

## **Children Act Proceedings Fact Sheet**

Sometimes if matters in relation to the children cannot be resolved amicably between the parties, it is necessary to issue an Application to the Court. Applications can be issued to cover any matter which may be affecting the children following separation of the adults such as education, medical treatment, holidays or matters of residence/contact or protective measures.

Proceedings can be filed in either the Family Proceedings Court or the County Court. If there are connected Divorce Proceedings, the Application will need to be made in the same County Court as in a Divorce.

The purpose of such Proceedings is to resolve any disagreement regarding future arrangements for your children.

The Children Act 1989 states that the most important factor for the Court in deciding the arrangements for any child is what will be in their best interest. The Court will not make Orders unless it is considered that an Order is beneficial to the child. This is because it is considered better for the arrangements for children to be agreed between the parties wherever possible rather than have an Order imposed by the Court. Even if a Court Application is brought the overall aim is still to resolve matters rather than litigate.

The first Hearing of the Application is designed to assist parties in reaching an agreement, a "Conciliation Appointment". Parties are required to attend with Legal Advisors to allow for an attempt at a negotiated settlement.

If no agreement can be reached at this "Conciliation Appointment" the Court will move on to make directions for the future conduct of the matter which may involve the filing of Statements of evidence and/or the preparation of a Report via a Cafcass Officer (Child And Family Court Advisory And Support Service) Unfortunately, it can take up to sixteen weeks for a Report to be prepared (sometimes longer in busy periods). A further Directions hearing will then follow upon receipt of the Report. The Final Hearing would not be possible until all enquires have been made. This can be six to twelve months after the "Conciliation Appointment".

The period of time between Hearings may be less. This generally depends upon whether it is necessary for a Report to be prepared and if so the time it takes for this Report to be prepared.

If agreement is reached, a decision must then be made as to whether an Order can be made by consent or whether "no Order" is necessary.

If an agreement is not reached and the matter proceeds to a Final Hearing both parties will need to give evidence on oath having filed a Witness Statement and will be cross-examined by the representative of the other party. The duration of the Final Hearing varies, it can be half or a full day or more than one day dependent upon the number of Witnesses and issues involved.

However, the majority of cases do settle before a Final Hearing.

If you have any queries whatsoever, please do feel free to contact us.