

# **WHAT TO EXPECT WHEN GOING TO COURT?**



*part of the Affordable Family Law Group CIC*

## Your Family Court Hearing

You will have to go through an airport-style security check at the door. Leave anything unsuitable at home.

Ask the security guards or an usher where to find the Family waiting area.

Make sure you tell an usher that you have arrived.

BH Support are well informed on court protocol and security arrangements and we can assist you in invoking special measures within the courts which can allow you to be protected while inside, entering and exiting the court for those who have experienced domestic abuse. Our support extends to what you should wear in court and how you should speak to the court, to providing you with an expectation of the court layout and an understanding of the order of proceedings.

We actively engage with the other party, pre-hearing, to assist in reaching resolution by consent and then final order of the court. In hearings, BH Support will be at your side in the capacity of McKenzie Friend, empowering you to tell your story and we are able to further assist you document control, moral support and quiet legal clarification during proceedings if you are ever confused or unsure.

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## What to wear?

There are no rules but you may want to dress smartly; most Court staff and lawyers wear suits or suitable 'smart/work appropriate' dresses.

## Who should come with you?

It is reassuring to have friends or family to give you a lift to court and meet you afterwards, but we usually find it's best if you leave them at the door so that you can focus on preparing for your case.

Don't bring children to court. The only exception to this is if you have a very small baby. In this case, ask a friend to come and look after the baby in the waiting area whilst the hearing takes place.

## Preparation

Before you come to Court think about what you want to say. Having some notes will help you on the day if you are feeling nervous. Keep it relevant and fairly brief, and focus on what's best for the child(ren). Be clear about what you are asking the Court to do and why.

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## In the Waiting Area

If you are worried about seeing your former partner in the waiting area, you can request to sit somewhere separately – ask the usher about this.

Cafcass (Children and Families Court Advisory Service) may wish to speak to you before your hearing, and/or the other person's solicitor may ask to talk with you to find out your views.

## In Court

You may be in front of Magistrates or a District Judge (you can call them Sir or Madam). There may also be a legal adviser, and a Cafcass officer, as well as your former partner and their lawyer if they have one.

You all sit around a big table or in rows. Your lawyer or Family Court Supporter will sit next to you.

The Applicant will be asked to put their side of things first, followed by the Respondent. Do not interrupt in Court; each person gets their turn to speak.

## What happens next?

A Family Court case usually involves several hearings so you will probably be asked to come back at a later date. Contact with your child may or may not be allowed in the mean time. You should receive a written Order (either on the day or in the post) telling you what the court decided, what you need to do, and when the next hearing will be. This is important – read it and keep it safe!

*Please remember, you should not talk to your children about your family court case.*

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## Preparing a Position Statement

A position statement outlines a parent or party's position. It can be a useful tool for litigants in person to explain who they are they are and allow a court to understand the background, current situation, and what a parent wants to happen. The focus is on what is in the best interests of your children.

Providing a position statement is not obligatory, but there are circumstances when the court will direct that both parties provide one. The information should be clear and brief so that the court can quickly read and digest it. During the course of the court hearing, a court will often direct a parent to elaborate on a point that was made in the position statement.

A Position Statement is different from a Witness Statement. The position statement should not include evidence. The court will generally request that evidence be filed separately in a Witness Statement.

The statement can be sent in or handed to the court just before the hearing with a copy for the other parent. Always have a spare copy for the court if mislaid or for any other interested person, e.g. Cafcass. The court should have read it before the hearing and will be aware of the situation for that parent at an early stage. A person's willingness to consider the case in a thoughtful manner prior to the hearing is appreciated by the court as it can lead to a more efficient process.

## Preparing a Position Statement Cont/...

For the First Hearing Dispute Resolution Appointment (FHDRA) it is advisable that the following points are in a position statement:

- Information regarding background information to the situation.
- Brief summary of what has arisen to bring the current situation to court.
- Any additional information that may support the proceedings.
- What outcome the applicant/respondent would like to see from court proceedings. (Make sure this is precise and realistic.)

The contents for future hearings can generally fit the same format but may deviate slightly according to how the previous hearings have been conducted and what has been discussed. For example, when writing a position statement for a directions hearing be aware of what the court are already considering and integrate what has occurred since the last hearing.

**The Welfare Checklist** is very important when preparing a position statement as this is what the court uses to determine what is in the best interests of a child.

# BHSUPPORT

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