<sup>iv v</sup>:

*"Help us to meet the decision makers early on."*

*"Every child is an individual when it comes to being in court. The situation is dependent on their needs, and they will need time, support and reassurance to meet with a judge. Remember to tell them they can do this."*

You can support the child's participation by checking if they want to **meet the judge before the IRH or final hearing**. If they will be providing evidence to the court, it is a good opportunity for the judge to clarify any questions and ensure the child has the appropriate special measures in place. The Family Justice Council (FJC) and the President of the Family Division have produced [Guidelines for Judges Meeting Children who are subject to Family Proceedings](#).

The Children's Guardian or child's solicitor can also **arrange for the child to visit the court** and familiarise themselves with the environment. This can help them feel more at ease.

## b) Support the child'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. The Crown Prosecution Service's 2022 legal guidance [Pre-trial Therapy](#) makes clear that they can, and should. **Refer the child for therapeutic support at the earliest opportunity.** The child's health and wellbeing should always be the determinative factor in whether, when and with whom they seek therapy. **Reassure the child that what they say in therapy is confidential unless it is necessary to safeguard them.** Be mindful that there are certain circumstances where therapy notes can be disclosed by direction of the court, should the judge view the contents of the notes as beneficial to decision making. Children and parents should have this explained to them at the start of therapy, in an age-appropriate manner. The Bluestar project give clear guidance on note keeping by therapists that can be read here [Bluestar-Guide-to-notetaking.pdf](#)

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

Supporting the child and family's emotional needs should consider:

- The child's immediate and long-term care, support and therapeutic needs, including their readiness and willingness to engage with therapy
- The parent(s) / carers emotional and support needs, including supporting them to understand the child's care and support needs
- The immediate and long-term care and support needs of other children and vulnerable people within the home, considering whether they have also been sexually abused
- The care, support and therapeutic needs of other children in the home that have engaged in harmful sexual behaviour.
- When therapy is not appropriate at this time, including any barriers to the child accessing therapy and reasons why there may be opposition to therapy from family or professionals

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 question 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.

All professionals around the child and family should consider how different aspects of the child's life may be affected by the final decision on who the child will live with and spend time with. Take time to listen and understand what the child needs and who is best placed to help them. In particular:

- Emotional wellbeing (especially if the decision has gone against the child's wishes) – what steps can be taken to support their understanding, and what could help them to be more accepting of the decision?
- School life – would the child benefit from having time out from lessons and/or support from a trusted adult in the school environment, for example?
- Family relationships, friendships and activities such as clubs they attend – what can you do to ensure that, where the child wants to continue with these in their new living arrangements, their life and the things they enjoy are supported?

After the final decision has been made, **it may be helpful for the judge to write the child a letter, to explain the findings that have been made.** This may be particularly helpful if the final decision was against their wishes. [A toolkit for judges writing to children](#) has been prepared by the FJYPB and endorsed by the President of the Family Division. The guidelines outline why this is important and provides practical advice on what to say and how to say it.

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

## 6. Where next?

The outcomes of care proceedings could result in:

- **No order or a Supervision Order**, where the child remains at home or in returned home and supported through a Child in Need Plan or a Child Protection Plan, or in Wales, a Care and Support Plan, and reviewed through regular meetings. In some instances, where concerns are resolved, the case may close. Where the child remains at home, it is important to Safety Plan with the resident parent.
- **Child Arrangements Order (CAO)** may specify who the child lives with and spends time. In cases involving child sexual abuse or other harms, protective orders may also be sought.
- **Special Guardianship Order (SGO)**, under a kinship care arrangement where the child is placed with a suitably assessed friend or family member.
- **Care Order (CO)**, where the child lives with a foster carer or in another type of care setting.
- **Care and Placement Order**, where the plan for the child is adoption. A CO grants a local authority parental responsibility for a child, allowing them to determine where the child

lives to ensure their safety and well-being. A **placement order** is a subsequent court order that authorises Children's Services to place a child for adoption, effectively overriding parental consent if the court deems it necessary for the child's welfare.

To learn more about understanding the child's placement needs and finding the right carer and considerations for kinship placements, [read our guide here](#).

Read our pathway summary guide on [When the child comes into care](#).

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

## References

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<sup>i</sup> [Children's Social Care Stable Homes Built on Love consultation response.pdf](#)

<sup>ii</sup> 'Our Shoes': Children's Book by the FJYPB - Cafcass' <https://www.cafcass.gov.uk/children-and-young-people/family-justice-young-peoples-board/fjypb-book-our-shoes> [accessed 4 October 2025].

<sup>iii</sup> FJYPB Top Social Work Practice Advice & Tips - Cafcass' <https://www.cafcass.gov.uk/children-and-young-people/family-justice-young-peoples-board/fjypb-top-tips> [accessed 9 September 2025].

<sup>iv</sup> 'Our Shoes': Children's Book by the FJYPB - Cafcass' <https://www.cafcass.gov.uk/children-and-young-people/family-justice-young-peoples-board/fjypb-book-our-shoes> [accessed 4 October 2025].

<sup>v</sup> FJYPB Top Social Work Practice Advice & Tips - Cafcass' <https://www.cafcass.gov.uk/children-and-young-people/family-justice-young-peoples-board/fjypb-top-tips> [accessed 9 September 2025].