

Private law Pathfinder training event

11th December 2025

Sara Chalk – No 18 Chambers

HHJ Simmonds

DJ Goodall

DJ Samuel

CAFCASS





The Pathfinder Project

- **The Pathfinder programme, launched in 2022, and has been implemented in Wales and various courts across England, including Dorset, Birmingham, and – from June 2025 – West Yorkshire.**
- **Phase 1 and 2 of Pathfinder was the Pilot Scheme – the model was launched in selected DFJ areas including Dorset.**
- **We are now at Phase 3 – National roll-out – the Pathfinder scheme is now being rolled to the rest of England and Wales.**
- **The Pathfinder programme will launch in Hampshire and the Isle of Wight on 6th January 2026**

How Pathfinder came about

A Call for Evidence

- In 2019 a public call for evidence from those with experience of the family courts was made.

The Harm Panel Recommendations

- An expert panel analysed the evidence submitted and made series of recommendations in 2020, including reform of the Child Arrangements Programme.

Design of Pathfinder

- Pathfinder was designed collaboratively by family justice stakeholders to address the concerns raised in the Harm Panel evidence.

Implementation of initial pilot sites

- The Pathfinder pilot was launched in Dorset and North Wales in February 2022.

Expansion of pilot sites

- The Pathfinder pilot is expanded to Southeast Wales and Birmingham in April and May 2024, to mid Wales and in June 2025 to West Yorkshire.



The Harm Panel

The Harm panel identified two thirds of cases featured domestic abuse.

Key Findings of the Harm Panel

- Pro-contact culture - priority is placed on ensuring contact with the non-resident parent despite safety concerns resulting in the minimisation of allegations of da
- Adversarialism - parents are pitted against each other and voice of the child lost. Adversarial process is re-traumatising.
- Resources constraints - cuts to legal aid, resource constraints put pressure to avoid or limit scope of fact finding. Widespread concern about the ineffectiveness of safeguarding interviews.
- Silo working - different parts of the legal system have different approaches and ideologies.
- Voices of children not being heard - selected listening to children - if they said they wanted to have contact they were listened to but if they said they don't want to have contact they were ignored, marginalised misrepresented or dismissed.

Pathfinder Vision

The aim of Pathfinder is to improve the court experience and outcomes for children and families involved in private family law proceedings, including those who have experience of domestic abuse. This is achieved by reducing the adversarial nature of family court proceedings and the damaging impact on victims and their children and centring the voice of the child.





Why Change?

By adopting a problem-solving method with more focus on domestic abuse the proceedings involve less conflict

Victims of domestic abuse receive more support

There are fewer hearings which means less cost implications

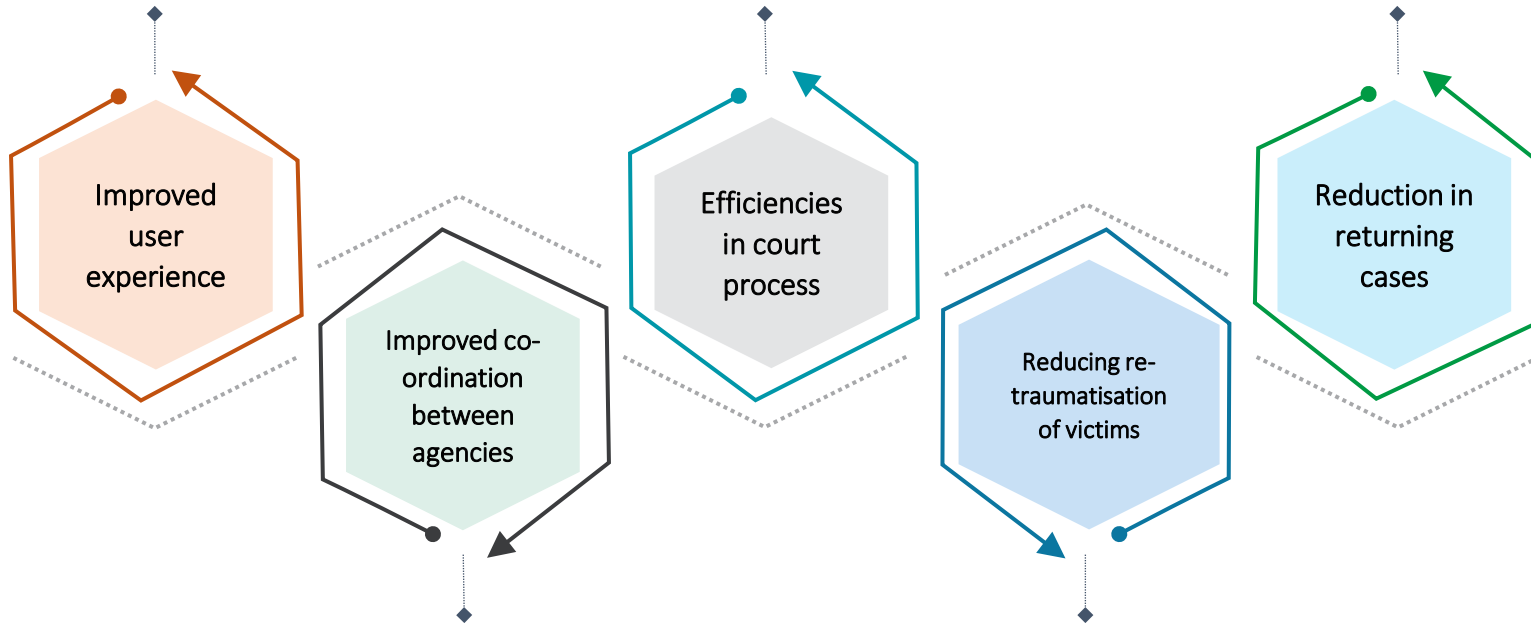
But most importantly decisions are made more quickly for children!

Pathfinder aims

Improving the Family Court experience for all parties, particularly parent victims of domestic abuse and their children; improving children's experience of and (appropriate) participation in the court process

Delivering a more efficient court process which reduces delays whilst ensuring that all orders are safe and appropriate to the case

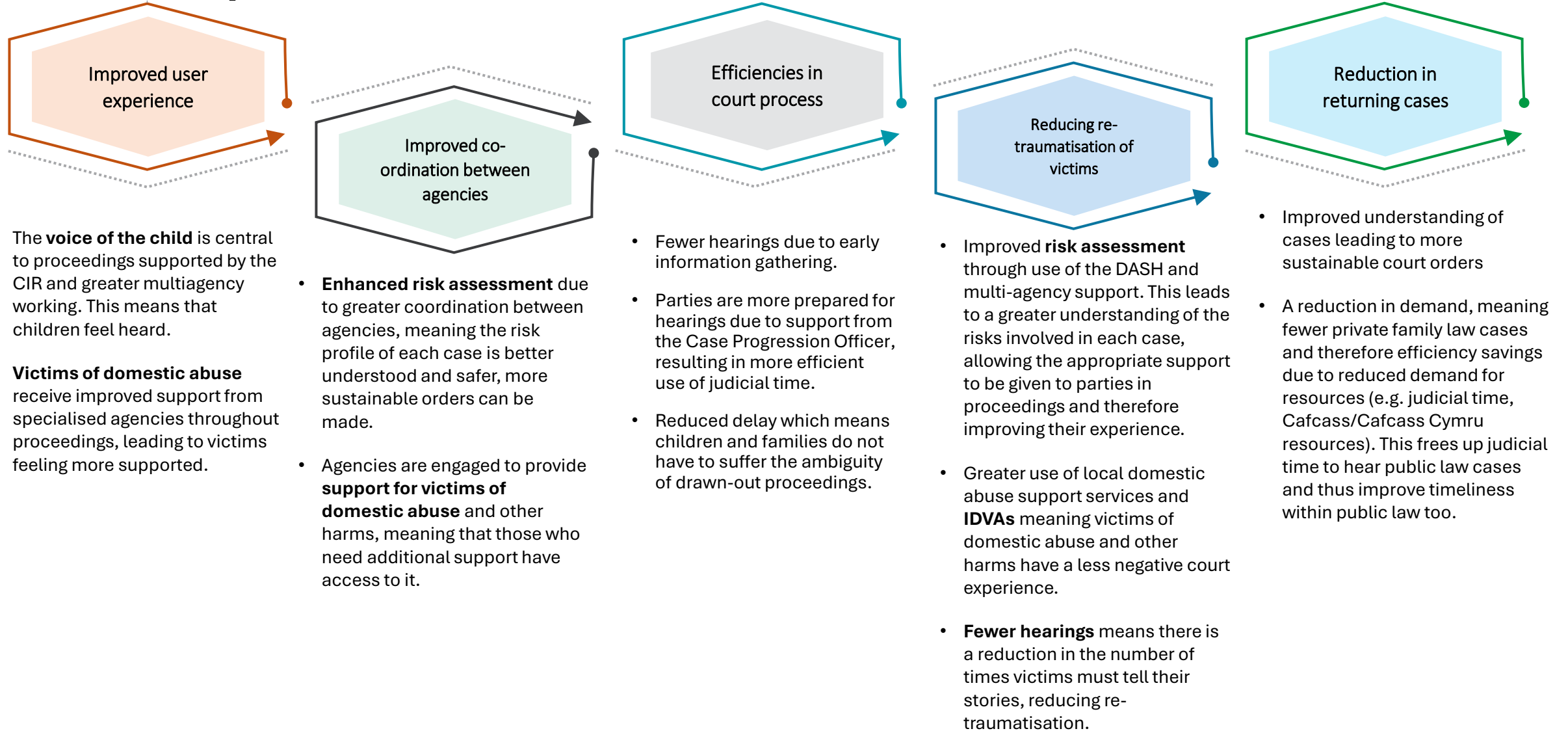
Reducing the number of returning cases through a more sustainable court order



Adopting a multi-agency approach to improve coordination between the Family Court and agencies, such as local authorities and the police, and the way allegations of domestic abuse and other risks of harm are dealt with

Reducing the re-traumatisation of domestic abuse victims, including children, that may be experienced during proceedings

Expected benefits





What Children who have experienced Pathfinder say about it

*“It was **like a weight had been lifted off me** because I’d been saying [these things] for a long time... I was happy that **I had told someone that wasn’t mum**, cause mum has always known what he’s [dad’s] been like but to tell **someone different it was better [because] they could make a difference**” (Theo, 11)*

*“**I had a lot in my head before** and so **I was happy to get to say what I wanted and relieved.**” (Eloise, 11)*

HHJ Simmonds

- **Designated Family Judge
Dorset**



A New Process for Child Arrangements

**Pathfinder Commenced in Dorset and North Wales 21st February
2022**

Now coming to you

Context

- The Harm Panel Report provides an understanding of how effectively the family courts identify and respond to allegations of domestic abuse and other serious offences, in cases involving disputes between parents about the arrangements for their children, known as ‘private law children proceedings’.
- In response to the Harm Panel Report the Government (as part of wider commitments to address domestic abuse) and the Private Law Advisory Group made recommendations and work began to pilot a new investigative approach to private family law proceedings, which became our Pathfinder pilot.
- The Pathfinder process has been designed to improve the experience of the family court and outcomes for survivors of domestic abuse, including children and litigants in person.
- Practice Direction 36Z provides the legal underpinning for this pilot.

Issue of C100 – HMCTS/CPO

- Check for
 - missing information (CPO to chase for missing information at this stage if necessary)
 - MIAM compliance/exemption claimed – if not, the court will require completion of FM1 (exemptions claimed to be scrutinised by GKr)
 - linked children and injunction cases and notify GKr and Cafcass
 - whether this is a returning case and identify for GKr last judge/legal adviser
- Refer to GKr for initial GKing

Initial Gatekeeping – District Judge/Legal Adviser (within 24 hours)

- Consider MIAM compliance and whether any exemption properly claimed
- If not – require applicant to attend MIAM and encourage respondent to do so
- Otherwise leave to Cafcass to explore MIAM as part of information gathering and refer back if necessary
- Check for urgency and if necessary list for urgent hearing
- Consider whether any particular enquiries should be made by Cafcass and notify them
- If there is sufficient information, consider allocation to tier of judiciary (possibly provisionally)
- DWP order if required to locate the respondent
- Consider whether leave is required and, if so, can this be granted on the papers or is an early hearing required
- Consider in a non-C100 case (eg enforcement applications) extent to which safeguarding/information gathering is required

HMCTS/CPO (after initial gatekeeping)

- Send C100/C1A to Cafcass for information gathering/assessment and CIR
- CPO contacts parents
 - to explain outcome of gatekeeping and process (including flagging up if need to tell Cafcass about any safety issues or availability of special measures)
 - explore any accessibility needs (eg hearing loop, wheelchair access, interpreter)

Returning cases

- Consider why it is returning, which may not be clear from an application to enforce/vary/new applications by same family.
- Is it better to bring the parties back before the judge who last dealt with it?
- Or get Cafcass to look at it to see what the problem is?
- Distinguish enforcement/variation.
- Should the original CIR be used and built on?

Cafcass – information gathering and assessment leading to CIR

- Level 1 PNC checks
- Check for LA involvement and liaise to discuss/agree primary assessment responsibility
- Check for existing information eg in returning case or where there are linked files
- Consider whether safeguarding is an issue in which case consider (now and at all stages)
 - level 2 police checks
 - refer to IDVA
 - whether to refer to GKr with recommendation re fact-finding hearing
 - whether a S.16A risk assessment should be filed
 - victim and/or perpetrator intervention – eg Freedom Project, DAPP
- Interview parents
- Consider any capacity/vulnerability issues and if necessary refer to GKr
- In safeguarding cases consider DASH risk assessment

Cafcass – information gathering and assessment leading to CIR (2)

- Consider how the child[ren] should be engaged having regard to their age, level of understanding and any particular characteristics – directly or indirectly
- Consider and engage with agencies/services to obtain relevant information about the family, having obtained any necessary parental consents, including
 - LA services eg Early Help
 - Schools/nurseries
 - GP surgeries
- In non-safeguarding case consider and, if appropriate, discuss with parents and refer to
 - Planning Together for Children
 - MIAM
 - Mediation (considering child inclusive mediation)
 - Counselling
 - Parenting Apart Programme
 - Improving Child and Family Arrangements (ICFA)
 - Cafcass Positive Parenting Programme

Cafcass – information gathering and assessment leading to CIR (3)

- Compile CIR including recommendations about:
 - whether a hearing at this stage would benefit the parties or potentially be harmful (eg would it be helpful to them to be talked through the process and options by a judge or would a hearing be more likely to further polarise and entrench positions or be risky for a vulnerable party)
 - whether a decision is needed and the route to that
 - whether a fact-finding hearing is needed and why and how determination of the facts would be relevant to assessment/decision-making
 - whether a 16.4 guardian should be appointed
 - whether further work should be undertaken (a part 2 CIR)
 - whether s.37 report should be directed
 - or CIR may include consideration of welfare issues and recommendations about child arrangements or specific issues
 - and may include outcomes of resolutions attempted during information gathering.

Cafcass – information gathering and assessment leading to CIR (4)

- When information gathering, assessing, making recommendations and compiling the CIR the FCA should use professional judgement about
 - the scope of the investigation and what goes into the CIR
 - having regard to complexity and risk profile
 - prioritising safety
 - engaging the parents effectively
 - how the voice of the child is heard effectively
 - whether and when to seek guidance/directions from the court
- Cafcass share the CIR with the parties unless a risk of to the safety or welfare of a child or party arises, in which case guidance/direction from the GKr should be obtained.

Cafcass – liaising with the court during information gathering and assessment

- **At any point** during the information gathering and assessment process refer to the court by email attaching pro forma request template for guidance/directions about
 - need for an urgent hearing
 - need for a directions or other hearing (including fact-finding)
 - obtaining or overriding parental consent re disclosure/seeing children etc
 - need for attendance at MIAM
 - any need for an activity direction eg planning together for children or parenting programme
 - any need for risk assessment/s.37 direction
 - whether and how to engage with children
 - what should be disclosed to parties (including the CIR, if in doubt).
- Any communications between Cafcass/LA and the court should be copied to the parties subject always to any risk of harm caused by disclosure.

Gatekeeper – triaging- District Judge/Legal Advisor

- Consider CIR and recommendations
- Allocate/consider need to re-allocate
- Decide whether
 - further investigation is needed, in which case refer back to Cafcass or local authority
 - it is safe and beneficial to refer to an out of court solution/work – consider whether parents have agreed or whether a hearing to order an activity direction might be needed
 - confirming any agreement already reached by court order if better for the child
 - in a safety case, whether parties should be directed to undertake a course or other work before a decision hearing
 - whether the issues can be resolved without a hearing
 - whether/how the child is to be engaged, how information will be provided to them, where their wishes and feelings will be obtained, where they will be given the option to see the court/meet the judge
 - the issue can be resolved at a short final hearing (no need for further Cafcass involvement, no issue of fact requiring evidence/decision, suitable for submissions)
 - a s.37 report is needed, given the information in the CIR – if so identifying the specific issues to be addressed
 - whether a r.16.4 guardian should be appointed in complex cases (having regard to PD 16A 7.2 and any representations by Cafcass Service Manager who should be consulted)
 - whether a fact-finding hearing is needed, in which case whether a directions/ground rules hearing should be fixed first or whether directions can be given going straight to a FF hearing
 - whether a directions/resolution hearing is needed to explore and decide the best way forward or to order eg an activity direction
 - whether parties or witnesses are vulnerable and, if so, what participation directions might be needed
 - consider referring/allocating to CJ if there are jurisdictional issues

Out of court interventions

- Cafcass refer parties to Planning Together for Children without order but subject to consent.
- Cafcass to discuss why respondent has not attended MIAM and to encourage them to do so.
- Cafcass may seek activity directions for PTFC/MIAM attendance.
- Resolution work by FCA, potentially on child inclusive basis.
- Use £500 mediation voucher scheme (now extended) as incentive.
- If represented reaching out to legal representatives to get them signed up to solution finding.
- Referral to mediation.
- Referral to parenting apart programme.
- Considering relative emotional resilience/recovery of each parent and potential mismatch.
- Referral to family hubs when available.

HEARINGS

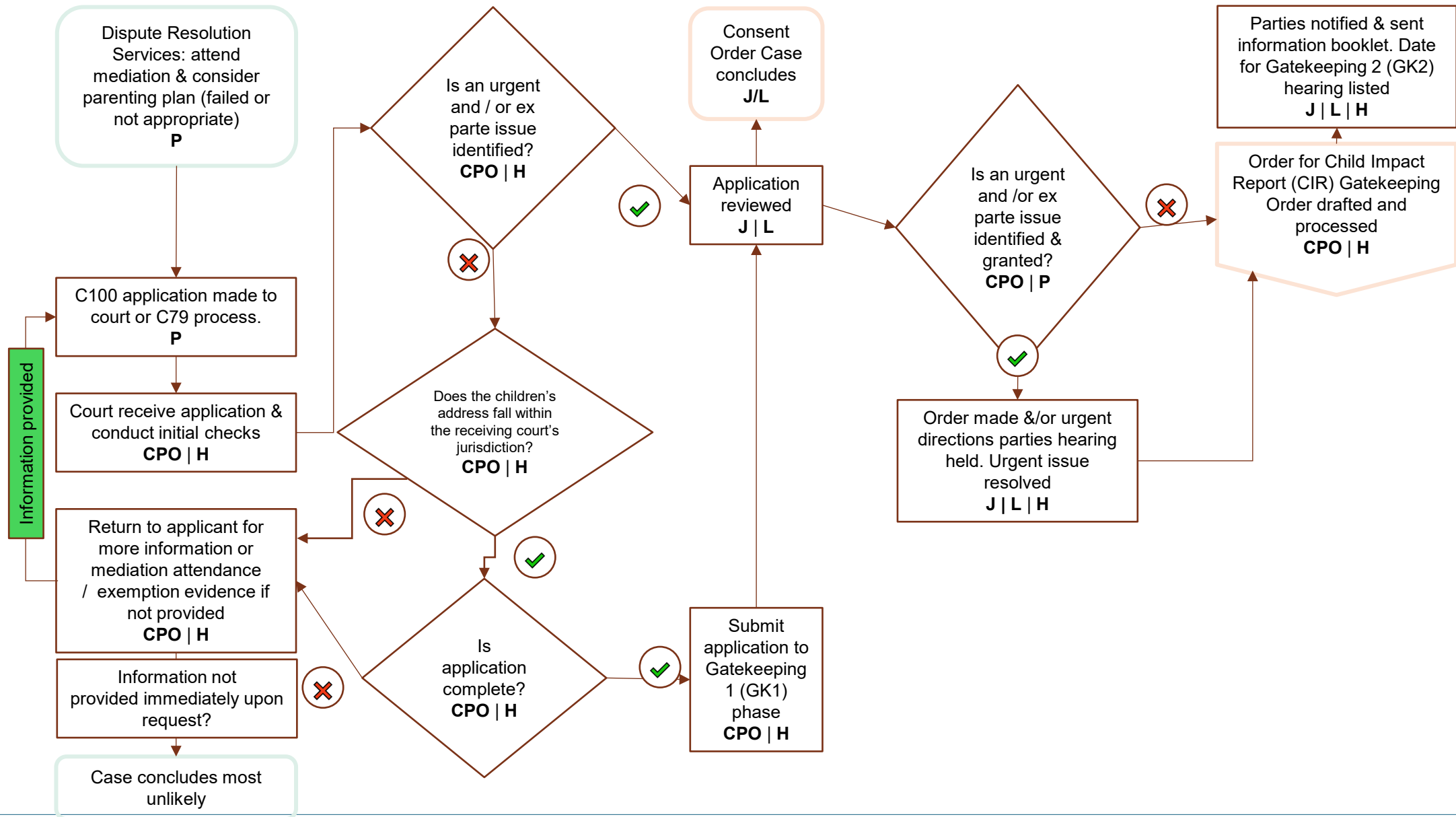
- Short final hearing
- Case Management Hearing
 - Complex Cases
 - FF may be required



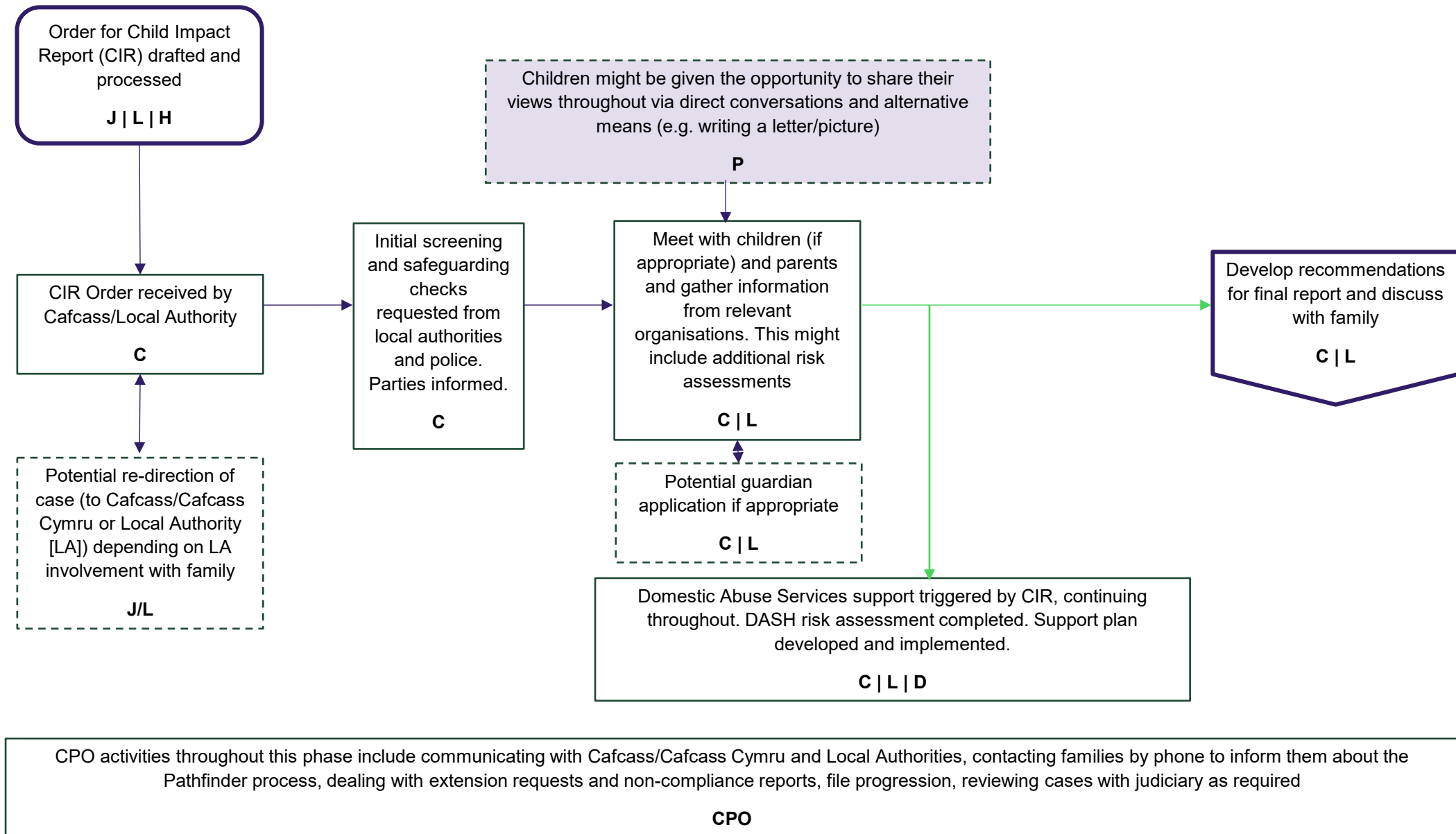
The Pathfinder Process

Application/Triage – Day 1

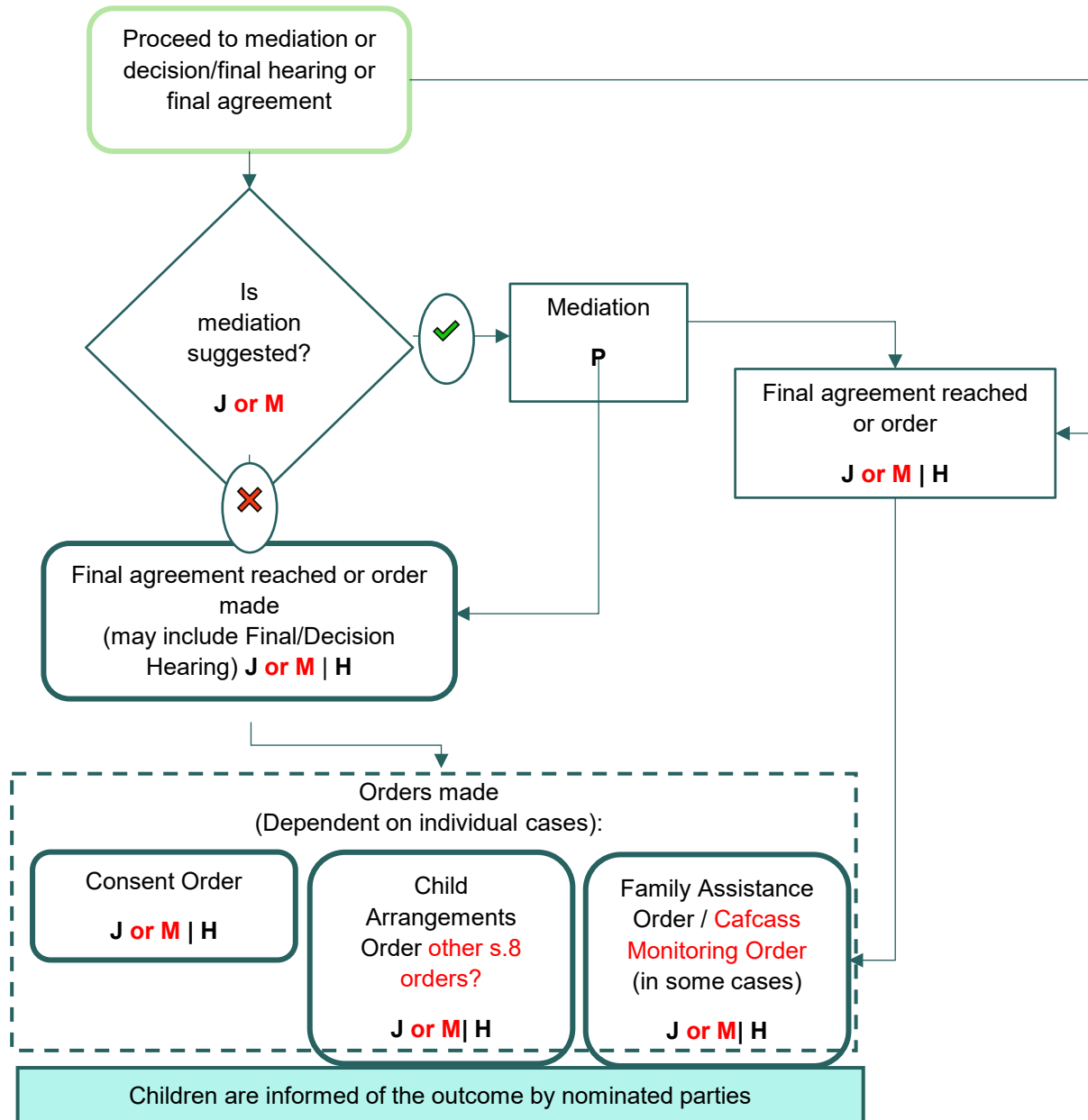
Gatekeeping 1 – Days 1-2



Child Impact Report Part 1 – Day 2 to week 6/8 (site variation)



Final decision



There was previously a review stage as a third part of this model. That was removed from the Practice Direction in December 2024 following cross-system discussion and agreement.

Stage 1: Information Gathering and Assessment

- Front-loaded work to ensure the child is placed at the centre of the case.
- The introduction of a **Child Impact Report** (in place of the safeguarding letter and s.7 Report). This should include:
 - safeguarding checks;
 - parent/party engagement – aims to understand parties and gather their views on what is best for the child;
 - child engagement – this can be direct or indirect;
 - risk assessment – a DASH, or equivalent, is conducted by an IDVA;
 - consideration of any other cases involving the child.

Stage 2: Interventions and/or Decision Hearing

- Following the Child Impact Report, either further work will be ordered or a decision hearing will be scheduled.
- If ordered, further work may involve fact finding, drug and alcohol testing, or supervised contact.
- At the Decision Hearing, the court will:
 - investigate issues that are not agreed and encourage parties to focus on the best interests of the child;
 - exercise its discretion as to what order to make on the application;
 - consider how the court's decisions should be shared with the child;
 - the Decision Hearing will be treated as an early final hearing with a conciliatory led approach. If possible the issues will be dealt with on submissions.

Case Progression Officer

- A case progression officer is a member of the Court staff who oversees the process and ensures compliance with the timetable.



Case Progression Officer – Key Points

- **Direct contact with the family**
 - To inform of processes and check in on progress
 - Make requests for interpreters if required.
 - Answer general queries from the parties.
 - Signpost to local agencies for help and support.
 - Request additional contact information.
 - Reminding if something is due.

Case Progression Officer – Key Points

- Supporting implementation of **special measures**
- Processing **Child Impact Report extension and transfer requests**; referring to appropriate judiciary, logging orders and those needing to be issued.
- Has important role in supporting the development of the **communication pathways between services**.
- **Central point of contact** for issues and queries coming in from services.

WHAT DOES THIS PATHFINDER PROCESS MEAN FOR CAFCASS?

1. **No Safeguarding Letters or First Hearing Dispute Resolution Appointments (FHDRA)**
2. **A new 'Information screening' phase** - triage to decide on urgent safeguarding actions and allocation to a Family Court Adviser to complete the Child Impact Report
3. Business Service colleagues working alongside FCAs and courts to **progress children's cases as quickly as possible**
4. **One FCA allocated, a single assessment to complete a Child Impact Report** - the court order gives Cafcass the authority to undertake enquiries & assessments and to see the child as necessary according to the individual child and family's needs.
5. Child Impact Reports will be completed and filed **within 40 working days**
6. **A decisions hearing** to be held after filing of the Child Impact Report



Assessment and Child Impact Reports in practice

- Early risk assessment and enquiries, we are involving the child in their own assessment in more than double the number of applications when compared to the Child Arrangements Programme
- 16a risk assessments will alert the court to the need for urgent directions
- Early screening of domestic abuse and other forms of harm through social work assessment. Encourages professional curiosity.
- CIRs where the child has been seen - start with a photograph and set out what life is like for the child – using their own words.
- Some CIRs may be short – e.g. in a case which would have concluded at FHDRA under CAP.
- Others involve social work analysis as in a s.7 report - Focusing on the impact of the family circumstances on the child. This is not a 'lesser' version of a s.7
- CIRs will contain the information from the IDVA DASH assessment (if relevant)
- Recommendations for fact finding hearings will be based on a clear rationale and where other evidence is not available
- CIRs will include the parents and the child views about the recommendations

SUCCESS WILL LOOK LIKE THIS....

- **Children tell us they understand what is happening and that they feel listened to – we need to know more about children’s experiences and outcomes**
- **Parents focus on their children and resolve their disputes earlier – we need to know more about the rate at which cases return to court**
- **There is earlier identification of harm and risk of harm**, including from domestic abuse – we need to think about use of supervised contact, Fact Finding hearings, recommendation for no family time
- **Achieving workloads for FCAs and managers in Cafcass** which support the shorter and more intensive assessment timescales and seeing more children. **Speed does not reduce quality**
- **We stick to the model of ‘one FCA’, ‘one assessment’ without addendums** and fewer hearings
- **The appropriate agency to complete the CIR is identified before the first gatekeeping order-**reducing duplication for families and delay
- **Case progression officers** are available for FCAs to speak to and support problem solving and smooth running of proceedings
- Cafcass’ involvement concludes **within 12 weeks** in the majority of children’s cases
- Greater integration and expansion of the roles of **Cafcass Family Liaison workers.**

Police Information

- As part of the Pathfinder Scheme, links have been established with Hampshire Constabulary to ensure that necessary police checks can be undertaken in a timely manner.
- CAFCASS and Local Authorities will be provided with the relevant point of contact to obtain these Police checks.
- Police checks will provide a PNC which should detail:
 - a. Cautions
 - b. Convictions
 - c. Impending Prosecutions
 - d. No Further Action
- Relevant police information will need to be summarised in the Child Impact Report





The Child Impact Report

Child Impact Report Template

Date of Application:	
Court:	
Court Case No:	
Application Type:	
Signed: In preparing the report I have taken account of the welfare checklist in section 1 (3) of the Children Act 1989 and the principle that delay may be prejudicial to the child's welfare	
Completed by:	
Date Completed:	
Date filed to court:	

(Delete as appropriate)

This report has been sent to adults involved in the proceedings [adult parties / both legal representatives / the legal representative for the applicant / the legal representative for the respondent].

or

This report has not been sent to the adults involved in proceedings or their legal representatives due to sensitive information contained within the report which could increase the risk of harm to a child or vulnerable adult. The Court is requested to consider whether, and if so how, the information should be disclosed to the adults. (NB envisaged to be used in exceptional cases only – 16A RA report is likely to be more appropriate).

Child Impact Report Template

Child/ren the proceedings are about

Name of child	Gender	Date of birth	Age	Ethnicity	Preferred language (indicate interpreter)

Who does the child/ren live with and spend time with?

- Who they live and spend time with; is this what the child has been used to(status quo) or has there been a recent change?
- Any known impact / concern on the child/ren of the arrangements.
- If there has been direct engagement with the child include their views on the current arrangements.

Adults involved in the proceedings (adult parties)

Name of party	Gender	Relationship to child/ren	Date of birth	Ethnicity	Preferred language (indicate interpreter)

Enquiries undertaken with the family

Name and relationship	Dates	Type of contact

Child Impact Report Template

Information gathering and assessment



(Please see guidance
for when this is
appropriate)

What life is like for child/ren's names

Write in the child's voice using quotes. Agree these words with the child before submission to the Court (unless urgent action is required to protect them and there isn't time to obtain child's agreement, or it is not appropriate considering child's age/understanding).

Describe what life is like for the child now, what has the child told us about their experiences? including the impact on them?

Set out a summary of the harm the child has suffered and the further risk of harm to them if the current situation remains.

What have you understood about the child from any direct or indirect work completed to ascertain the views, wishes and feelings of the child? Embed direct work tools and use direct quotes.

Include what is special and unique about the child? Who is important to the child in the wider family unit and community? What role do they play in the child's life? What does the child say they need from their parent/carers and what is in the child's best interest and why?

Does the child want to meet with the Judge and if so what has been arranged for them to do so?

Child Impact Report Template

Child/ren's views of the recommendations and how they want the outcome shared

1. A statement in the child's words - what the child thinks should happen and a response to your recommendation.
2. Who and how do they want the outcome shared with them.

Section 1

About the children

- Section 1 starts with the child, really bring the child to life, - describe their personality and interests (it may be that school and other people who know them as well as their parents can help tell you about this bit).
- When did you see them, what did you do with them to get their views (you can attach any direct work if appropriate). Who else was there? (try and see children alone) and how have you checked their views? If over a period of time, say this – doesn't need to be a specific session but could be.
- Set out the observations you have had of children with parents if possible/safe.
- Do they want to meet the Judge or write a letter to them?



Child Impact Report Template continued...

Sources of Information

Summary of application

- 11. Set out what the applicant is seeking and why?
- 12. Is it opposed and why?
- 13. What do the adults involved say is the impact or the benefit for the child?

Details of who holds parental responsibility for the child and whether any 91 (14) orders are in place

- 14.
- 15.
- 16.

Summary of local authority children's services checks, including previous proceedings where they undertook the court ordered work

- 17. Copies of the previous reports will need to have been obtained to inform this section
- 18.

Summary of police checks undertaken and all police information

- 19. Include all information relevant to safeguarding and welfare of the child.

Summary of previous applications, orders and Cafcass involvement – including the live with and spend time arrangements for the child at the end of the last proceedings

- 20.

Summary of discussions with other agencies

- 21. To include details of discussions with IDVA, ICFA, School, GP, CAMHS, Probation, Health Visitor etc.

Details of work, signposting and support that has been provided to the family and the child

- 22. To include details of any dispute resolution work, referrals that have been made to support agencies etc.
- 23. Also Include any work completed by Cafcass or support that the family have accessed at this stage i.e., Planning Together, Family Liaison Worker etc.

Analysis and Recommendations

Child Impact Analysis

24. You should use your assessment and child's plan. What is your assessment of the strengths and risks for the child? What is happening now for this child(ren), specifically in respect of harm, risk of further harm?
25. What is the impact on the child of their family situation?
26. Include your evidence base to support your view – using practice aids to support analysis of the information gathered. Refer to information from other agencies.
27. Cafcass Domestic Abuse Pathway to be applied and any information obtained from the IDVA - if evidence or reports of domestic abuse.
28. Child Impact Assessment Framework (CIAF) to be utilised to support analysis.
29. Consider the adults involved concerns, response, and capacity to deal with issues raised from the information gathered.
30. Consider the adults involved emotional wellbeing, resilience, and readiness to participate in court proceedings and engage with recommendations.
31. Consider barriers to the children's needs being met.
32. Consider the wider family and the important people identified by the child – what support might they be able to offer the child and family?
33. Include the action you have taken and very specifically, what you are recommending to the court on this basis of the information gathered about the child and family.
34. Consider the impact of any delay for the child.

Options available to the Court for **Child name**

35. Discuss the options for the Court in respect of the child/ren. Why would they not be safe or in the best interests of the child/ren?
36. How can the child's safety be secured and what serves their best interests taking account of the CA 1989 welfare checklist?

Recommendations

37. Set out your final recommendation for the child, with a clear rationale for each.
38. Include here what has been agreed and what remains outstanding to be decided for the child.
39. What are the adults' responses to your recommendations? Use their direct words.
40. If these proceedings concern adult and child victims of domestic abuse and you are recommending contact for a child with an adult who is said to have perpetrated this abuse, you will need to provide an explicit rationale to the court, explaining why AND the child and adult victims EXACT words in response to this recommendation.

RECOMMENDATIONS

- Section 2 of the Child Impact Report sets out the analysis and recommendations.
- It should set out the evidence upon which the recommendations are made.
- It should include an analysis of the impact of the current situation for the child and whether the child is at risk of harm.
- Finally it should set out an analysis of how the conclusions have been reached.



RECOMMENDATIONS CONTINUED

When setting out the recommendations and analysis, reference should be made to Section 1(3) of the Welfare Checklist 1989 including:

The child's needs (including physical, educational and emotional) and their level of vulnerability.

The child's exposure to the dispute between the parties
The harm the child has suffered/may suffer, and the impact of this harm: B - How far can the parents/network meet these needs, why are they struggling and what's the impact (analysis)?

Capability of each parent or carer to meet the needs of the child

The impact of change

The range of powers available to the court

Professional analysis



Key Considerations for the author of the Child Impact Report (important considerations for legal practitioners too)

What is the court asking you to **LOOK** at?

What does the **HISTORY** tell you?

How have you understood the **CHILD'S WORLD**?

What are the **VIEWS** of parties, children and others?

What are the **risks, needs** and **strengths**?

What tools inform your evidence base?

What are your **EXPERT** recommendations?

Explain **WHY and How** you reached your recommendations

What does the child and parties **THINK** about your decisions?

How should the decisions of the court be **SHARED**?



Hampshire and IOW Pathfinder Domestic Abuse Support

The YOU Trust



YOU Domestic Abuse Teams

Our domestic abuse teams offer -

- High risk IDVA support
- Community Outreach Support
- Refuge and Safe Accommodation
- Children & Young Peoples Services
- Therapeutic Recovery Groups
- Counselling
- Behaviour Change work in Somerset and Wiltshire

YOU Domestic Abuse Services



Our specialist teams provide a whole person/family approach to support the victim and their family to live safely and recover from the abuse.

- Practical and Emotional support
- Safety planning and Risk Management
 - Housing and Financial Options
- Support with Criminal Justice Processes
 - Civil Legal Options
 - Domestic Abuse Education
 - Referrals to other Agencies



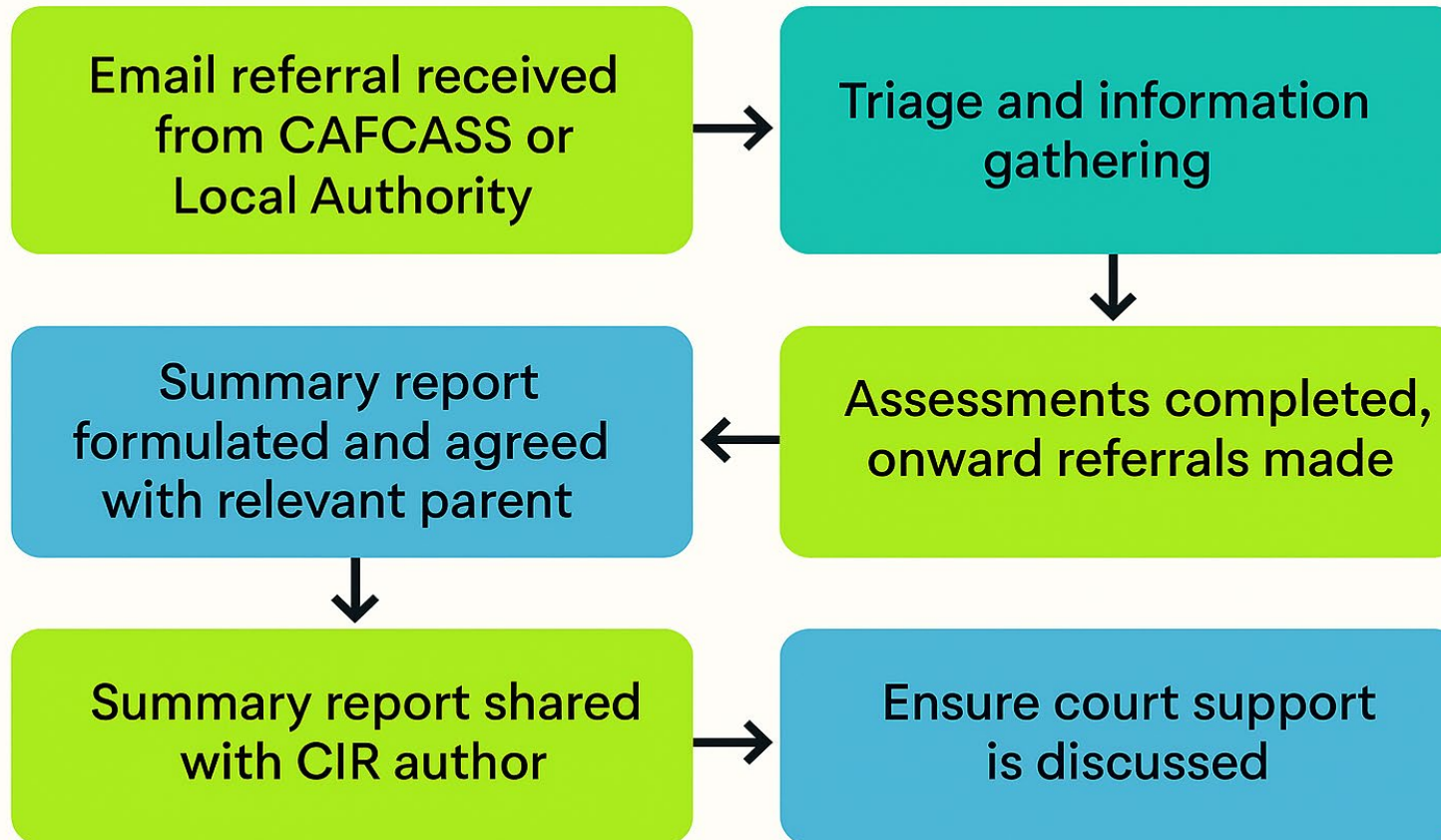
Hampshire & IOW Pathfinder



- Single Point of Contact –Telephone and Email
- Independent Domestic Violence Advocates (IDVA) located across IOW & Hampshire to provide support to the court areas for.....
 - Portsmouth
 - Winchester
 - Basingstoke
 - Southampton
 - Aldershot
 - IOW



Referral Pathway



Impact of IDVA Support



- Improved support, safety & reduce risk of harm
- Improved outcomes for children, adults & their families
- Improved access to services & referral pathway
- Improved experience of the family court process



Thank You



Paragon Hampshire

0800 916 9878

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A reminder of the Law

Practice Direction 36Z - PILOT SCHEME: PRIVATE LAW REFORM: INVESTIGATIVE APPROACH

- **1.1** This Practice Direction is made under rule 36.2 and establishes a Pilot Scheme (referred to as “the Pilot Scheme”) to allow certain applications, and stages in proceedings relating to such applications, to follow a procedure different to that specified in the Family Procedure Rules 2010 (“the FPR”) and supporting Practice Directions.
- **1.2** This Practice Direction comes into force on 21 February 2022.
- **1.3** The Pilot Scheme applies where all of the following conditions are met-
 - (a) the application is for-
 - (i) a section 8 order;
 - (ii) an enforcement order;
 - (b) the application is started in the family court sitting at a location specified in paragraphs 14, 1.4A, 1.4B, 1.4C or 1.4D; and

For full details please see a copy of the Practice Direction at the end of your training pack



A reminder of the Law

- When considering a Section 8 Children Act application and determining any question with respect to a child's upbringing (Child Arrangements Order, Specific Issue Order, Enforcement Order...) the Court's paramount consideration is the welfare of the child .
- When making a decision, the Court will consider the factors set out in Section 1(3) of the Welfare Checklist:
 - (a) the ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding);
 - (b) his physical, emotional and educational needs;
 - (c) the likely effect on him of any change in his circumstances;
 - (d) his age, sex, background and any characteristics of his which the court considers relevant;
 - (e) any harm which he has suffered or is at risk of suffering;
 - (f) how capable each of his parents, and any other person in relation to whom the court considers the question to be relevant, is of meeting his needs;
 - (g) the range of powers available to the court under this Act in the proceedings in question.

In making a decision, the court will have to also give consideration to the No Order Principle.

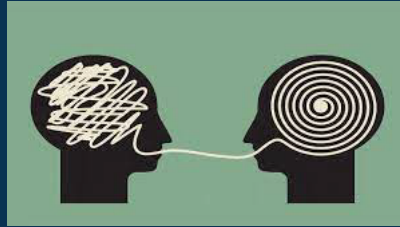


The background of the slide is a complex, abstract geometric pattern composed of numerous triangles of various sizes. The colors of these triangles include shades of yellow, orange, red, pink, purple, blue, and green, creating a vibrant, mosaic-like effect. The triangles are arranged in a way that they seem to flow and overlap, with some areas being more densely packed than others. The overall composition is dynamic and visually engaging.

DJ Goodall and
DJ Samuel

De-Mystifying NCDR

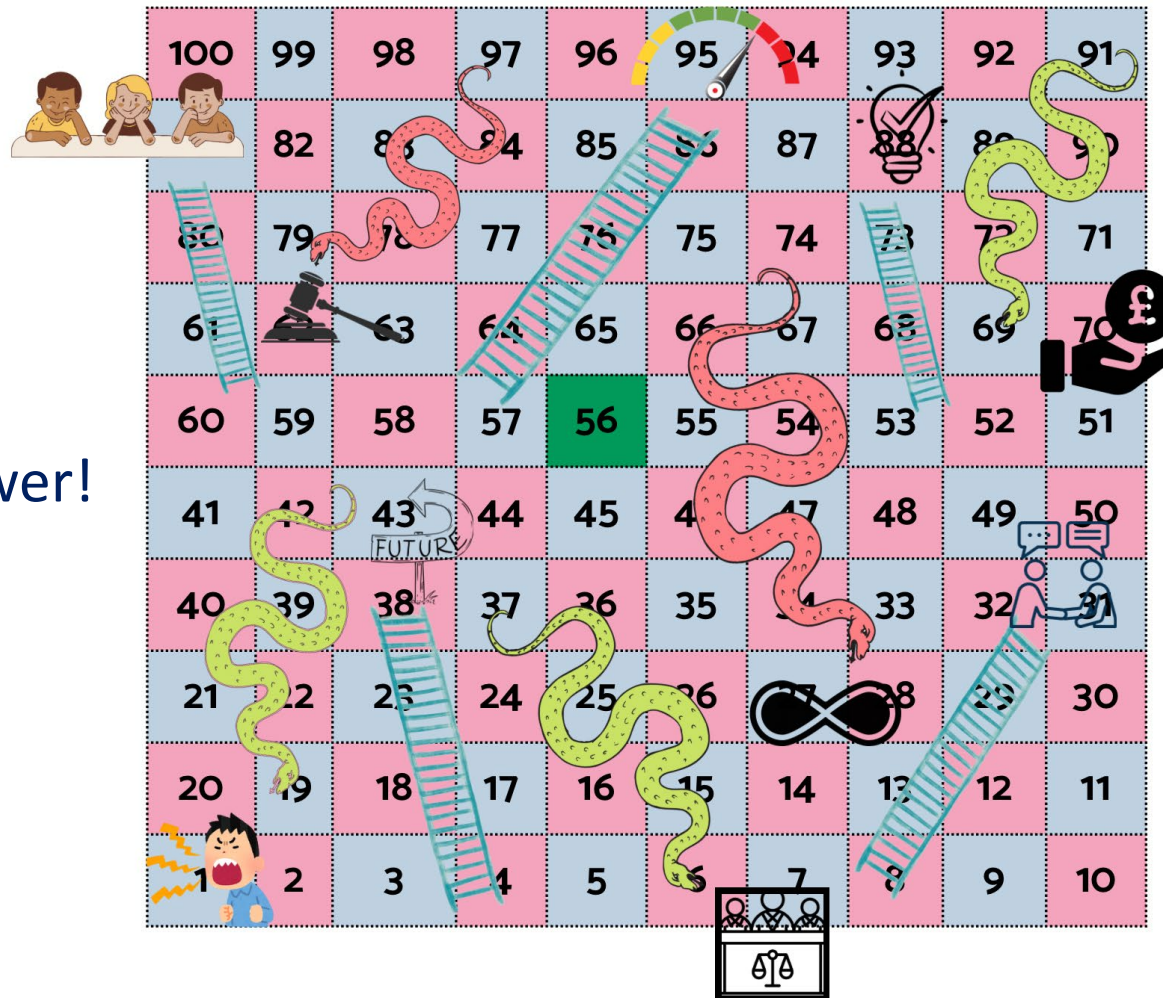
- a whistle stop tour -



Rebecca Hawkins

11th December 2025

What is NCDR?

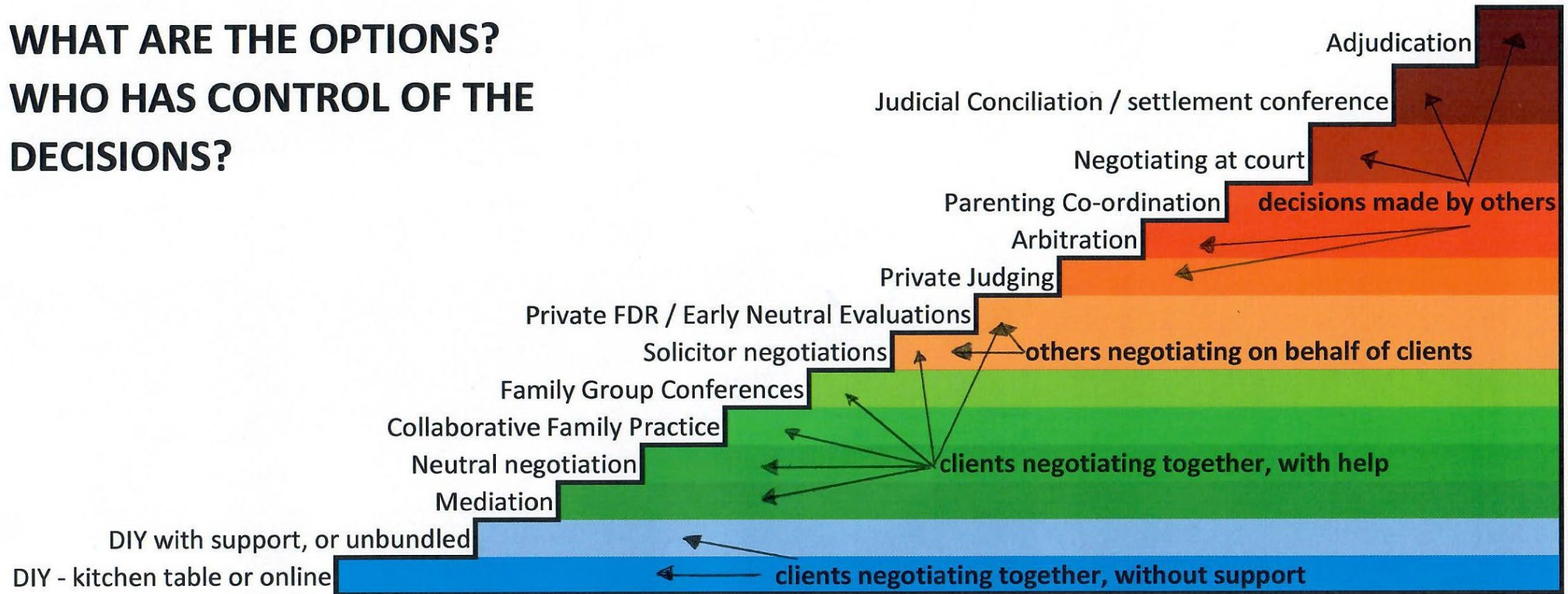


The ladders –
Move you forward
NCDR is your superpower!

The snakes set you back
- Confrontation, threats
and unable to see a
different perspective

Types

**WHAT ARE THE OPTIONS?
WHO HAS CONTROL OF THE
DECISIONS?**



Mediation

Neutral third-party facilitator

Non-binding until agreement is formalised

Framework and principles, overseen by FMC (pick an accredited mediator)

Voluntary

Various types – hybrid, integrated, shuttle

Children invited – voice not choice (not outcome focussed)



Mediation

Works well with –

ENE, PFDR, Arbitration, solicitor led negotiations

Collaborative

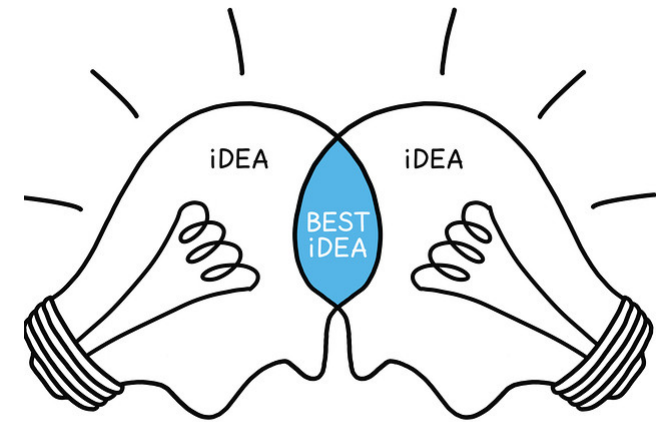
Four-way meetings with trained lawyers

Everyone signs agreement not to litigate

Transparent, client-led process

Often chaired by a Family Consultant

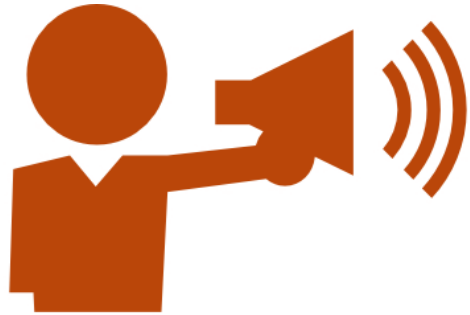
Makes great use of therapists and specialists



Works well with –

ENE, Mediation (especially CIM)

Early Neutral Evaluation



An expert gives a “steer” on likely outcomes
Mimics court FHDRA
Can be cost-saving

Works well with –

mediation, collab, traditional solicitor practice

Arbitration

Binding decision by a specialist – must be PQE 10+ to apply to train

Faster, private, more flexible than court

Less expensive than you think

Stringent rules – run by CIArb and IFLA

Could be used for one or all of issues – can help narrow them

Children cannot be seen by Arbitrator, ISW can be appointed

Not suitable where safeguarding concerns



Works well with –

mediation, solicitor led negotiation

Tailoring it to fit

Use plain English

Provide comparison and use analogies:

“Court is handing over the steering wheel – NCDR lets you stay in control.”

Provide handouts or links (FMC, Resolution, Bar Council, CIArb, YouTube etc.)

Match to your clients' priorities:

- Concerned about cost or delay?
- Focused on children? Emphasise co-parenting outcomes
- Anxious about privacy? Explain confidentiality
- Court can only deal with 'nuts and bolts' not the every day issues

When should I introduce NCDR?

Risks if you don't give NCDR encouragement:

- To the client: adverse cost orders, delay, poor outcomes and co-parenting
- To you: regulatory breach, SRA complaints, negligence, wasted costs?

At the beginning – in your initial meetings with clients

Tell your reception and admin teams, don't assume clients always need legal advice

Build into onboarding forms and consultations

Make it clear on your website



To end with ...

NCDR is a core part of modern family law

- ✓ Each method has different strengths
- ✓ Longer lasting outcomes, especially for children
- ✓ They are not mutually exclusive, they can be used together and more than once
- ✓ Your advice shapes your client's outcome
- ✓ Document advice given – protect your practice
- ✓ Court is the fallback, not the first step

For more information or bespoke
training, contact Rebecca
Hawkins

www.familysolutionsnow.co.uk