

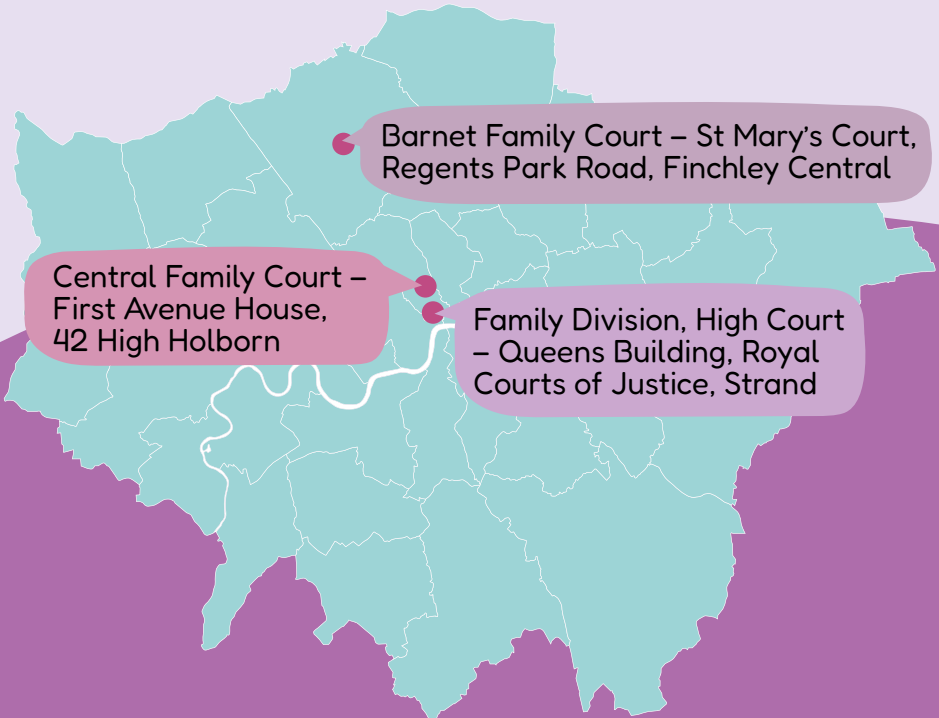


Court handbook for social workers

Introduction

Social workers are likely to be called on to give evidence in court in support of care proceedings and other applications. This booklet has been written to help you understand the court process and prepare for attending court, providing top tips and information that will help you feel confident with your court work.

The Courts you are likely to attend are:



Top Tips: Court Etiquette

Arrival and meeting with legal representatives

You should arrive an hour before the hearing and meet up with Camden's legal representative; this should give you an opportunity to give any updates to your legal representative and the position of the other parties. If you are giving evidence at this hearing it will enable you to get advice on what will happen when giving evidence. The legal representative will also show you where to sit and should let you know who everyone is and which party they are representing in the proceedings.

This may be a good point to go through your statement with the legal representative to prepare for lines of questioning that may come up during cross-examination.

What do I call the Judge?

Depending on what type of Judge you have, they are called different things.

Here is the list:

Magistrates:	Your Worship or Sir/Madam
Recorder (part time Judge):	Sir/Madam
Deputy District Judge:	Sir/Madam
Circuit Judge:	Your Honour
High Court Judge:	My Lord/My Lady

If you're unsure what Judge you have – just listen to what everyone else calls them and copy!

Sitting and standing

- When the Judge comes into the court room, everyone must stand up (the legal representatives might bow, depending on the seniority of the Judge). You sit down once the Judge has sat down.
- When the Judge gets up to leave, you stand up and stay standing until they have left.
- You might find that, if the Judge stays in the room and asks you all to leave, that the legal representatives might not show their back to the Judge as they leave. It is considered rude!
- Dress code: It is important to dress suitably for court, no need to buy expensive clothes, but dress suitably.
- Drink and food: You're not allowed to eat food or bring in teas/ coffees into the court room. You can bring water if you need that.
- Mobiles: Mobiles should be switched off or silent. Please remember to turn your phone off or put it on silent. It won't win over a Judge if your phone goes off.
- The Judge sees everything! They have a great view from where they sit, so be mindful of how they are perceiving you and what you are doing during the hearing.
- Communicating with Camden's legal representative

Whilst the hearing is happening, you can make notes and pass them to the legal representative if you want them to raise certain points. If the hearing is remote, you can email them your instructions. Take the opportunity to get them to say everything that you want them to.

Top tips: Giving Evidence in Court

As the allocated social worker you will be giving evidence in chief – this is the main body of evidence on which the council's case rests and which supports the council's application for an order; during giving evidence the council's legal representative will ask questions to ensure all the relevant information is covered.

You will then be cross-examined by the legal representative for other parties involved. Their job, if they do not agree with the council's care plan, will be to establish why their plan is better for the children than yours. This means that they will ask questions that help them make their points to the Judge. Whilst this might feel daunting, you're not likely to give evidence a lot as the court tries to come to agreements and compromise.



To help you with this process, here are some tips to prepare and to feel confident when being cross examined:

- Prepare! Re-read your statements and all the evidence. Make sure you know the children's situation, the care plan, what has happened and what you and everyone is saying they want to happen.
- If you don't understand – ask! It's perfectly ok to ask the person to repeat the question or say you don't understand. Much better to clarify than to try and answer a question you don't understand.
- It's not a memory test. You can always ask to be shown documents in the bundle to refresh your memory. What the Judge wants to know is your analysis as the expert social worker, rather than if you remember what is written in a document.
- Respond to the Judge! Whilst the legal reps will be asking you the questions, the person you want to respond to is the Judge.
- Watch the judge and make eye contact with them when you are giving your answers. That way you can also see when the Judge is making notes of what you say (which means they are likely with you on the points you are making!) or if they have stopped making notes (which is a sign to drop that point and move on to another one!)
- Tackle any gaps; if there is a gap in the evidence, it's always best in your 'evidence in chief' to raise this issue and explain your analysis. Don't shy away from these challenges, as there will always be something that needs addressing. It also shows confidence and knowledge to bring these up before being cross examined on them. And it also helps to shut down any cross examination questions, as you have already provided the answer to the Judge!



- Be fair and give a balanced view; there is always something positive to say about someone's parenting, so do highlight those. A fair witness is always going to impress a Judge more than one who is clearly pursuing "the party line."
- Avoid being defensive or confrontational.
- Speak loudly! The court room is usually big and everyone needs to hear you, so speak loudly and clearly.
- Speak slowly! The Judge and the legal reps will be taking a note of what you say, so speak slowly so they can write down all the important things you are telling them.
- Be aware of the language you use; avoid emotive language, vagueness or making statements that cannot be backed by evidence.
- 'Fake it till you make it!' A lot of court is not only what you say, but how you say it. Take your time and space, think about your body language, speak confidently. Present as a confident professional even if you are not fully feeling it in that moment!

Glossary of terms

Word	Meaning
Adoption	To take another person's child into your family and legally raise them as your own child
Affirmation	When you are 'giving evidence' you will either 'swear' or affirm, which means that you promise to tell the truth. If you have no religious beliefs, you will 'affirm'.
Allegation	When one person says something happened to them (such as an allegation of physical or sexual abuse)
Appeal	An application to a higher court for a review of a decision of a lower court
Attended or In Person Hearing	This is a hearing where you need to go in person to the court
Barrister	A legally trained person (a 'member of the bar') who has the 'rights of audience before all courts', which means they are represent clients at all levels of the court
Cafcass	Children and Family Court Advisory and Support Services. Part of the Ministry of Justice who provide the independent voice of the child in both public and private family proceedings.
Care Order	Section 31 of the Children Act 1989, which gives the local authority parental responsibility for a child until they reach the age of 18

Word	Meaning
Case Management Hearing	A hearing in care proceedings to consider what directions are necessary to ensure that a fair process takes place and to timetable to ensure the case is resolved in a reasonable timescale
Child Arrangements Order	Private law order, for a child to either 'live with' or 'spend time with' a parent/carer. The making of the order also gives the adult parental responsibility.
Child Assessment Order	An order allowing the applicant (usually the LA) to carry out an assessment of the child's health and development or the way in which the child has been treated, in cases where the family have prevented any assessment from taking place and there are significant concerns about that child's welfare
Collection Order	An order made in the high court for the court staff ('tip staff') to be given access to various locations to collect a child who is missing and return them to their placement
Counsel	Another term for 'barrister'
Children's Guardian	Works for CAFCASS and acts for a child who is subject to specified public law proceedings, usually care proceedings
Circuit Judge	A Judge who sits in the county court and can make some decisions that a higher judge, 'section 9' judge can
Cross Examination	A witness being asked questions from other legal parties during a hearing

Word	Meaning
Deprivation of Liberty	An order that allows a person's human rights and freedoms to be restricted, such as the right to restrain a young person or to have alarms on doors in a residential unit. These orders are time limited.
Designation	The area in which a child or family reside and which the local authority has a duty to respond
District Judge	An application to remove a care order, can be made by a person with PR, the LA or the child
Emergency Protection Order	An order that gives the LA immediate powers to remove a child from their family. This order is time limited.
Fact Finding Hearing	When a witness begins their 'oral evidence' in the witness box and is asked some clarifying questions by their legal representative before being 'cross examined'.
Discharge of Care Order	A hearing where disputed allegations are tested in evidence and a Judge decides what did or did not happen on the legal test of 'a balance of probabilities'
Family Assistance Order	A private law order, that is time limited (the length would be agreed at court) for support to be provided to a family from either the local authority or Cafcass
FDAC	Family Drug and Alcohol Court. A court that operates within the family court and provides wrap-around support and assessment for cases involving drug or alcohol issues.

Word	Meaning
Final Hearing	A hearing, either contested or agreed, where final orders are made and the court case is concluded.
Forced Marriage Protection Order	An order to prevent forcing or attempting to force another person to enter into a marriage or purported marriage without the other person's free and full consent
Giving Evidence	When a person is called as a witness in a contested hearing, they 'give evidence'. Questions will be asked of them by the barristers/solicitors in the case.
Hague Convention	A convention signed by a number of countries to enforce rights of custody and prevent wrongful removal of children
Inherent Jurisdiction (of the High Court)	The general jurisdiction of the High Court is, broadly speaking, unrestricted and unlimited in all matters of law, which means that the court can make almost any order except in so far as any power has been taken away in unequivocal terms by statute
Interim Care Order	An interim order giving parental responsibility to the local authority, and sharing that with those who already hold PR,
Interim Supervision Order	An interim order to a local authority that gives them the ability to work with families and advise, befriend and assist them.
Intervener	A person who has been given a specific status in proceedings to be able to contribute and put their case to the Judge on a limited issue within wider proceedings.

Word	Meaning
Issues Resolution Hearing	A hearing that looks to narrow the disputes between the parties and hopefully resolve the proceedings without the need for a contested final hearing.
Kings Counsel	A barrister with particular experience and who deals with complex cases
Magistrates	Can hear and make decisions on some public and private law cases. They are not legally trained like Judge's and will hear less complex cases.
Mackenzie Friend	A person who can support a person who has no legal representation through a hearing
No notice hearing	A hearing where some parties of the proceedings have not been given any notice
No Order Principle	Under Section 1 of the Children Act 1989, a court must not make an order unless it considers that doing so would be better for the child than making no order at all
Non-Molestation Order	An order under the Family Law Act 1996 prohibiting a person from molesting another person. The order usually prohibits that person from harassing, pestering, intimidating, threatening or actually using violence against the other person
Occupation Order	An order under the Family Law Act 1996 regulating occupation of a home. It includes the power to either allow a person back into a home or to exclude a person from a home and/or from a defined area in which the home is included

Word	Meaning
Official Solicitor	A government agency which represents minors or adults under legal disability, and sometimes others, in county court or High Court proceedings in England and Wales, and in the Court of Protection. It also acts as last resort personal representative of the estate of a deceased person, or trustee of a trust, and other functions
Parental Responsibility	Under Section 3 of the Children Act 1989 this is defined as all rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to a child and the child's property.
Part 25 application	An application for expert assessment
Party to proceedings	The legal term for everyone who is a full participant in proceedings
Placements Order	An order authorising a local authority to place a child for adoption with any prospective adopters who may be chosen by the authority
PLO (Public Law Outline)	The work that happens before proceedings are issued, where the family are assessed to see whether proceedings can be avoided or not

Word	Meaning
Police Protection	Under Section 46 of the Children Act 1989, where a police constable has reasonable cause to believe that a child would otherwise be likely to suffer significant harm he may: (a) remove the child to suitable accommodation and keep him there; or (b) take such steps as are reasonable to ensure that the child's removal from any hospital, or other place, in which he is then being accommodated is prevented. A child can be kept in police protection for a maximum of 72 hours.
Power of Arrest	Can be attached to a Non-Molestation or Occupation Order allowing a police constable to arrest a person whom he or she has reasonable cause for suspecting to be in breach of the order and bring that person before the court within 24 hours of arrest
Pre Hearing Review	A directions hearing usually shortly before the final hearing
Prohibited Steps Order	An order that no step which could be taken by a parent in meeting his or her parental responsibility for a child, and which is of a kind specified in the order, shall be taken by any person without the consent of the court
Re B-S	A judgement requiring local authorities and Cafcass to analyse the viable placement options for children when making decisions about care plans, and to record that analysis in the SWET.
Re W	A judgement requiring consideration when deciding whether and how a child should give evidence in proceedings

Word	Meaning
Recorder	A part time Judge, who also works as a barrister
Recovery Order	Under Section 50 of the Children Act 1989, the court may make a recovery order where it appears to the court that there is reason to believe that a child who is in care is missing or has been unlawfully taken or kept away or has run away or is staying away. The order requires any person who has knowledge of the whereabouts of the child to disclose this information and allows the police to enter any specified premises named in the order to search for the child, using reasonable force if necessary.
Remote hearing	A hearing that is held without people going into the court building, usually via online technology but can also be held via phone.
Revocation of Placement Order	Asking the Court to discharge a Placement Order if a child's plan has changed from adoption to another form of permanency.
Section 20	A voluntary agreement for a child to come into care. Agreement for this can be given by a person who holds PR for the child, and a child aged 16 and over can give their own agreement.
Section 34(4)	The part of the law that allows the LA to stop contact for a child in care with their parent(s)
Section 37 report	A report directed by the court in private law proceedings, in which the LA are asked to decide if they will or will not be issuing public law proceedings

Word	Meaning
Section 7 report	A welfare report in private law proceedings that either the LA or Cafcass complete to help a Judge decide what is in the child's best interest
Section 91(14)	The part of the law that prevents a parent from making repeat applications if they are without any merit. It means that the parent will need to seek permission of the court to make any more applications. These orders are time limited.
Secure Accommodation Order	Under Section 25 of the Children Act 1989, a looked after child may not be placed, and if placed, may not be kept, in secure accommodation unless it appears: (a) that (i) he has a history of absconding and is likely to abscond from any other description of accommodation; and (ii) if he absconds, he is likely to suffer significant harm, or (b) that if he is kept in any other description of accommodation he is likely to injure himself or other persons A Secure Accommodation Order can only be made for up to 6 months at a time
Solicitor	Member of the legal profession mainly concerned with advising clients and preparing their cases and representing them in some courts. May also act as advocates before certain courts or tribunals
Specific Issues Order	An order giving directions for the purpose of determining a specific question which has arisen, or which may arise, in connection with any aspect of parental responsibility for a child

Word	Meaning
Special Guardianship order	An order appointing one or more individuals to be a child's special guardian. The order is intended to place a child with a non-parent with a degree of permanence, which is greater than a simple residence order, but less final than full adoption
Supervision Order	An order, that can be made up to 12 months and up to 2 years on a 2nd application, where a local authority will befriend, advise and assist a family
Swear	A person who has religious beliefs will swear on the relevant holy book to promise to tell the truth when in the witness box and about to give evidence
Threshold criteria	The legal term for the level of child protection issues (harm) that needs to be met to make a public law order, where the court is satisfied that: (a) that the child is suffering or is likely to suffer significant harm; and (b) that the harm or likelihood of harm is attributable to: (i) the care given to the child, or likely to be given to the child if the order were not made, not being what it would be reasonable to expect a parent to give to him; or (ii) the child being beyond parental control
Undertaking	When a person gives a legal promise to the Judge about what they will and will not do. If the person breaks that promise, they could be seen as in 'contempt of court' and there could be repercussions such as being arrested.

Word	Meaning
Wardship	High Court action making a child a ward of court meaning that no important step can be taken in the child's life without the permission of the court. Wardship has been described as the 'parental jurisdiction' of the High Court because once a child is a ward of court, the ultimate responsibility for him rests with the court.
Welfare Checklist	Under Section 1 (3) of the Children Act, where a court is considering whether to make a Section 8 Order or a Special Guardianship Order, it is directed to have regard to the following particular circumstances: (a) the ascertainable wishes and feeling of the child (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 other characteristics 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 the Act.
Welfare Report	Under Section 7 of the Children Act 1989, the court when considering any question with respect to a child may order a report relating to the welfare of a child to be prepared by CAFCASS or a local authority
Witness Box	The name of the chair and area that a witness will go to when giving oral evidence in the court

