

FAMILY LAW COMMITTEE MINUTES

9 November 2010

Start: 5.30pm

At Martineau, No 1 Colmore Square, Birmingham.

In attendance

Jane Robson		Chair (in place of Mary Kaye)
Her Honour Judge Hindley	Birmingham County Court	Guest
Mary Kaye	Martineau	
Marc Saunderson	Mills & Reeve	
Zahra Pabani	Martineau	
Claire Darley	Martineau	
District Judge Dowding	Birmingham County Court	
Marie Kilgallen	Martineau	Minutes
Joanna Keene	Garner Canning	
Marie Walters		
Stephanie Brown	No 5 Chambers	
Grant Bird	Blair Allison	
Cathy Price	Price Mistry	
Janine Hall	Birmingham County Court	
Vanessa Meachin	St Phillips Chambers	
Emma Gibson	Shakespeare Putsmen	
Karen Moores	Sydney Mitchell	
Mark Mansell	St Phillips Chambers	
Philip Barnsley	Higgs & Sons	

1. APOLOGIES

Sue Daniels; Victoria Green; Chris Allen Jones; Kevin Harris-James; John Ackers; Susan Casey; Lorraine Bayliss, Elizabeth Isaacs; Helen Dickens.

2. MATTERS ARISING

None.

3. OUTCOME OF STAKEHOLDERS MEETING REGARDING DELAY IN CHILDREN CASES - HER HONOUR JUDGE HINDLEY AND JANE ROBSON.

Delay Conference Stakeholders Meeting document attached.

HHJ Hindley - Groups of professional within the Family Law system had met. The question asked was what should be done about delay within children's cases.

The notes produced are a first attempt to try and clarify what each of the respective professions all groups would do to address delay. There are various groups including the West Midlands Family Justice Council who have all been involved in discussing what action should be taken by the various professional bodies and agencies to reduce delay but it is hoped that by bringing all the professional agencies and bodies together, there could be a coherent plan as to what each group in the profession can do to reduce delay. This will help more cases progress through the system.

The Court have accordingly set up Local Performance Improvement Groups. People are needed to form part of that group and if anyone could commit that would be helpful.

Within the Court, there is now a Case Progression Officer who will try and urge on parties who are not complying with Directions.

It was widely accepted that there needs to be an element of "joined up thinking".

HHJ Hindley advised that, to date, there had not been significant input from professionals in private practice or Barristers. The Family Law profession as a whole needs to be engaged in the process and contributions are welcome from those in private practice and Barristers. It is hoped to bring together various groups such as Resolution and the Association for Children Lawyers and the Court.

MDK advised that the Birmingham Law Society Family Law Committee may be the ideal forum for all of the groups to come together and prepare a joint report.

HHJ Hindley would welcome contributions to the delay conference notes from professionals in private practice and Barristers. There needs to be an element of self analysis, identify reasons for delay and where professionals themselves may be able to assist in reducing delay and what action may be taken to reduce delay.

The idea is to identify where delay occurs, how delay can be managed and what action can be taken. From a Barrister's point of view, continuous representation adds to delay and there was often difference experiences in different Courts. There may need to be an element of sharing practice between regions.

HHJ Hindley - There is a balancing act to be done between listing matters and ensuring there is no delay but also ensuring that any listing is not too prescriptive.

Grant Bird will consider the action points on behalf of private practice solicitors.

Vanessa Meachin will consider which Barrister may be able to assist in providing a collective view from Barristers in relation to compiling a list of action points to reduce delay.

At the next meeting, the delay conference notes will be considered and a plan can be formulated to bring everyone together.

4. **IMERMAN TALK - MARC SAUNDERSON**

Full briefing note attached.

Discussing the recent case of Imerman and the impact. Hildebrand is no longer good law. Self help is no longer condoned.

It is now only permissible for a client to remember any documents they have seen that do not belong to them but not retain the originals, copies or take them away. If, as Solicitors, we take documentation from our client that belongs to the other party, we are potential committing a tortious act.

5. **RADMACHER TALK - ZAHRA PABANI**

ZQP discussed the case of Radmacher and Granatino. Press articles have been saying pre-nuptial agreements are binding. This is dangerous for the layperson. The reality is they have just become a very important tool but no more.

Always need to consider insurance policy when drafting a pre-nup and give careful consideration as to who will bear the insurance risk - Counsel or Solicitor?

It was agreed that pre-nuptial agreements will only become binding if Parliament change the law.

6. **PARENTING INFORMATION PROGRAMME - MARIE WATERS**

See notes attached.

Contact Activity Directions came into force in December 2008. A Parenting Information Programme is a Court directed Contact Activity.

Advising that they are becoming more popular.

There are four providers in Birmingham/Midlands. They are very flexible and there has not yet been an occasion when a provider has not been able to accommodate a direction for PIP.

Parenting Information Programmes are working well in Birmingham. The providers have generally been excellent and appointments are arranged within 7-10 days.

One of the Contact Activity Directions is a Domestic Violence Perpetrator Programme - the problem in Birmingham is that there are no providers because they are expensive courses.

7. **ANY OTHER ISSUES**

(a) Christmas Drinks

A date will be arranged for Christmas Drinks in the week leading up to Christmas.

(b) Resolution Christmas Event.

9th December 2010 at St Philips Chambers. This is a well attended event to raise money for various charities.

(c) Chair of Birmingham Law Society Family Law Committee - 2011/2012

MDK will be stepping down as Chair in April 2011. Jane Robson will assume the position of Chair and that was welcomed. Jane Robson asked for there to be a volunteer to be a Vice Chair. This will need to be decided between now and determined at the next meeting.

(d) Meeting Dates for 2011

These will be circulated.

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A PRESENTATION TO
BIRMINGHAM LAW SOCIETY
FAMILY LAW COMMITTEE

9TH NOVEMBER 2010

BEDS, BUGS, LOCKS & KEYS

We live in a world where technology advances by the week. So much information is now available within the public domain that we can find almost anything we want to know, within reason, on the internet.

However we often do not know personal information about those closest to us - our spouses.

What we can all agree is that Hildebrand, which is now 18 years old, never envisaged the progression in technology and the ability to be able to download between 250,000 - 2.5 million pages from a computer onto a memory stick.

20 years ago it just would not have been feasible or practical for such a volume of papers to be accessed.

However, the recent Court of Appeal decision of *Imerman v. Imerman*, (*Imerman v. Tchenguiz & Others* [2010] EWCA Civ. 908, Court of Appeal Lloyd-Neubauer (MR), Moses (LLD) & Mumby (LLD)), on 29 July 2010 has changed everything.

Before we look at the implications of *Imerman* it is important to understand where we were before 29 July 2010 and how we arrived there.

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Introduction to the Law

General advice to clients had been that they could access the other party's documents provided:

- They do not use force;
- The documents can be copied, but not retained; and
- Any such documents must be disclosed to the other party at the time of serving a questionnaire or earlier request;

but best practice would suggest within 48 hours.

Back to Basics

Hildebrand v. Hildebrand [1992] 1 FLR 244

Hildebrand was only authority that copies obtained *unlawfully* should be disclosed to a spouse promptly on request and at the latest when a questionnaire is served.

T v T (Interception of Documents) [1994] 2 FLR 1083, Wilson, J.

The Court found the Wife's activities in taking photocopies of such of the Husband's documents as she could locate without the use of force was reasonable. The relevance of the Wife's conduct was to be reflected as a **costs issue**, but **not in the S. 25 award**.

Imerman v Imerman [2009] EWHC 3486 – 2010 – (Ding! Ding! – Round One)

The reason there are so many parties in this case is that the Wife's brother(s) feeling the Husband would not make full and frank disclosure downloaded papers from a password protected server which were then passed to their solicitor, who in turn passed them to a barrister to sift for privilege, and they were then passed to the Wife's solicitors.

The family was wealthy, although the exact level of their wealth was unknown. The Husband ("the Man from Del Monte") shared office space and computer servers with the Wife's brothers, through which he conducted personal and business affairs. The Husband's documents and email accounts were **password protected**.

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The Wife's brother(s) downloaded files relating to the Husband's private dealings from the computer servers, amounting to between 250,000 and 2,500,000 pages, part of which were passed to the Wife's solicitors.

The Wife's brother(s) gave evidence that the Husband had said that they would never be able to find his money because it was "well hidden". There was issue as to whether this was said in a jocular fashion, although the marriage was referred to as being on "borrowed time".

The Husband's solicitors sought disclosure and injunctive relief against the Wife's brothers and issued a summons in the Family Division seeking the return of his papers and restraining the use of that information.

At first instance the court granted an injunction prohibiting any of the parties from communicating or disclosing to any third party, including the Wife or her solicitors, any confidential information obtained from the servers and ordered the delivery up of all documents. A further order was made prohibiting the Wife and her solicitors from making any use of confidential information that the Wife's brother had obtained.

The fundamental question was how to obtain a resolution of the tension between doing justice in family proceedings, or fairness, and discouraging tortious or illegal acts undertaken to obtain such evidence.

In assessing the authorities Moylan, J. highlighted two competing public interests:

- (i) litigation truth should be revealed; and
- (ii) the Court should not acquiesce to a party using unlawful means to obtain evidence; and if evidence improperly obtained is not excluded the Court can reflect its disapproval in orders for costs.

The Judgment

1. All the information obtained by the Wife's brother (S) was likely to be confidential within the scope of Article 8 of the European Convention on Human Rights.
2. The Court accepted the Wife's argument that the relevant evidence is admissible in Family proceedings regardless of how it was obtained.

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Article 8 - The Human Rights Act: Right to respect for private and family life

- 1 Everyone has the right to respect for his private and family life, his home and his correspondence.
- 2 There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Much of the material had been read by the Wife's solicitors and at least junior Counsel and Moylan, J. suggested that if information has been accessed by a party or their advisors it is too late to seek to quarantine it. It was not therefore right or proportionate to make the orders the Husband sought without allowing the Wife to deploy the information she had available to her in order to seek to justify what has occurred and her proposed use of the information. However, he ordered that the Husband was entitled to the return of the privileged information to be preserved until the determination of the Wife's ancillary relief application.

On 13 January 2010 Moylan, J. delivered a supplemental Judgment in which not surprisingly the main issue was the question of costs. The parties had between them spent almost £1 million in costs without anything substantive having happened.

Following on from the guidance of Jones v University of Warwick [2003] 3 All England 760, which makes it clear the Court should not acquiesce in, let alone encourage this sort of behaviour, and having noted that the Wife had never maintained that she was not aware of her brothers' activities, Moylan, J. awarded the Husband his costs on an indemnity basis.

FZ v SS & Others [2010] EHWc 160. Nick Mostyn

"I hope very much the Court of Appeal will not outlaw the use of Hildebrand materials. In many cases in which I was involved when in practice, the existence of substantial undisclosed funds, in some cases running to millions of pounds, was revealed by virtue only of the Wife having obtained Hildebrand documents. But for the obtainment of the documents the funds would not have been found and a gross inequity perpetrated on the Wife and the court."

He went further to advocate the extension of Hildebrand to a family computer that was not password protected.

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Imerman v Imerman [2009] EWHC 3486 – 2010 – (Ding! Ding! – Round Two)

Wilson, L.J. was going to be on the bench but due to delays in preparing documentation he was replaced by Mumby, L.J., so you had the make up of a Chancery rather than a Family bench for the Court of Appeal.

You only have to read to para 6 to get a flavour of where the Court of Appeal are going by saying that you cannot justify unlawful measures by describing an attempt to disarm as "self-help". However, at para 110 the court said "The lack of candour in the divorce courts is a very real problem." Here lies the conflict.

Held: The key points:

- 1 Spouses in AR proceedings have no right to disclosure of any kind before Form E unless otherwise ordered. Therefore it is impermissible to use case-law to try to pre-empt disclosure when there is no right to disclosure at that point. There is no general duty of disclosure in AR proceedings - it is circumscribed by the FPR (see 33).

Remember – the Family Proceedings Rules 2.5 (1D) established the over-riding objective. The court focussed on (6D) regulating the extent of disclosure of documents in expert evidence so that they are proportionate to the issues in question.
- 2 The "Hildebrand Rules" are not good law (at 120).
- 3 Spouses are subject to the ordinary laws of tort and equity - breach of confidence, trespass and conversion - and the criminal law, e.g. relating to computer misuse. There are no Hildebrand rules, and no defence of necessity in this regard, to absolve them (or you) from responsibility.
- 4 **This extends to solicitors** too - at 121, "neither the wives who purloin their husbands' confidential documents nor the professional advisers who receive them (or copies of them) can plead the so-called Hildebrand rules in answer to a claim for relief [e.g. by injunction]... And we add that where the information has been passed on, whether by the wife or by those acting in her interests to the solicitors acting for her in the ancillary relief proceedings, the court might think it right and indeed in appropriate circumstances necessary to go so far as to enjoin her from continuing to instruct those solicitors in the proceedings".
- 5 In terms of the use of improperly obtained information: there is discretion to admit it. But not documents, which all need to be returned, including copies. The wife's only avenue is to remember what is in the documents without making copies. Nevertheless the information she

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has can be presented to the court if necessary if H does not properly disclose in Form E as he should.

- 6 The question for the court will be, in the future, the extent to which the wife's recollection of information derived from unlawfully obtained documents may be deployed to establish the inadequacy of her husband's disclosure."

Para 107 – Are the courts to condone the illegality of self-help assisting breach of confidence because the wife feared the other side would itself behave unlawfully and conceal that which should be disclosed? The answer, in our judgement, can only be NO.

- 7 It appears that there is still scope to use copies of documents obtained otherwise than in breach of confidence - e.g. if left lying around freely at home in happy times. But it looks like the court is of the view that once the parties have separated, most personal documents are confidential: at para 79, "Confidentiality is not dependent upon locks and keys or their electronic equivalents", but rather now the nature of the document and the nature of the relationship.

- 8 If the documents themselves show direct evidence of measures taken, or intended to be taken to defeat W's claims, this would defeat a claim of confidentiality – see para 142.

Implications

Leave to appeal to the Supreme Court was applied for in the CA but refused. It is not yet known whether Mrs Imerman is going to petition the Supreme Court for leave.

Is there not an argument that if English law supports the right of both spouses to share 50/50 in the marital assets and for there to be no discrimination against the home-maker in favour of the money-earner, to make financial documents confidential to the person to whom they are addressed and potentially out of reach of the other party to the marriage is wrong in law?

The court recommends greater use of search (Anton Piller) and freezing (Mareva) orders instead and tries to cut across previous comments in the division that these were to be used only very rarely, while accepting that they are expensive.

Freezing and search orders – i.e. Marevas and Anton Pillers – are expensive, long-winded, draconian and risky.

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Claims in Confidence

A simple test is to ask whether the Claimant had a reasonable expectation of privacy in respect of that information. A breach of confidence can be for a Defendant without the Claimant's authority, to examine, make, retain, or supply copies to a third party of a document whose contents are and were, or ought to have been appreciated by the Defendant to be confidential to the Claimant.

Paragraphs	Headlines	Subject matter
76-79	This particular confidence claim	Mr Imerman clearly had an expectation of privacy in respect of his documents. He should not have to prove each in turn is confidential. It matters not that the documents were stored on a server belonging to someone else. <i>Confidentiality is not dependent upon locks and keys or their electronic equivalents.</i>
80-89	Confidence between husband and wife	85. <i>"Why should one spouse in relation to his or her separate financial affairs and private documents not be able to have recourse as against the other to the kind of equitable relief which we are here considering? We can think of no satisfactory reason".</i>
137		137. <i>In the instant appeal Mrs Imerman was not entitled to the confidential information at the stage she obtained it. The Family Proceedings Rules prevented it. The law forbids it. She should not be allowed to obtain an advantage over her husband who, for all the court knows, would have been honest when the time came for him to be honest, namely at the time the Rules required him to disclose his assets through Form E.</i>

It is important to remember that in Civil jurisdictions there is a distinction under law between something that is secret and something that is private, e.g. a diary is secret and even if left lying around there is an

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expectation of privacy. A bank statement left lying around is probably not secret, but it could still be private. In the QBD characterisation is more about the nature of the document.

157-166	"Minor issues"	Notes that one of the defendants (with the brothers) was the brothers' solicitor, and suggests at 159 that " <i>A solicitor who receives, reads, and passes on such documents, particularly knowing that they have been taken from the claimant unlawfully, may well be an appropriate defendant</i> ", therefore it was not an inappropriate exercise of professional judgment for counsel to join him in the proceedings.
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Overturning Final Orders

It is all very well saying that the non-disclosing Husband, if found out subsequent to any Judgment or consent order, can have that order re-opened, but Bader events don't always achieve what we want them to achieve.

Barder v. Barder (Calouri intervening) [1987] 2 All ER 440

The following issues must be raised:

1. It must be fundamental.
2. It must be new and not foreseeable.
3. It must happen within 12 months.
4. It must lead to a prompt application.
5. It must not prejudice any third party.

S v S [2009] EWHC 2377 Fam.

Ancillary relief hearing takes place 10 years after the divorce (18 year marriage). The court awarded a deferred clean break providing the Wife with 100% of the liquid non-company assets and half of the Husband's pension, but no right to a share in the company which Husband valued at just under £4

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million and Wife valued at £27 million. Most of the value of the company had been built up post-separation.

12 months after the order the Husband sold the company and received £137 million and Wife applied to set aside the original order on the basis of mis-representation or non-disclosure, mistake and/or Bader event focussing on Husband's valuation of the company at the original hearing.

The court found that there had been some non-disclosure on the Husband's part, but the Judge acquitted the Husband of bad faith and found that it was not fair for the Wife to receive any further monies. The company was an asset developed and transformed by Husband and had not been regarded as a matrimonial asset in which Wife was entitled to share when the original order was made.

So what comfort does Barder give us?

Depending on your perspective this decision either puts family law on the same footing as civil actions in the Chancery Division and Queen's Bench Division, or is a "cheat's charter".



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RADMACHER

A significant change?

Introduction

On the 20th October 2010 the Supreme Court handed down its decision in the case of *Radmacher v Granatino*. The majority judgement (8:1) sought to clarify the law in relation to the role nuptial agreements play when dividing assets on divorce. Has there been a material shift in the law relating to nuptial agreements or is the *Radmacher* case too fact specific for general application?

Law Pre-Radmacher

Pre-Radmacher nuptial agreements were not binding. They could, however, be a persuasive factor to be considered under Section 25 (g) Matrimonial Causes Act 1973. Provided the guidelines set out in the 1998 White Paper *Supporting Families* were adhered to and provided provision was made for needs there was a likelihood the Court would give weight to a nuptial agreement.

Facts of Radmacher

The case of Radmacher is unusual as it had a foreign element in that the wife is German and the husband is French. The agreement was drafted in German under German law. Both in France and Germany pre-nuptials are binding. The husband did not have legal advice (although he was encouraged to do so) nor was there full and frank disclosure in relation to the wife's wealth albeit the husband was aware the wife was wealthy.

At first instance the prenuptial was held as defective however given the husband understood the effect of the agreement it was taken into consideration as part of the circumstances of the case. At first instance the husband received a capital award of £5.56 million plus the use of a property in Germany when he had the children. The award was largely based on his needs generously interpreted.

The Court of Appeal held however that the Judge at first instance had not given sufficient weight to the agreement. The husband's award was substantially reduced and his needs were interpreted in line with the needs of the children.

Supreme Court's Decision

The Supreme Court upheld the Court of Appeals decision confirming anyone entering into a prenup to which English law applied after the date of the judgement can expect an inference they are intended to be bound it. The guiding principle is that any agreement should provide for needs and;

'The Court should give effect to a nuptial agreement that is freely entered into by each party with a full appreciation of its implications unless in the circumstances prevailing it would not be fair to hold the parties to their agreement'.

Whilst the legislation has not been changed to make nuptial agreements binding the case of Radmacher will make it very difficult to step away from an agreement whereby needs are catered for and the parties entered into the agreement understanding its full implications.

DELAY CONFERENCE

Monday 27 September 2010

Action Points for Social Services:

- Ensure continuity of representation.
- Identify complexity early.
- Better differentiation of case complexity – assign the most skilled practitioners to the most complex cases (smart use of resources).
- Robust risk assessments to be carried out by Social Workers pre proceedings.
- Evaluate the history – update the core assessment and stress what has happened in the past.
- Be clear with families about what is required by them – be simple and precise.
- Identify court mentors to reduce the skills deficit.
- Review timelines for permanency (to be done within the JAP with Legal Services).
- Establish a genogram and interested family members at a very early stage.
- Initial screening to be more robust – what is acceptable as a family carer?
- Care Plans:-
 - Produce a care plan to be shared earlier in proceedings which fully represents the child's needs, wider issues and timescales and provides a full exploration of all extended / alternate carers with evidence.
 - Skip background and focus on the future.
 - Include clear contact reduction post final hearing
- Streamline internal procedures for kinship assessments.
- Improve the quality of the Social Workers assessment / Core Assessments.
- Set informal targets early – at accommodation panel.
- Explore the quality of management of Social Workers as they are not confident in their own judgements.
- Pre-proceedings letters to be sent earlier so that solicitors can become involved earlier.
- Use of mediation – Colin Tucker to be the point of contact if CAFCASS have any issues regarding the quality of care plans.
- More emphasis on the Social Worker / Children's Guardian being seen as the experts in the welfare needs of the child / children.
- Need to address the drift in Section 20 Accommodation – lack of progress for child once a Care Order has been made.
- Pre-proceedings – ensure pre-birth assessments are done and deal with placement before birth, not just after.
- Put a duty 'Senior Manager' (Operations Manager / Head of Service) in court on a daily basis to cover all matters.
- Put a Senior Practitioner / Team Manager in court on a daily basis.
- Create a small group to better influence the decision making timescales of the Border Agency.

Action Points for CAFCASS:

- Ensure continuity of representation.
- CAFCASS to be included on the accommodation panel.
- Children's Guardians to communicate with the Local Authority regarding other family members who may be able to care / support the child/ren.
- Meetings to be arranged between CAFCASS and the Local Authority to address conflict and disagreement.

Action Points for Private Practice Solicitors

- Be more proactive in pushing the Local Authority to find / investigate family and friends.

Action Points for Barristers ?

Alan Beasly } *indicate*

Kew Meadows

Contact Activity Directions

Mediation

Parenting Information Programme

Domestic Violence Perpetrator Programme

Counselling

PIPS

The final provisions of the Children and Adoption Act 2006 came into force on 8 December 2008.

This provided courts with new powers to promote and monitor contact and enforce contact orders made under section 8 of the Children Act 1989.

The Parenting Information Programme (PIP) is a Court ordered contact activity designed to alert parents who are going through the divorce and separation process of how their actions could impact upon their children. It is also designed to help reduce the conflict that the children may see or hear.

PIP is designed to help parents understand the impact of ongoing parental conflict on their children and to provide advice and support about how to reduce it. The course aims to enable parents to take steps towards their own solutions. PIP is usually delivered to mixed groups of applicants and respondents in two, two hour sessions or one four hour session. The whole course must be attended.

A PIP might be appropriate when

Parents have lost sight of their children's needs due to ongoing conflict. Where parents find that their feelings and reactions to the separation are affecting their ability to communicate about their children.

As a preparation for mediation - where there are no safeguarding concerns about children or parents.

The Course

The divorce and separation process – parents are encouraged to think in a solution focused way about their situation.

What children need – parents watch a powerful DVD made by young people which follows a separating family over a period of six months.

Parent communication – parents are also asked to discuss a prepared scenario and to look at it from the perspective of the mother, father and child.

Emotions – finally parents look at the emotional impact of divorce & separation and options moving forward.

Feedback

The provider reports back attendance only and does not make assessment of parties' responses. Some providers also feedback an evaluation form completed by parents at the end of the programme.

Participation

Courts now have the power to direct or order parents to attend Contact Activities that are aimed at promoting safe contact with children. The parents can be ordered to attend a mediation information meeting, a parenting information programme (PIP) or a domestic violence perpetrator programme. Cafcass will assess for suitability for the course, likewise Solicitors can also make recommendations to the Court.

The Contact Activity Direction is usually recommended by Cafcass or Solicitors for the parties.

Cafcass will be required to complete a Suitability Report, taking into account the parties religious beliefs and likely conflict with work or educational needs. Cafcass will also give the name and address of approved providers.

Once this is filed at Court a direction/order will be sent to the Contact Activity Provider, giving the parties details. A referral form will be complete and there is a direction for the Solicitors of the parties to complete these and forward to the Provider.

The provider will contact the parties and arrange a date and time for the course.

The Provider will inform the Court about the attendance of the parties. The programme is confidential and no assessment is made at anytime. The exception to this is if it is thought that an adult or child is at risk of harm.

In most cases both parents are asked to attend the course as this is most beneficial to the children, however in some cases the Court may decide that only one parent attends. You do not attend at the same time as your ex partner.

If the parties are Publicly Funded there is no charge for the programme, and this can be a reasonable expense on the parties Public Funding Certificates. If one party is Publicly Funded than the charge can be made to the Public Funding Certificate. There can be a charge if both parties are Self Funded and this is about £250.00 depending on the provider.

Providers that Cafcass are recommending at the present time are:

Mediation MK

Family Action

NRS Contact Centre

Birmingham District Family Mediation