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Children and the law: a guide to Cafcass and Section 7 reports

This legal guide explains the role of Cafcass and section 7 reports in the family court and answers some frequently asked questions.

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Who are Cafcass?

Cafcass provide advice and support to help the family court and families make decisions in the best interests of children.

There are two organisations - one in England and one in Wales. The service in England is called **Cafcass** which is short for the Children and Family Court Advisory and Support Service. In Wales, the organisation is called **CAFCASS Cymru**.

Cafcass officers, known as family court advisers (in Wales they are sometimes called Welsh family proceedings officers), are qualified social workers who work with children and parents to advise the court on what action is in a child's best interests in the following types of cases:

- where parents or carers can't agree on arrangements for their children on separation (sometimes called private law cases)
- where social services have serious concerns about the safety or welfare of a child (sometimes called public law cases)
- adoption

For consistency we will use **Cafcass** and **Cafcass officer** throughout this guide but the information provided will apply to England and Wales.

This guide focuses on the role of Cafcass in private law children cases. For information on public law cases, you can visit the **Family Rights Group** website www.frg.org.uk

What is Cafcass' role?

The role of Cafcass in the family court is to:

- safeguard and promote the welfare of children
- give advice to the court about any application made to it in cases about children
- make provision for the children to be represented in the case if necessary
- provide information, advice and other support for the children and their families

Cafcass officers carry out these duties by helping your family agree arrangements for your child (if possible), carrying out initial safeguarding checks to see if your child is safe and if asked by the court, preparing a report on your child which usually concludes with recommendations about what the arrangements should be.

Initial checks and the safeguarding letter

Every application for a child arrangements order is sent to Cafcass. The first thing they do is safeguarding checks to find out if your child is safe.

A Cafcass officer carries out their checks by:

- looking through the application form to see if any concerns about your child's safety have been raised. This might be in relation to domestic violence of any form, child abuse or neglect.
- looking at a C1A form if one has been completed. The C1A form is a form that can be sent with or in response to an application for a child arrangements order. It should include information about you and your child's safety, which the court needs to be aware of when deciding what orders to make.
- checking whether you, your child or the other party have had any involvement with the police or local authority and if they have any concerns about the safety of you or your child.
- speaking to you and the other party (separately) to find out if either of you have any concerns about the safety and welfare of your child. They will speak to you on the telephone. If you are the respondent to the application and you have completed a C1A or submitted any other documents in response to the application, you should double check with the Cafcass officer that has called you that they have got copies of them on file.

At least three days before the first hearing Cafcass should provide the court with a short report on the outcomes of the safeguarding checks and any child welfare issues raised in the telephone interviews with you and the other party, this is often called the safeguarding letter or Schedule 2 letter.

If you have not received a copy of the safeguarding letter from Cafcass before the first hearing (known as a first hearing dispute resolution appointment (FHDR)), you should tell the judge. The court must inform the parties of the content of the safeguarding letter or other information which has been provided by Cafcass, unless doing so could put the child or one of the parties at risk of harm.

First hearing dispute resolution appointment (FHDR)

A Cafcass officer should be present at the first hearing as long as it is a FHDR. This might not be the same person you spoke to on the telephone. If there is an urgent hearing, before the FHDR, then a Cafcass officer may not be present.

If it has not been possible to hold the telephone interviews with you and the other party before the hearing, then the Cafcass officer should meet with you before going into the court room. They will then give a verbal report on any safeguarding issues and proposed next steps to the court.

If the safeguarding checks are not available at the first hearing, and no other reliable safeguarding information is available, the court must adjourn the first hearing (this means put it off until a later date) until

the checks are available. The court should not make any orders for contact without safeguarding information unless the order is to protect your children.

If there are no safeguarding concerns, the Cafcass officer will try to help you and the other party reach an agreement without the need for further court hearings. If an agreement is reached, the court can make a child arrangements order with the agreement of both you and the other party in the case. The court must be satisfied that this is safe and, in your child's best interests.

If you are not able to agree, or there are safety concerns about your child, the court may:

- refer you and the other party to mediation or ask Cafcass to help you reach an agreement. You should not be expected to attend mediation if you are a victim of domestic violence.

If you feel uncomfortable about attending mediation because of concerns about abuse, you should tell the Cafcass officer and the judge. For more information about mediation see [Alternatives to the Family Court](#)

- order a fact-finding hearing to hear evidence of allegations of domestic violence if they have been denied by the other party. See [Children and the law: domestic violence and Practice Direction 12J](#) for more information on fact-finding hearings and how the court should deal with domestic violence in child arrangements cases.
- order Cafcass to carry out more detailed work with your family and to write a report about your child's welfare. This report is often called a welfare report or a section 7 report.



Section 7 reports:

What is a section 7 report?

A section 7 report is a type of report that the court can order when it needs more information about your child's welfare and what action is in their best interests. The court can order a section 7 report to consider a broad range of issues relating to your child, depending on the issues in your case. For example:

- where your child should live
- whether your child should spend time with the parent they do not live with and if so, how often and for how long
- the wishes and feelings of your child (depending on their age and understanding)
- the home conditions and suitability of the accommodation of you and/or someone else your child may stay with
- whether or not your child's physical/emotional/educational needs are being met
- whether or not it appears that your child has suffered or is at risk of suffering harm
- a specific concern that has been raised in the case
- the parenting capacity of one parent,



having regard to any allegations or findings made

- the effect on your child of a proposed change in circumstance. For example, a change to where they live
- whether the local authority should be requested to report under section 37 of the Children Act 1989 (see below for more information on section 37 reports)
- recommendations about arrangements for your child

Section 37 reports

It is also possible for the court to order a section 37 report during the case. The court can order this type of report when it is concerned your child may be at risk of significant harm. The purpose of a section 37 report is for the local authority investigate the child's circumstances and consider whether it should:

- a) apply for a care or supervision order
- b) provide services or assistance for the child or their family; or
- c) take any other action with respect to the child

These reports are supposed to be completed within 8 weeks, unless the court decides there should be a different timeframe.

When should the court order a report?

The power of the court to order a section 7 report is wide. All that is required is that the court is considering 'any question' in

relation to your child.

Section 7 reports are often requested in child arrangements cases but can also be ordered in other children cases relating to specific questions such as removing a child from the country or their religious upbringing.

A section 7 report is usually ordered early in the case. This is because concerns about a child's safety are often raised at the beginning of the case and are included in the safeguarding letter prepared by Cafcass for the first hearing. Cafcass will often recommend in their safeguarding letter whether a section 7 report would be useful or not. If no safety concerns are raised, it is unlikely that the safeguarding letter will recommend a section 7 report.

It is possible to request a section 7 report later in the case. Where there is a fact-finding hearing, the court may choose to delay the report until after it has taken place as the outcome of the hearing is likely to have an impact on the report. If a report was prepared before a fact-finding, the court may ask the Cafcass officer to review their report now the court has made findings of some type.

When considering whether a section 7 report is necessary, the parties and the court should bear in mind the potential delay. A report will take several weeks (usually at least 12 weeks). When deciding to order a report, the court must balance the impact of any possible delay against the benefits of obtaining a report. The court needs to consider whether they need the report to be able to make decisions about the child's welfare.

Who prepares a section 7 report?

If the local authority is already involved with your family, the court is likely to ask them to prepare the section 7 report because they will already be familiar with the background. If the local authority is not involved, then the court will ask Cafcass to prepare the report. It is also possible to request that an independent social worker prepares the report, but that will mean that the parties will have to pay for the report (which is not the case if it is done by Cafcass or the local authority).

When preparing the report, the social worker assigned (either from Cafcass or the local authority) may speak to your child (depending on their age and understanding) about their wishes and feelings and what they would like

to happen. They will spend time with you and the other party to discuss the arrangements you think are best for the child and any concerns you have. They can also ask to observe contact between your child and the other party and sometimes to visit homes. They may also speak to others such as the police, teachers, and health workers, if they have been involved with the family. They will also have access to all the documents in the case, including the application forms and any statements or other material that has been obtained.



Tips for working with your Cafcass officer:

- *Plan what you want to say about your case before you speak to the Cafcass officer.*
- *Prepare for the Cafcass officer to ask you questions about what the other side in the case is saying.*
- *Stay calm when talking to the Cafcass officer even if you are feeling angry or upset.*
- *Be honest and as open as possible.*
- *Focus on your child and their needs for the future.*
- *Make sure you have thought about what you want the court to do so you can clearly explain it to the Cafcass officer.*
- *Tell them about the good things. For example, what your relationship is like and what you and your child like doing together. This will help the Cafcass officer to understand you and your child better and the reasons behind your proposed arrangements.*
- *If you have concerns for your child's welfare or the other parent's behaviour, think about whether there is a link between your concerns and how they impact your child so that you can explain this to the Cafcass officer.*

For example, if you are worried about contact because the other party has a history of failing to turn up or turning up late, tell the Cafcass officer about how this makes your child feel and any practical problems this creates for you and the child. Try to think about whether there is a solution to this that the court can help with, for example, perhaps the contact is taking place too often and the other party is struggling to maintain this or it is clashing with the other party's work commitments, meaning contact should take place at a different time. Try not to simply criticise the other party but think about the issues in terms of the impact on your child and try to put forward solutions if possible.

In some cases, your concerns about the safety of your child may be so serious that you do not believe contact should happen at all. In this situation, prepare for the meeting by thinking about what the safety issues are for you and your child and be prepared to explain these to the Cafcass officer.

What will the section 7 report include?

The person who has prepared the report must send a copy of the report to you, the other party and any others by the date set by the court.

There is no particular format for the report to take but it will usually include:

- background information on your family, including the name, date of birth and relationship of each person as well the current living and contact arrangements
 - the outcomes of the safeguarding checks carried out with the police and social care if they had not already been completed before the first hearing
 - details of enquiries made by the Cafcass officer, such as speaking with your child's school or GP
 - you and the other party's views on the application, proposals and any concerns raised
 - your child's wishes and feelings (if appropriate)
 - an assessment of your child's needs with reference to factors set out in the welfare checklist. The welfare checklist is a list of factors that the court must consider when making decisions about a child. They are:
 - a) your child's wishes and feelings (depending on their age and understanding)
 - b) your child's physical, emotional and educational needs
 - c) the likely effect on your child of any change in their circumstances
 - d) your child's age, sex, background and any characteristics which the court considers relevant
 - e) any harm which your child has suffered or is at risk of suffering
 - f) how capable the parents, and anyone else the court considers to be relevant, are of meeting your child's needs
 - g) the range of powers available to the court
- where the court has made findings about domestic abuse or the other parent in the case has admitted there was domestic abuse, the Cafcass officer's report should also consider some additional factors. These are:
 - a) the conduct of you and the other parent towards each other and towards your child and the impact of that conduct
 - b) the effect of the domestic abuse on your child and on the arrangements for where your child is living
 - c) the effect of the domestic abuse on your child and its effect on their relationship with you and the other parent
 - d) whether the other parent is motivated by a desire to promote the best interests of your child or is using the process to continue a form of domestic abuse against you
 - e) the likely behaviour during contact of the abusive parent and its effect on your child

- f) the capacity of you and the other parent to appreciate the effect of past domestic abuse and the potential for future domestic abuse. For more information about the way the court should approach child arrangements cases where there are allegations of domestic abuse see our guide [Children and law: domestic violence and Practice Direction 12J](#)
- the Cafcass officer's assessment and recommendations on what action or arrangements is in the best interests of your child in relation to the issues the court has asked them to address

Does the court have to follow Cafcass recommendations?

The court is not obliged to follow recommendations in a section 7 report or the opinion of any expert. However, Cafcass officers are considered to play an important role in children cases. They are experienced social workers and are given the opportunity to spend time with you, the other party and your children in more natural circumstances than a judge is able to. If the court does not follow the recommendations of the Cafcass officer they must provide good reasons why they have decided to do something different.



It is likely that the court will hear evidence from the Cafcass officer before departing from their recommendations, and that will provide you with an opportunity to challenge any of the conclusions that you have reached by cross-examining the Cafcass officer. **Cross-examination** is where each party or their lawyer is given the opportunity to ask a witness questions about their evidence. In this example, the Cafcass officer is the witness and their report is their evidence.

Once you receive the section 7 report, you and the other party may reach agreement about what order the court should make. The recommendations of the Cafcass officer can be used as a guide and many parents will agree with the recommendations or something similar to the recommendations. If you and the other party agree on arrangements that are similar but not the identical to the Cafcass recommendations, the court can approve the agreement and turn it into an order. If what you have agreed is very different from the Cafcass recommendations, the court will want to know why.

When the court rejects the recommendations of a Cafcass report, the reasons for doing so must be provided in a judgement (if you are before a judge) or written reasons (if you are before magistrates).

Can I challenge Cafcass recommendations?

It is possible to challenge the recommendations in a section 7 report. As the report is evidence in the case, it must be challenged through the court process.

Below is a brief guide to the process to follow.

1. Once you have received the Cafcass report, read through it carefully and consider whether you agree or disagree with its recommendations.
2. Check the court orders to find out the type of hearing that is next in the case. This will usually be a dispute resolution appointment or a final hearing:
 - a) If it is a dispute resolution appointment, it is helpful to provide a position statement to the court and the other party before the hearing. A **position statement** is a short document which sets out your position for a hearing. You can use your position statement to explain what you agree and/or disagree with about the recommendations. As mentioned previously, the court's main concern is the child's welfare, so try to refer to the factors in the welfare checklist when explaining why you do not believe the recommendations are in your child's best interests. You should also set out the arrangements that you think are best for your child. You can build on the points you have made in your position statement during the hearing. The judge will try to resolve the issues that you and the other party disagree on at this hearing. If it hasn't been possible to do so, then the judge will set a date for a final hearing, often known as a final contested

hearing. If you still have concerns about the recommendations at this stage, make sure the judge knows. There is no automatic requirement for Cafcass to attend a final hearing so you will need to ask the court to order the Cafcass officer to attend the hearing so that you (or your lawyer if represented) can cross-examine them on their recommendations. You should also ask the judge to give directions for you to provide a witness statement to explain in detail why you disagree with the recommendations.

- b) If the case is going straight to a final hearing, you should check whether the court has ordered the Cafcass officer to attend the hearing, if not you can write to the court to ask the judge to order them to attend. You may have been ordered to provide a witness statement for the final hearing. If so, you should explain what you agree and/or disagree with about the recommendations and suggest the arrangements you think are in your child's best interests. If you haven't been ordered to provide a witness statement, you can explain your concerns more briefly in a position statement that you can send to the court and the other party before the hearing.
3. At the final hearing, the judge will consider all the evidence, expert reports and the points put forward by the parties. During the hearing, the court will want to hear evidence from you and the other party. When you give evidence, you should take the

judge through the key points in your witness statement. The other party or their representative will then be given an opportunity to cross-examine you, or ask you questions about your evidence. The Cafcass officer will also give evidence at the hearing and you will have the opportunity to cross-examine them. This usually happens before you and the other party give your evidence.

4. The court will make the final decision on any issues that are not agreed between the parties and/or Cafcass and will make its order on what the child arrangements should be. This is known as a final order.

For more information on the family court process and the purpose of each hearing see [Children and the law: a guide to the family court process](#)

For information on how to prepare your position statement see [How to write a position statement for a Family Court hearing](#) and [A guide to preparing witness statements for the Family Court](#) for information on how to write your witness statement.

When should I raise a concern with Cafcass instead of the court?

Although raising a concern with Cafcass directly is not the appropriate way to challenge recommendations in a section 7 report, there are limited circumstances where a concern should be raised directly with them.

If the report contains an important factual inaccuracy (for example, the report states your child currently lives with the other party when they actually live with you), you can raise this with the Cafcass officer and ask them to update their report.

If your concerns relate to Cafcass itself and the way that it has handled your case, it may be appropriate to make a complaint. Cafcass take complaints from people who have been a party to a case they have been involved in within the last six months. You can find out about their complaints procedure on their website <https://www.cafcass.gov.uk/contact-us/feedback-complaints-adults/>

I do not agree with the court's decision. Can I appeal?

The court's decision is usually final. Everyone has the right to appeal, but it may not be the right thing to do in your case. You should think about whether you are likely to succeed before deciding to appeal a decision.

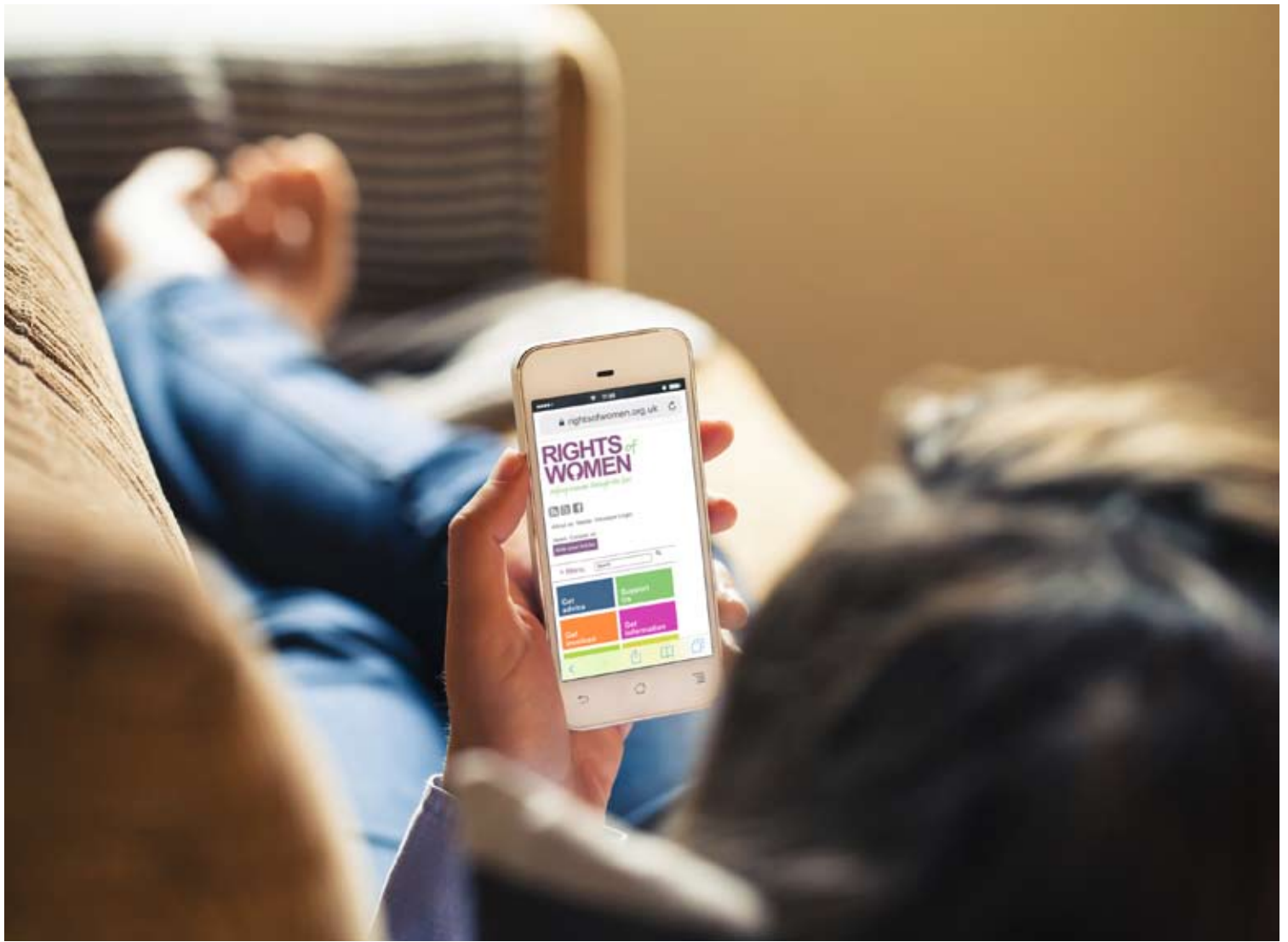
To be successful on appeal, you must persuade the appeal court that the decision of the lower court was:

- a) wrong, or
- b) unjust because of a serious procedural or other problem with the proceedings in the lower court.

You normally need the court's permission to appeal. You can request permission from the judge who made the decision. If you did not ask for permission, or if the judge who made the decision refused to give you permission to appeal, then you

can ask permission from the court that you are appealing to.

Appeals can be costly and complicated, and you should seek legal advice from a solicitor or a barrister if possible. For more information on appeals see [How to appeal Family Court decisions.](#)



The law is complex and may have changed since this guide was produced. This guide is designed to provide general information only for the law in England and Wales. You should seek up-to-date, independent legal advice.

Rights of Women does not accept responsibility for any reliance placed on the legal information contained in this guide.

Rights of Women's family law advice lines

We have two family law advice lines, one national and one for women in London:

Women living or working in London: call **020 7608 1137**

For all women: call **020 7251 6577**

For a full list of Rights of Women's legal guides and information about our advice lines go to **www.rightsofwomen.org.uk**

Useful contacts

Emergency Contacts

Police (emergency)

999

24 hour domestic violence helpline

0808 200 0247

www.nationaldomesticviolencehelpline.org.uk

Find a Lawyer

The Law Society

0207 320 5650

www.lawsociety.org.uk/find-a-solicitor

Ministry of Justice

020 3334 3555

find-legal-advice.justice.gov.uk

Resolution

01689 820272

www.resolution.org.uk

Public Access Portal

www.directaccessportal.co.uk

Legal advice and support

Citizens Advice

www.citizensadvice.org.uk

Law Centres Network

020 7749 9120

www.lawcentres.org.uk

LawWorks Clinic Network

www.lawworks.org.uk

Shelter

0808 800 4444

www.shelter.org.uk

Advocate

(previously the Bar Pro Bono Unit)

www.weareadvocate.org.uk

Personal Support Unit

020 7947 7701

www.thepsu.org

Disability Law Service

020 7791 9800 www.dls.org.uk

Other contacts

Her Majesty's Court & Tribunals Service

www.gov.uk/government/organisations/hm-court-service

Cafcass

www.cafcass.gov.uk

Family Rights Group

www.frg.org.uk

Rights of Women

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