

Underlying principles of a Cafcass private law assessment

<p>Best interest principle</p>	<p>Cafcass works at the direction of the court and within the framework provided by the law. Practitioners draw on relevant legislation and case law throughout their assessments. The law requires the family court to presume that involvement (direct or indirect) of each parent in the life of their child will further the child’s welfare, unless the contrary is shown. This is not the same thing as ‘contact at all costs’ and risk assessment is an integral part of every assessment undertaken. The welfare of the child remains the paramount consideration of the courts when making a decision about the child's upbringing (Children Act s.1).</p>
<p>Aspirations in respect of the child’s voice/child’s rights</p>	<ul style="list-style-type: none"> • To be heard and to have their views properly taken in to account. • Not be subject to proceedings that are longer than necessary, so uncertainty or heightened conflict is not prolonged for them. • To have professionals and courts concentrate on improving their daily lived experience, which means understanding what it is now and how it can be improved. • To benefit from restorative justice that is, restoring normal health and development; the ability to concentrate and learn at school and not to be pre-occupied by conflict at home.
<p>Child impact perspective</p>	<p>Cafcass approaches the assessment task from a child impact perspective. This means that our goal is to understand the impact of the family situation on the child. This is likely to be a wider task than focussing on making recommendations to the court about the dispute. It means that we seek to understand and analyse the child’s emotional and psychological world. It also means that we make recommendations about how things can be improved for the child to not only the court, but also to the parents and carers.</p>
<p>Direct work with the child</p>	<p>An essential part of the task is to work directly with the child. We are committed to listening to and hearing the child’s own accounts of their experience. We use a wide range of materials, including interactive methods, to facilitate this (links can be found within the folders). The child’s voice will always be reported to court, and will be considered in the context of what else is known about the child's circumstances and what is in their best interests.</p>
<p>Participatory practice</p>	<p>Children are active participants in their family situation. Their own personalities, preferences, resilience, or vulnerabilities will contribute to the dynamic picture which emerges about their best interests. Parents and children may play an active role in assessment through core activities such as co-developing a Parenting Plan and an age-appropriate narrative to share with the child, while also developing new ways to work together as co-parents.</p>
<p>Risk of significant harm</p>	<p>Domestic abuse, conflict, alienation and other forms of harmful parenting may cause significant emotional harm to children. At the direction of the court, a primary task in Cafcass is to assess the level and impact of all types of risk to children.</p>

Spectrum of concerns	Each of the areas of harm and their impact on the child, can be seen on a spectrum . Not all instances of Domestic Abuse, conflict or alienating behaviour is as harmful as another.
Differential child impact	‘Severe’ adult behaviour does not automatically lead to ‘severe’ impact on the child. Conversely, ‘mild’ adult behaviour might have a ‘severe’ impact on the child. Persistent adult behaviours and cumulative child impact often has more impact than single incidents. Practice pathways and tools should be used to support assessment and analysis and do not replace professional judgement.
Systemic practice	A systems perspective is used throughout. This means that the wider cultural, community, court, and socio-economic context of each child’s experience is considered. The practitioner should consider the parent-child, parent-parent, child-child relationships in addition to the influence of wider family, significant other, and environmental factors.
Anti-discriminatory practice	Practitioners must be mindful of any biases that relate to gender, education, class, ethnicity, religion, wealth and disability. Gender neutrality is crucial to ensure that relationship dynamics, power imbalances, underlying issues, and covert conflict tactics are identified and understood in both heterosexual and same sex relationships. Practitioners should be mindful that men and women can be both victims and/or perpetrators of domestic abuse, high conflict, and alienation.
Avoiding bias	The practitioner should be mindful that cases are complex and may feature elements from each of the case factor folders. The framework allows the child’s situation to be seen as a whole. There are reminders throughout to check for bias and to double back and use another set of guidance if it becomes clear that it is relevant.
Early identification of complex cases	Practitioners should be mindful of factors that indicate a case may be complex and at risk of lengthy or repeat litigation. Where these factors are identified, the case may require consideration of an early appointment of a Children’s Guardian or early assessment for suitability of other forms of intervention.
Dynamic assessment	These guidance documents and tools should be applied from the earliest relevant point. This may be during the Work to First Hearing phase and will be from the case plan stage of Work After First Hearing cases.
Avoiding categorisation of adult behaviour	The application of a label such as ‘domestic abuse’ or ‘alienation’ is not the goal of the assessment. The goal of the assessment is to understand the impact on the child, and an understanding of the experiences of the adults concerned and of the ‘types of behaviour identified’ can shine a light on the experience of children.