A SELF-HELP GUIDE:
DEFENDING YOUR CHILD AND YOURSELF FROM UNWARRANTED SEPARATION

This is a working draft by mothers, grandmothers, other primary carers and campaigners determined to stop children in their thousands being unjustly taken away from their families, and to stop violent fathers having unsupervised contact with children when the child doesn't want it and/or the mother thinks it's not safe. It is based on collective self-help which brings together our combined first-hand experience. We hope you find it useful and strengthening in your struggle to protect your children. We welcome your comments and suggestions.

At the time of writing (August 2020) we haven't updated everything as a result of the MOJ Review into domestic violence and the family courts or what is likely to result from the Domestic Abuse Bill going through parliament in the Autumn. And we don't include here what's changed as a result of Covid19. This updating will happen in September but in the meantime, for more info on all of these please see our blog. https;//.supportnotseparation.blog

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1. Introduction – what you are up against

By law children should only be removed from their family if they are at risk of 'significant harm'. But this is not how the law is applied much of the time. It is commonly abused by the professionals whose job it is to 'act in the best interests of children' – local authorities, Children & Family Court Advisory and Support Service (CAFCASS), even judges … We spell this out here so it's clear what we are up against and we offer some useful tips based on many families' experiences.

The relationship between child and mother, or other primary carer, who is the first provider of physical and emotional security and protection, is crucial to a child's welfare. Without that protection, a child can be vulnerable to every abuse of power by state institutions, violent predators and profiteers. Every loving mother knows that. Yet that primary relationship is routinely dismissed and trampled on. **Laws are often applied in ways that disregard or undervalue the significant harm caused to children by separating them from their mother and families.** This is despite much evidence from children, mothers and attachment experts that separation is deeply painful and has lifelong consequences. Social workers have told us that they get little or no training in considering such trauma, yet they are the ones who decide when the children should be removed. They treat separation as a hiccup in children's lives.

While poverty should entitle families to additional support it is instead often used to allege 'neglect'. Coming to the attention of the authorities as being 'in need' can easily lead to a child protection order and the child being removed. Working class families, especially single mothers', are 10 times more likely to be under scrutiny; families of colour, disabled mothers or mothers of disabled children, mothers who are young and/or were in care themselves as children are also disproportionately targeted.

While children should not be taken from their families unless they are at risk of 'significant harm', **allegations of 'future emotional harm' are also commonly used to remove children who have not been harmed and are doing well with their mother**. These allegations are often not based on evidence of actual harm but on speculative 'possible' harm which might happen in the future. But they are often given more weight in court than the harm and trauma inflicted on children by separation from their family.

Even breastfeeding, which the World Health Organisation and others[i] say is the best food, essential to the welfare of the child, and is her/his human right, **is often dismissed and even used against the mother**. We know mothers who were accused of being unreasonable or manipulative (even "alienating") because they refused overnight contact while the child was still breastfeeding.

Reports on your child and her/his relationship with you can be written on the basis of short assessment visits by professionals who think they know best and have been given the power to intervene in your family life. Mothers often ask, 'How can they after a 15 minutes conversation know better than me about my child and me?' They can't. But their recommendations carry great weight in court.

Mothers often complain about social services and CAFCASS reports being 'full of lies' and inaccuracies, about social workers who are 'hostile from the beginning' or who are 'nice' only to elicit information and responses from you that they will then use against you in court. Sadly, we have seen many judges rubber stamp outrageous recommendations from social services and CAFCASS. **So, don't assume that the authorities will be 'understanding' or 'on your side'.** They are often more concerned with keeping their jobs and exercising power over you than with the welfare of your child.

Bias against single mothers and working class families is common – in poorest communities 45% of children are referred to social services before they are five[ii]. In many areas, low income families are also families of colour and/or immigrants, and racism is likely to play its part. We see time and again that if you are disabled, have learning difficulties, are young or have been in care as a child you are more likely to have your children taken from you than to get the support you are entitled to.

We have questioned many social workers and CAFCASS child guardians about decisions which were blatantly unjust and asked why? Every time we are told that local authorities are guided by the fear of another Victoria Climbie [i] or Baby P [ii] tragedy occurring. Why should thousands of innocent families pay for the negligence of local authorities in these terrible cases? Why should children who are loved and

cared for be removed because local authorities did not remove those who were being tortured and ultimately killed? It is a poor excuse and an attempt to justify the most harmful abuse of power.

There also seem to be financial incentives to taking children away: keeping up or increasing social service budgets, adoption incentives, rampant privatisation of children services [iii].

Since the **Children and Families Act 2014**, local authorities considering adoption have a duty to consider placing the children with foster carers who are also approved prospective adopters. This effectively fast tracks adoptions as social services can then claim that the child has bonded with the foster/prospective adoptive parent and separation would be harmful. While the initial separation from the mother is often belittled, separation from a foster parent (i.e. a 'corporate parent') is often given weight.

90% of adoptions are without the consent of the birth family. The push to fast track adoptions which many politicians have promoted and the increased privatisation of children services have resulted in many more adoptions. Many local authorities are eager to have children adopted, especially babies.

Keep in mind that while thousands of children continue to be unjustly removed, there is now awareness that this is happening and both the former and the present presidents of the Family Court have warned against it.

Controversially, family court hearings are not held in public, unlike criminal court hearings. It is claimed that this is intended to protect children and their families from undue media attention. Yet the press can attend, though they can't report in detail. **The main problem is that supporters and members of the public are not allowed in court.** You are isolated in a frightening and intimidating court room facing social workers who want to take your children away and the father who may be violent and manipulative – all this often without even a lawyer on your side or not one you trust who is prepared to fight for you.

Many of the injustices perpetrated in the family court have to do with this court secrecy as people are not allowed to know what goes on behind closed doors. Mothers don't know what they are walking into. In addition, gagging orders can be imposed on mothers not to discuss the case with anyone. These can be successfully challenged, but are very intimidating!

Protests outside the family court

Court secrecy is also being challenged outside the court. We hold a protest outside the central family court in Holborn, London, on the first Wednesday of every month. We hope that other cities will start their own. Watch this space for news of other venues. The protests enable mothers and other primary carers to have some of the public voice they have been denied inside and to make injustices visible to the outside world. They also contribute to changing the climate in which legal arguments will be heard.

One family court barrister we have worked with says: *"The Family Courts are at breaking point. Care cases are often listed as preliminary directions short hearings but then converted to a contested removal hearing as the LA assert there will be too much delay in waiting for a future date. Babies and their mothers are often in hospital having given birth and the LA is applying for a removal the same day. Parents attend court believing their case is listed for a short mention and then they face a contested hearing.*

Courts are overwhelmed with over-listing, crumbling buildings and "targets". Frequent changes of social workers and other personnel leads to conveyor belt decisions about human beings. Local Authorities often leave paperwork to the last minute and instruct inexperienced lawyers to represent them for very low fees. Instructions are given which often the key social worker disagrees with but is overruled by his/her team manager.

Lawyers cluster together at court often leaving parents bewildered, whilst they decide on the children's fate over cups of coffee and other chat. Lawyers often tell their client "what's best" in a short conversation. Frequent changes of legal representation are very common -you might have a different lawyer each time and no choice about the matter. Often it is the same group of lawyers doing most of the care work in an area, recommending each other and representing a parent one day, a Guardian the next and a Local Authority the next. This creates a much too easy-going relationship between the advocates where common styles are acceptable and "outsider" lawyers are frozen out or treated disdainfully if they do not stick to a "party line" about the process.

However there are a large number of very competent and caring lawyers both solicitors and barristers who are dedicated to their areas of expertise. Cases involving disputes over children which are not care cases ie private law disputes are treated as second class in relation to Care cases yet serious emotional and physical harm can feature in them. Care lawyers have a very low regard for this work and insufficient attention is paid to it by the court as there is a mantra that it is "six of one and half a dozen of the other" when parents are in disagreement.

Yet some of the most difficult cases of parental undermining and abuse and harm to children are private law cases. Maybe the reluctance of Care lawyers to do this work is that they do not get their legal aid payment for doing it until the end of the case and often the cases take a very long time to conclude. If you have a private law dispute eg child arrangements, unlawful removal, applications for removal from the jurisdiction, try to ensure you have an experienced and keen lawyer acting for you. This is a complex area of law and you should seek independent legal advice".

2. Useful TIPS: Be prepared to fight for your child's and your rights.

Communicate in writing rather than on the phone. Keep conversations with social services on the phone brief; tell them you would prefer for them to put their view/requests in writing. It is a good idea to record all phone conversations and free apps are easily available. If you do speak to them by phone or in person send a short factual email afterwards confirming what was said by them and you.

Keep a written record of all interactions with social services, CAFCASS and the child's father if he is involved, in the order in which the case develops. Don't rely on conversations which can be denied or distorted, unless they are recorded. Challenge all inaccuracies in writing. If you don't have email, ask a friend or supporter to set up an account for you. Keep your emails short and to the point so they can't accuse you of 'ranting'.

Keep a written record in date order of all officials' names, job title/department, emails, phone numbers and postal addresses.

Keep all documents from your case together safely in a file/box in date order. Make sure your lawyer gives you a copy of everything, including all the emails between your lawyer and the Local Authority and anyone else.

Do a short written summary of your case – date the social worker came, when the child was taken or threatened, child's age, what are the charges they are making against you and what the truth is, key injustices, upcoming court hearings, court orders, deadlines. This is useful for all kinds of situations where you have to explain yourself and to get support.

Social workers can go to your child's school and speak to teachers or other staff and are allowed to interview your child without your permission, though they must inform you. However, you, a family member or friend are entitled to be present and your child should always have someone they trust with them. Do not rely on the teacher being neutral, because they may not be! Social workers can also get information about you from facebook or other social media sites, so be **very careful** what you post there or lock down your account!

Medical records - you do not have to allow access to your medical records. This needs your written consent but social workers often get you to sign for your children's records, which they are allowed access to, and include your name. Read very carefully and **do not sign anything that is requesting your information**.

Keep a list of mandatory or voluntary classes, counselling or other court-ordered 'services', all dates/times you attended, costs to you and proof of completion. If you're not able to enrol or attend, document the date you tried, the reason you were not able and anything that can confirm that you had a good reason.

Everything you say can be used against you. If you lose your temper, or don't want to answer all their questions, this can be used to label you as 'aggressive', 'un co-operative' and/or 'unable to work with professionals'. That doesn't mean you should keep quiet. Speak up and be firm. Don't give in to provocation, and don't run off at the mouth! Keep your answers short and to the point. Don't think that by giving long explanations you will be better understood - you might not be!

Recording conversations can be helpful to prove that you were not abusive or threatening or that what is being said about you is untrue[iv]. You are entitled to record, overtly or covertly, your interactions with social workers or other professionals if you are discussing yours or your children's situation. Under the

new GDPR rules and the Data Protection Laws, such professionals do not have the right to refuse to consent to being recorded. The judge may refuse permission to use the recording as evidence in court but if you get it professionally transcribed and take copies for all sides this can be admitted as evidence. Remember that you are recording yourself too, so if you misbehave that will be used against you.

Always have someone you trust present at every visit or meeting with children's services. Explain to them beforehand why you want them there. They can help take notes or record or help you make notes after the visit. You may want them to do a private statement on what they witnessed for your records which can help counteract any misunderstanding, lie or distortion. This may also be used as evidence for court.

Ask to see information held on you by Children's Services. You can do this by making a Subject Access Request (see Appendix 1). This involves writing to the Children's Services department which is holding the information about you or your child, either by letter, fax or email, stating clearly what information you want and that you are asking for it under the Data Protection Act (though your request is still valid even if you don't mention the law). You should provide some ID as you will be asked for it later and it may save time to send it in with your initial request. It is also a good idea to give any information you have that would help Children's Services to find the records you want (e.g. date, time and place of the relevant information). Also do say if you want to be sent photocopies, or if you would prefer to receive the data by email or inspect it in person. You are entitled to have your own copy of everything. If you make your request by letter, make sure you keep a copy and it is a good idea to send it by recorded delivery. Keep a copy of any replies you receive in case you need to refer to them later. If they write back and refuse your request then you forward everything to the ICO, Information Commissioner's Office. They control everyone's data and can issue fines if data requests are not complied with.

Get statements from people who know you and your child – not only relatives, friends or neighbours, but anyone who is independent and/or has professional standing to provide evidence of what you are saying.

If you are a victim of rape or domestic violence, insist on being treated as a vulnerable witness in court. You have a right to get legal aid so you don't have to cross examine or be cross examined by your attacker in court. Consider applying for a non-molestation order (see 17.1)

If the father is violent or controlling, get as much evidence of this as possible – reports to police, doctors, schools, etc., and any emails, texts, recordings he has sent you. Get as much confirmation from other people as possible. Ask them to do statements of anything they have witnessed.

Some basic rights for mothers in family court proceedings are laid out in two documents: **Practice Direction 12J** Child Arrangements & Contact Orders: Domestic Abuse & Harm, and **Practice Direction 3AA** Vulnerable Persons: Participation in Proceedings and Giving Evidence. These spell out how women

who have a violent ex-partner or who are vulnerable in other ways, ought to be treated. If you have a lawyer, tell them about these documents and ask them to use them: they could make all the difference to your case.

If you are breastfeeding, get a statement from a lactation expert. They can highlight the essential benefits of breastfeeding for your child and the trauma caused by interrupting or disrupting breastfeeding and attachment. They will also know about useful national and international decisions you can refer to. Some judges are ignorant and dismissive of breastfeeding, but others are not, and in any case they should listen to the evidence (see 25).

If you have a disability or learning difficulty you are entitled to extra support from Adult Social Care. Insist on getting it and challenge them if you are then labelled as being unable to cope just because you asked for help (see 5.3). You may have special requirements due to being a vulnerable party or witness - ensure you speak up if you have any difficulty with learning such as dyslexia or processing/learning difficulties as this will affect how you are assessed (eg by a social worker) and how you participate in any meetings or court hearings. You may be entitled to extra help (with an advocate) and extra time to make decisions.

If you have legal representation make sure your solicitor collects the evidence, takes statements from witnesses and professionals who can corroborate what you are saying. Make sure they call all your witnesses to give evidence in court and/or submit their statements in time. Make sure the barrister who will represent you in court is familiar with all the evidence and knows what you are fighting for. Try to get a lawyer who doesn't represent local authorities and ask them if they will commit as far as possible to your case from start to finish.

Don't be pressured into signing a Section 20 or any other document until you've had time to go through it properly and get advice about it (see 9.1).

Don't agree in court to anything you do not really agree with – if you later decide to appeal, your case could be undermined by any agreement you made.

If you are representing yourself in court, insist on having a McKenzie [1] friend. This can be a family member or a friend who can support and advise you in court so you are not facing this ordeal alone. If you don't feel able to speak for yourself, you can ask the judge for permission for your McKenzie friend to speak for you; in any case they can take notes. Some organisations provide McKenzie friends who will charge a fee for attending court but it's really important to make sure they are knowledgeable about family law and will be on your side. We have seen a rise in McKenzie friends who are actively involved with misogynist father's rights organisations, and are **not** the right people to defend women, particularly women who have suffered domestic violence. Their involvement might actively harm your case and we suggest you stay away from them. We also know that some solicitors also act as McKenzie friends, but be careful of high fees. It's really important to research anyone before agreeing to work with them.

Judges have huge discretionary powers so it's important that you bring to their attention everything you consider important to your case. If your lawyer is not raising some crucial facts, ask them why. If you don't agree with their reasons consider raising the evidence yourself. You may upset your lawyer or even the court, but it may be better than the judge ruling without knowledge of the relevant facts.

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Don't give up. Inform yourself, get support, be patient, determined and ready for the long haul.

3. The laws

The Children Act 1989 says that the welfare of the child is paramount and sets out a 'welfare check list' of what must be taken into account. You can get the full list here [2].

The following are only some of the issues that must be considered:

(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;

CAFCASS was established as part of the 2000 Criminal Justice & Court Services Act [3]. They are described as the child's "Guardian" and are involved at the beginning of any court case where parents are in dispute with each other. They are also involved when a court decides to appoint a Guardian [4] to represent the interests of the child in proceedings where the state is trying to remove children from their families.

CAFCASS is supposed to 'make sure that children's voices are heard and decisions are taken in their best interests'. It is supposed to be 'independent of the courts, social services, education and health authorities and all similar agencies.' In reality many are former social workers and it is not unusual for them to have worked for the same social services department now trying to take the child away. You are entitled to ask whether the allocated Guardian has any connection with the social services department dealing with your case, and if so, you can challenge their potential 'conflict of interest'.

Reports provided by the Guardian are often deferred to by the court on issues such as breastfeeding, attachment, "parental alienation" and psychological diagnosis - for which they may have no relevant qualification. The Guardian has the last word in court proceedings and comments on all the other reports. A caring and conscientious Guardian can stand up against all the other authorities in defence of your child and have a pivotal role in the shape of your case and its outcome. Unfortunately, many just go along with their Local Authority (LA) colleagues. Guardians have cut down the amount of independent research they do on cases being ever more reliant on information provided by the LA. If there are disputed facts for example, check if the Guardian has considered your evidence before arriving at a conclusion. Keep in mind that even if the Guardian and LA agree with each other, it is the judge who makes the decisions not the LA or the Guardian.

Just like with Children's Services, it is a good idea to record conversations with the Guardian and ask to have someone the children know and trust to sit with them when the Guardian speaks to them. This can stop any misunderstanding at a later date about what the children may/or may not have said.

The Adoption & Children Act 2002 [5] amended the definition of significant harm to include *'impairment suffered from seeing or hearing the ill-treatment of another* so a child who witnessed domestic abuse is considered to be ***at risk***. This gives the state the power to take the child from a mother whose partner is violent, (who may or may not be the child's father), regardless of the mother's efforts to protect herself and the child. It punishes mother and child for the crimes of violent men. This Act also introduced Special Guardianship and Special Guardianship Orders.

The **Children Act 2004** further expanded the powers of the state, charging social services with having "*regard to the need to safeguard and promote the welfare of childr*en" [6], not just those assumed to be at risk but *all* children and families. Not only social services but virtually *all* professionals who come into contact with children are under an obligation, and therefore have power, to intervene in private family life. They are expected to report any concerns which they might (rightly or wrongly) have, based on their own belief rather than any objective evidence [7].

The **Legal Aid Sentencing and Punishment of Offenders Act 2012** abolished legal aid for private law family cases following a relationship break up (i.e. disputes between parents about children's residence and finances). Only victims of domestic violence are still eligible for legal aid (see 17).

The **Care Act 2014** can be used by disabled mothers to get the support and assistance they need to take care of their children. Adult social services have a statutory responsibility to check whether you have parenting responsibilities for a child under 18 and if so they must explore parenting and child related issues as set out in the Practice Guidance for the assessment of children in need and their families.

The **Children and Families Act 2014** introduced a statutory requirement for separating parents to attend mediation unless exempted, and curtailed the use of independent experts except in exceptional circumstances. This has allowed the court to deny evidence from experts in attachment, breastfeeding and child development so social workers are often relied on to comment on issues they are not even trained for. It also enshrined in law the presumption that both parents should continue to be involved with the child after separation even if he is uncaring or violent [8]. Most mothers want the father to remain involved with the children, and often go the extra mile despite great obstacles to enable this. But the fact remains that in most families mothers continue to be the primary carer and protector, and fathers who are violent or abusive often use contact with the children as a way of continuing to exert control on their ex-partners.

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The 2014 Act also imposed targets for faster adoptions and a 26 week turn around for family court cases. The UK already adopts more children against the wishes of their birth parents than any other European country [v]. Adoption means

the end of a child's contact with their biological family, at least until they reach 18. The courts have ruled that it should be the **"last resort"** but for many local authorities it is the 'gold standard' of child protection.

4. What can I do if Children's Services become involved with my children?

There are now many ways in which Children's Services (CS) can get involved in your life, whether because you asked for help or because someone else (usually a midwife, health visitor, teacher, counsellor, police, GP, consultant … or other professional) has made a "safeguarding" referral to them.

There is now a legal obligation for all professionals you come into contact with to tell CS if they have any "safeguarding" concern about your child. This was brought in to "protect children" from "neglect" and "abuse", especially after the mass child abuse scandals were exposed [vi]. As a result, practically anything can lead to you being referred to CS. For example, if you are pregnant and you tell your midwife that you have been a victim of domestic violence or if you tell your health visitor that you are stressed out or depressed after giving birth, they will tell CS; if a teacher at your child's school says that your child comes to school hungry or in dirty clothes or even if you have shouted at them or disagreed with them, they will tell CS. Disputes between yourself and doctors about medical treatment or with teachers that you might ask to assess your child for Special Educational Needs (SEN) issues and support in school are also used as a source for reporting. To avoid any false or unreasonable accusations escalating into your child being taken from you, you must take them seriously and refute them from the beginning. Always put your case in writing so there is a paper trail.

Your child is entitled to an independent advocate once they are aged 10 or over. Look for an independent agency who provides this [9]. These can help your child have their own voice heard.

The first notice you will have that you have been referred to CS is:

- an unannounced home visit from a social worker
- a letter advising you that a referral has been made and asking you to make contact to arrange a home visit
- a telephone call from a social worker saying they want to speak with you

In all cases of a home visit ask for two forms of identification. All genuine social workers will carry identification. It's worth starting recording the conversation straight away as these first visits are often quite upsetting and sometimes your words can be taken out of context.

If the social worker asks you to give consent for them to contact other agencies, like the health visitor, child's school, GP, etc., in order to get information about you and your family, and to share information with those agencies, you have no obligation to agree. Do not give your consent on the word of a social worker. Ask for time to find out about your and your child's rights, and make sure you read everything closely before you sign anything. For example, some forms say that by signing, you are giving authorisation for a period of one year, which you might not want to agree to; some forms say that if you change your mind about consent, you have to notify the

local authority in writing. Ask to see their leaflet about "consent to obtaining and sharing personal information" before you sign any consent form. If you want to consent to some parts of their form but not others, do NOT sign the form. Instead, put in writing to the social worker what you will or will not agree to. There is no legal obligation to use their forms and if they insist you can ask for a copy of the law regarding this (knowing that it does not exist!).

As soon as a social worker has got involved in your life for whatever reason, be very cautious about how you deal with them. Most people have no idea how much power social workers have to interfere with family life if they consider it inadequate in some way. This can have devastating consequences, first of all for the children involved. We know of children taken away for the flimsiest of reasons despite the fact that by law the harm they have suffered or at risk of suffering must be "significant". Once a social worker starts digging around in your life, your children can be put on child protection or even taken away on the basis of negative judgements made by a social worker. Keep in mind that at any stage CS can move to take legal proceedings which can lead to a court case where you have to fight to stop your children being taken away.

If you are at the very beginning of an involvement with a social worker (who would be appointed as your child's social worker, not yours), think really carefully about how you deal with them – **read our useful tips above and act accordingly**! This includes if you have gone to ask CS for help because you are struggling with bad housing, domestic violence, childcare, debts, etc. CS are supposed to help you and you have every right to ask for and expect help from them – but always be aware that they also have the power to monitor you and make judgements about you as a mother, how you look after your children, how clean your house is, how much food you have in the fridge, and much more … and they can use any of this to claim you are an "unfit" mother.

5.Can I get help from Children's Services?

Mothers used to get help but, in our experience, this has become progressively less available in the last 20 years or so and little or no help is offered now. Large numbers of Family Centres have been closed and what services are available are underfunded, understaffed and often have waiting lists, for example Sure Start centres. We can try and reverse this trend by asking for what we are entitled to and insisting on getting it. But asking for help can be double-edged because it invites social workers into your life . . . . so think carefully before you decide whether and what to ask for!

5.1 Your rights under Section 17

Section 17 Children Act 1989 states:

(1) It shall be the general duty of every local authority to

(a) to safeguard and promote the welfare of children within their area who are in need; and

(b) so far as is consistent with that duty, to promote the upbringing of such children by their families, by providing a range and level of services appropriate to those children's needs …

(6) The services provided by a local authority in the exercise of functions conferred on them by this section may include [providing accommodation and] giving assistance in kind or … in cash.

Under S17, an assessment is done to decide if a child is "in need" because they need local authority services to "achieve or maintain a reasonable standard of health or development, or to prevent significant or further harm to health or development". Children with a disability, including mental ill-health, long-term illness or injuries, young carers, children who have committed a crime or whose parent/s is in prison, asylum seeking children and those who have been in hospital or a residential care home for longer than 3 months are automatically classed as a Child in Need (CIN).

5.2 How do I apply for help - Child in Need

You can ask for your child/ren to be assessed under S17, or if Children's Services are already involved you can insist that they carry out a S17 "needs" assessment which should be based on the child's immediate circumstances; they should also consider if there are likely to be any imminent changes in those circumstances. The assessment must be done within 45 days of the initial referral and must take account of all aspects of the child's life and needs, including accommodation and support needs. **You can take legal action if the local authority refuse to carry out the assessment or if you think that the assessment was not done properly or thoroughly.**

The local authority can provide a range of services for CIN, including: daycare facilities for children under school age; after-school and holiday care or activities for school age children; advice, guidance and counselling; occupational, social, cultural or recreational activities; home helps and laundry facilities; assistance for the child and family to have a holiday; respite care. Financial assistance can be in the form of a loan, a cash payment or payment in kind, for example, vouchers for a particular shop for food, clothing or furniture. If you want to apply for financial assistance, this is called Direct Payments [10] and you can fill in the form online.

A CIN is supposed to mean that Children's Services will help your family with services but they may instead use this process to gather evidence against families when they do not have enough information to move to Child Protection.

When your child is designated as a CIN, there should be a Care Plan prepared by the social worker which outlines what help and support you and your child need and which agencies should be providing that help. You will then be invited to a meeting to discuss the situation and everyone involved with your family is supposed to get together to agree a plan to agree what help is needed. Usually that is: parent(s), child/ren, social worker, social work team manager (or senior social worker), health professional (midwife/health visitor/school nurse), education (nursery key worker/school teacher/learning mentor), anyone else who is involved with your family or may be able to offer support.

Before the meeting, the social worker must visit you and your child/ren to seek your views and help you to understand the procedure of the meeting. A social worker does not have the legal right to see a child alone no matter what they might say. We

suggest that someone you trust should be with your child at all times. Social workers are not trained in disabled children's conditions such as autism and might misinterpret your child's reaction or answers to questions. You should receive written reports from the social worker and education and health. These reports will be broken down into sections and should give a full view of the plan for your child/ren. If you are not sure about what they are proposing at this stage, it is very important to speak to the social worker. Don't leave it until the morning of the meeting, act as soon as you receive the report/s. If you don't receive a report until the start of the meeting, you are well within your right to ask for the meeting to be delayed whilst you read the report/s and are in a position to reflect and respond. Don't feel as though you're holding anyone up; it is good practice to ensure you have the report/s beforehand.

You are also entitled to take an advocate to these meetings for support and to take minutes for your records. You must inform the social worker ahead of the meeting with the name and contact details of the person attending and who they are. They might be a trained advocate from a charity or support group but they can also be a family member or a friend. It is important that you discuss with the family member or friend in advance how you are approaching the meeting so that they back you up and don't speak about things that you have not agreed to that might be personal to you.

Think about what you want to get out of the meeting. For example, you might feel that your child needs extra support in school, or you might be concerned about aspects of your child's health, or you might need a bit of practical support within the home. Make a list of your child's needs and why they are important for her/his welfare and raise them in the meeting. Ask for a copy of what they call "local offers" which will give you an idea of the services that can be provided in the area to CIN. Children over 10 are entitled to attend the CIN meeting, preferably with an advocate to help them with the process. Remember that this meeting is supposed to be about working together, the social workers are not in charge. You should not feel ordered to do things or made to feel that you are not doing a good enough job as a mother. You or your child has the right to chair the meeting.

Children might be on a CIN Plan for 6 months or longer, and even if you are not getting any practical help during this time, you are still being monitored and you may be expected to allow the social worker to make unannounced visits to your home to check on how things are going, or to make appointments to see you regularly. There should also be regular review meetings with the social worker and other relevant professionals (eg a health visitor if the child is young) which you should attend. If you have tried to get help but none is being offered, either complain about it (see the relevant Children's Services complaints procedure) or be very positive about how well your children are doing with a view to ending social work involvement with you and your children (unless they have a disability).

5.3 Can I get help if I am disabled?

Mothers with a disability are entitled to extra support (help for disabled children comes under Section 17, see 5.1).

You have a right to support from Adult Social Care under the Care Act 2014 [viii] if you need it to look after your child/ren because you have a physical or learning disability or long-term illness. You can ask Adult Social Care to assess you to see if you need help in carrying out your caring responsibilities for a child. However, during an assessment, if they consider you to be very disabled they may decide to start a Section 47 investigation under child protection and say you're not capable of looking after your children. So think carefully before asking for an assessment and always record and have a witness with you when talking to any social worker.

For those assessed with a 'borderline' learning disability, there is a further catch: social workers may say the disability is not 'bad enough' to qualify for support, but it is bad enough to decide that the mother/parents won't or can't look after their children properly. The fact is that social services don't prioritise putting resources into enabling people with learning or other disabilities to keep their children – they would rather take children away and put them up for adoption as early as possible. This amounts to blatant disability discrimination and must be challenged.

4.6 What can I do if I'm accused of harming my child?

If an allegation has been made against you which has led to a "safeguarding" investigation, you should immediately ask what the allegation is and who made it. If CS says that it was made anonymously, they should still tell you what you are being accused of doing/or not doing to or for your children. You must ask them to put the allegation *in writing*. If the allegation is untrue, or an exaggeration, distortion or misrepresentation of events, you must challenge it immediately. It's always best if you can do this *in writing* so there is clear evidence of what they said and what you are saying. You can also ask professionals like teachers or health visitors, or family or friends who know you and your child to write challenging what's being said about you or your child.

If the allegation is serious (e.g. that you are hitting your children or neglecting them) a social worker can come and remove the children from your care under an Emergency Protection Order (EPO). They can get an EPO from court without telling you ahead of time. The police can also take your child/children and keep them for up to 72 hours without a court order. If this has already happened, seek legal advice right away and see 20.

If a social worker phones you or comes to see you. Explain clearly what has happened (or has not happened) and do whatever you can to show them that your children are being well looked after and are safe. This is especially important if you are a victim of domestic violence (see more point 8). Most victims of DV expect support, but instead you may be suspected and accused of "failing to protect your child" and this can be used to have your child taken from you. Hopefully they will be reassured that everything is fine and will have no further involvement. Remember to have a reliable friend with you and that you have the right to record all interactions with the social worker. Make sure your children have someone with them at all times.

If they are not reassured, they can decide to do an assessment of how you and your child are doing. If you don't agree to being assessed, they can do assessments of your children without you knowing or without your consent, eg by

talking to professionals such as GP or teachers. These assessments will be carried out under Section 17 of the Children's Act, unless the child is in imminent danger and they have 45 days to complete these assessments from the date of the referral. Each Local Authority will have their own child protection procedure and protocols for assessment and you are entitled to ask for a copy of their procedures.

You do not have to agree to a parenting assessment but you need to consider this very carefully as there may be no other evidence upon which the court can make a decision at a later date so a refusal may not be the best thing to do. Getting advice from a lawyer would be helpful but there is no legal aid at this point. You can ask for an Independent Social Work Assessment at this stage (not likely to be granted) or if you get a negative parenting assessment. There may be a request for you to have a psychological assessment which you need to consider very carefully. There is no legal obligation to do so and you can suggest that a letter from your GP will suffice.

Young mothers should not be assessed unless there is a very strong reason for it, because these assessments may label you for life and can be used against you in the future. Psychological assessments cannot be ordered on children unless you give permission or there is a court order. Ask for the basis of any assessments, who is undertaking them and what their experience is. This assessment is supposed to be completed within 45 days of a referral being made. CS are **not allowed to speak to your child without a responsible adult** being present. This can be you or an adult of your choice. You can ask them to tell you what exactly they are worried about and what their evidence is. They can also speak to your child's school without you knowing, but NOT to your child without your consent and you being present. There is NO law that allows social workers to talk to a child alone, even police must have an adult, usually a parent, present. Social workers' ethics say that they should consider the distress of a child when speaking to them and should ask an adult known to the child to be present. But they don't always follow this and insist that "it's their right". This is NOT true and often the way to diffuse this is to ask them to print you a copy of the relevant law and then you will consider their request. They will then say "there is no law but it is something we like to do", at this point you can say politely that you would like an adult present.

If CS are not satisfied that the children are being well looked after or think they are being abused or neglected.

If CS have "reasonable cause to suspect that a child is suffering, or is likely to suffer, significant harm" the social worker is likely to convene what is called a Strategy Meeting between children's services, the police, and any professional involved with your family such as GP, midwife, school, Child and Adolescent Mental Health Services (CAMHS), community psychiatric nurse, etc. You and your children are not invited to these meetings and don't usually get any notification that they are going to happen. The purpose of the meeting is for CS to decide whether to begin a child protection assessment (known as a Section 47), a child in need assessment (known as Section 17), or whether more support services are needed. They could also decide to close the case. If they decide to pursue the case further, a Child Protection Conference must be held within 15 days of the Strategy meeting.

If you are at this stage you should pay very close attention to what you are being told to do so that you can hopefully avoid being taken to court. Mothers are often advised to comply with everything social services ask of them because if you don't it will be used against you. While this can be true, we know of mothers who complied with everything they were asked to do only to have their children removed in the end – they felt cheated and manipulated and came to regret not speaking out or defending themselves at an earlier stage.

It's about time we made demands on those who are legally instructed to provide services. Whatever you do or ask, **keep a written record of it and of the response you got,** because phone calls can always be ignored, forgotten about or distorted whereas that is much harder with an email! You are allowed to record all phone calls and meetings not just with the social worker but with ALL professionals such as your child's teachers and doctors. **Keep in mind that if your children are removed from your care it is much harder to get them back (but it's not impossible) whereas before they are taken you have much more possibility of keeping them.**

7. What if I'm accused of fabricated & induced illness (FII)?

Fabricated and Induced Illness (FII) is classed as a rare form of child abuse where the parent, usually the mother, is accused of making up, exaggerating or deliberately harming their child[iii]. It used to be known as 'Munchausen's Syndrome by Proxy'. Behaviours considered to be characteristics of FII include a carer who:

- persuades healthcare professionals that their child is ill when they're perfectly healthy
- exaggerates or lies about their child's symptoms
- manipulates test results to suggest the presence of illness – for example, by putting glucose in urine samples to suggest the child has diabetes
- deliberately induces symptoms of illness – for example, by poisoning her child with unnecessary medication or other substances.

We are seeing a growing trend in allegations of FII leading to child protection or care proceedings, particularly if mothers have asked for help, for example with their child's disability. So if a mother disagrees with a child's medical treatment or asks the school for an Educational and Health Care Plan (EHCP) so that their child receives support, they might find that teachers and doctors report them for FII. We know that it's much cheaper for LAs to bring a court case alleging FII than to provide the support families need! There is also a growing trend in domestic abuse cases where a father accuses the mother of FII in order to deflect attention from the domestic abuse he has perpetrated.

It is important that you seek advice from a lawyer or advocate as soon as you are accused of exaggerating your child's disability/ill-health. Don't think that if you tell the social worker about your child's condition this will prove your case. It's better to refer them to your GP or your child's specialist doctor if they want more information. Once accused by a professional they will rarely back down and will encourage other professionals to make further accusations against you. It is important to record all telephone conversations and visits with social workers, consultants, GPs, nurses,

teachers, midwives, school nurses and health visitors. Keep everything in an email so that there is a paper trail.

We suggest you make a Subject Access Request (SAR, Appendix 1) to any organisation/agency who has dealt with your child as these records will become important to your case. Don't pursue further medical tests in the hope of proving your innocence, unless it is an emergency as these too will be used against you.

8. What happens if my child is put on a Child Protection Plan?

Your child can be put under Child Protection if CS thinks a child is "**at risk of significant harm because they have suffered, or are likely to suffer physical abuse, emotional abuse or sexual abuse or neglect**". The definition of "significant harm" now includes ***witnessing violence*** or conflict at home. Harm can be alleged to have been caused by the parent/carer's actions and/or by their failure to stop a child from being harmed. This is being widely used to take children from mothers who are victims of DV – instead of getting help, they are accused of "failing to protect" their children (see 17).

Also, poverty is now being used as "neglect" in child protection. If you are struggling to manage, for example while waiting for Universal Credit to come through, put the emphasis on asking what help the LA can provide and show how you're prioritising the children's needs however difficult the situation. If possible, show you have a supportive network of family and friends who are helping you through a particular crisis.

Each Children's Services department has their own local child protection procedures which are drawn up and monitored by the Local Safeguarding Children's Board (LSCB) [14] which spell out exactly how child protection enquiries are carried out in your area. They are supposed to follow government guidance which is set out in the publication called *Working Together 2015*. Local procedures must include *threshold documents* published by the LSCB**.** Local authorities with other agencies like health and education must also have guidelines for assessment which will say how cases will be managed once a child is referred to Children's Services. **Wherever you live, it is a good idea to ask your social worker for a copy of your local child protection and assessment procedures,** so that hopefully you can monitor whether or not they are following the correct procedures and the correct time scales.

Child Protection Conference

Before deciding on a child protection plan, CS are supposed to convene a Child Protection Conference (CPC) which you (and your child if they are old enough) can attend. You can take an advocate with you or a lawyer, though lawyers at this point are not covered by legal aid. Others invited will include all the professionals already involved with your child and sometimes others as well, for example, doctor, health visitor, teacher or police. The Conference is chaired by an Independent Chairperson, although they are social workers who work for the same Local Authority.

The social worker should present a written report which they should go through with you before the CPC – this is supposed to happen at least two days before the CPC (although not all social workers do this). Other professionals who want to have input

can make a written report and you are entitled to a copy of each report. If it does not happen then you are within your rights to call the Chairperson and ask for the meeting to be adjourned.

Two days before the CPC you should be given the Chairperson's name, phone number and email address and at this point it's important that you phone the Chairperson and ask to have a meeting with them before the CPC. The meeting will just be with the Chair, yourself and your advocate and it's important to present your evidence, a statement about the social worker's report and any positive steps that you have/are taking to rectify any situation that the social workers might be concerned about. Discuss with the Chair any witnesses you want to attend the CPC and if any of them are professionals you can ask for an adjournment so that they can attend. Keep in mind that the Chair has the final say and can override the opinions of all other participants. So if you can establish a good relationship with them, it could very well influence the outcome for you and your children.

It is vital that you take someone supportive and reliable with you to a CPC (a friend, family member or advocate). If you have a lawyer, they will be allowed to take notes but not to speak. If you don't speak English very well, insist that an interpreter is present – CS must arrange this.

If your child is old enough (usually about 10 onwards, and is considered Gillick competent [15] they can attend. They can bring an advocate (who can be any responsible adult, a lawyer or an official child advocate); if your child is too young to attend or doesn't want to, it is important that an advocate attends on their behalf. The Chair has the power to refuse to let someone attend but must give you reasonable grounds for doing so in writing.

If you are a victim of domestic violence you are entitled to request that you and the perpetrator are in separate rooms for the conference and the Chair goes between the two.

Child Protection Plan

A CPC decides (on the basis of a vote done in front of you) whether or not your child should go on a Child Protection Plan (CPP). This will lay out what you are expected to do, what the father (if involved) is expected to do, and what children's services will do. The plan should be in writing and you should be given a copy. If you disagree with the plan the first place to raise this is with the Chair. The plan will also lay out the meetings that will take place following the CPC. A Core Group meeting must meet within 10 working days of the CPC and this will continue monthly until the next CPC review which will be 3 months after your initial conference. All dates will be agreed by everyone before the end of the CPC.

The Core Group meeting will be made up of a smaller group of people, social workers, teachers and your GP and it is their job to make sure anything agreed at the CPC is working.

8.1 Useful TIPS – Child Protection

The meeting you have with the Chair before the case conference is VERY important because if you are able to establish a good relationship with them this could help turn your case around.

Write a short reply to the social worker's reports that you should see two days before the case conference and make sure the Chair gets a copy of your reply the day before. It helps if you are able to write an accurate chronology of what's happened. If you have any evidence that contradicts what the social worker's report says, highlight these and hand them to the Chair pointing out what they should look at the day before so they have time to read it. If your case is medical or domestic abuse, gather up all the relevant medical paperwork, school evidence as well as any police or hospital records. Of course, if there are inaccuracies or misinformation in their report you should correct this but try to stick to the facts and don't make allegations against the social worker unless it's absolutely necessary. Be careful with the words you use to disagree with what has been written. You may be upset and angry by what you read but showing how angry you are or accusing the social worker of lying is usually not helpful.

Remember that some of the professionals invited to the CPC might never have met you BUT they will be voting at the end of the meeting. All they will know about you is what the social worker's report says, if you get upset and cross and the social worker has said in her assessment that you can't work with professionals, this will reinforce what has been written about you and the truth that you are trying to show will be lost.

An experienced advocate suggests "*It can be helpful to dress smartly. Always turn up early, so you're not rushed or flustered. When you greet people, look at them and smile. This isn't easy because these meetings are stressful, but it's worth trying, because many people in the room will not know you and first impressions count for a lot*".

At the Conference you will be asked first if you have read the reports and if you wish to comment. It is better if you say that you would like to listen to the professionals first. This gives you an advantage because you can respond to what they've said and if they make mistakes you can correct them. While each professional speaks, don't interrupt no matter what you hear and how upset you might feel. Wait until it's your turn and you can respond to what they've said. Remember you are being watched and judged by people who don't really know you. When you are speaking it is best to look at the Chair and address your points to them.

Take someone with you to take notes, even though they are not allowed to speak. It is best if it is not a family member because they will naturally want to defend you but if they pitch in it might make matters worse - in trying to defend you they could say things that can be used against you. You are entitled to take an advocate; some councils have free advocates but you can look online or in the library. You are entitled to take a lawyer but this will not be covered by legal aid.

At the end there will be a vote by all those present about whether your child will be put on a CP plan. You and your advocate will NOT be entitled to vote. If the decision goes against you, remember you have the right to challenge the decision.

8.2 Challenging a Child Protection Plan

You cannot appeal against a CPP but you can challenge it by going for a judicial review. You would have to show that the decision was made on the basis or irrelevant information, or without taking into account relevant information, or that the decision was "so unreasonable that no reasonable person could have made it"; and that the outcome would have been different if the decision had been properly made, taking into account the right information and following the correct procedure. You should contact a lawyer immediately if you think this applies to you as a Judicial Review must be lodged within three months of the decision being challenged.

8.3 Core Group Meetings

Within 10 days of a CPC deciding on a Child Protection Plan, the social worker should convene a **Core Group Meeting**, which you are entitled to attend, as well as any close family members who are supporting you, and professionals who are involved in your child's life. **Always take a supportive person/advocate with you and remember that you can record the meeting!** The aim of the meeting is to go through the CPP and you have the right to ask for it to be changed if you don't agree with what's being said or asked of you. You are entitled to get the CPP translated into your first language if it's not English. The same tips apply as we have discussed above about the CPC.

At this stage the social worker can convene a **Family Group Conference** (FGC) A family group conference is a process led by family members to plan and make decisions for a child who is considered to be at risk. Children and young people are normally involved in their own family group conference, ideally with support from an advocate. It is a voluntary process and families cannot be forced to have a FGC. Families, including extended family members are assisted by an independent family group conference coordinator to prepare for the meeting. At the first part of the meeting, social workers and other professionals set out their concerns and what support could be made available. In the second part of the meeting family members then meet on their own to make a plan for the child.

See who among your family and friends can help and support you. This might be helpful if you have supportive family and/or friends; if you don't, it might go against you. Keep in mind that the main issue is to establish what support you have, it's not a place to argue your case. The child and the child's advocate should always be invited to attend.

8.4 Child Protection Review Conference

There should be a **Child Protection Review Conference** not more than 3 months after the Child Protection Conference and then reviews not more than 6 months after that. The Chairperson should be the same person who chaired the CPC, and professionals, family members and you can attend, with a supporter/advocate. The social worker should show you their report two days before the Review happens, and other professionals should put their reports in writing, saying what has happened since the CPC. **You must take the Review very seriously as it will decide whether the local authority intends to work with you or to take your child from**

you. Please follow the same tips as for the CPC. The Review will go over all the points in the CPC to monitor whether you and all those involved are doing what you were told to do. For example, if the CPC says you should get debt advice, or go to counselling, do a parenting course or not have any contact with a particular person (e.g. a violent partner), the Review will monitor if you have done those things, and if not, will ask why. Again, it is important to meet with the Chair before the review [16], as above.

If the CP Review thinks that your child is still at risk of "significant harm" and doesn't think enough has changed, your child will stay on child protection. If at the second CP Review nothing much has changed, CS have the right to convene a **legal planning meeting** for social workers and the Local Authority's lawyers to discuss what to do next. **You can't attend this meeting** but it can decide either to extend the CPP to give you more time to make the changes they are insisting on, and to see if there are other family members who would look after your child if they think you can't; or they can start court proceedings to take your child away. **You should be told in writing what they are proposing.**

9. What can I do if Children's Services are taking me to court?

Before CS takes you to court, they have to issue a **letter before proceedings** which will list all the issues they are concerned about and what you need to do to avoid going to court. This is called a Public Law Outline (PLO). At this point you are automatically entitled to legal aid and you must get a lawyer. We have had a lot of trouble finding lawyers who are respectful of mothers and ready to fight for us and our children – many represent both families and local authorities, they assume there is truth in what is being said about you, and may be negative about really challenging Children's Services. Try to find a lawyer who does not represent local authorities so they are more likely to be on your side.

CS will usually give you a list of local lawyers you can call, and if you have very little notice you might have to use one of them. But generally it's better not to use a lawyer from this list as they will be lawyers that CS have worked with and might not support your case as well as they should. We also suggest that you look for a lawyer out of the area and look at the cases they have worked on. If they have worked for CS in other cases they might not work well for you. You can always change lawyers after the first hearing, if you're not happy with them (see 23).

You will be invited to a **pre-proceedings meeting,** a PLO meeting, where you should be given six weeks to make changes before CS go to court to take your child away. Make sure your lawyer comes to that meeting with you as well as your lawyer. At that meeting CS might ask you if you have any family member who would take your child if they are taken away from you. This may be a good time to ask for a Family Group Conference (see 8.3) if there hasn't been one already. They might also ask you to sign a Section 20 - see below.

At any point that CS decides to try to remove your child (unless they go for an Emergency Order), they will have to send you a "Letter of Issue" which tells you that legal proceedings are starting and that you are entitled to immediate legal aid. You should find a lawyer right away if you haven't already (see 11).

9.1 Useful TIPS: Section 20 – DO NOT SIGN

At any point you might be asked to sign a **Section 20** (S20) agreement to say you agree for the children to go with a relative or into foster care. **DO NOT SIGN.** S20 is a **voluntary agreement** and **you have the right to withdraw your consent to it at any time but** it is often very difficult to do so. They might ask you to sign a Section 20 because they do not have enough evidence for an Interim Care Order (ICO) and use it as a way to collect evidence, stalling for time! Many mothers who were told to sign and that their children would only be in care for a few days had to fight for years to get them back.

Make social services go to court to get a court order. If you sign they will use the fact that you 'consented' to keep your children from you against your will. If you have already signed a S20 agreement and want your children back, you could go and get them from wherever they are but CS may then say that they are in danger and call the police to prevent you taking them back. They can also go to court for an emergency court order and do not have to inform you that they are doing this. Beware that **voluntarily agreeing for your baby to be looked after temporarily by the state can result in adoption 'by stealth'** – fostering may turn to adoption against your will [ix]. See useful ruling from the Supreme Court [17]. If your lawyer suggests that you just sign the section 20 then you should question this with them and consider asking for another lawyer. You can say you need time to think about this, in reality you could look for a lawyer who is much more supportive.

10. Emergency proceedings

At any stage, a Local Authority can apply for an Emergency Protection Order (EPO) [x] to protect a child from "ongoing or imminent risk of physical, mental or emotional harm". It can last for a maximum of eight days. Almost all applications are made by the local authority but the police or the NSPCC or even a relative could also apply. The parents should be given one day's notice of an EPO application. However, the local authority can argue that the child's life is under threat or that the parent may take the child from their home without permission, and these hearings can take place without the parents even knowing they are happening. An EPO authorises the local authority to take the child from their home, or stop you taking your child home from hospital or other "safe place".

The order should be made by a LA only where there are <u>compelling reasons in exceptional circumstances.</u>

11. Useful TIPS: Don't agree with anything you don't really want!

There may be a lot of pressure for you to come to an agreement with CS in order to cut short the legal proceedings. Your lawyer might say, for example, that your children will be taken from you anyway and that the best you can expect if they go into foster care is to have contact with them once a month; your lawyer may want you to agree to that. Always ask them to put their advice to you in writing. Do not

agree with a plan you consider harmful to your child. Lawyers often tell you that Children's Services will be more reasonable if you go along with what they want. That is not our experience. Once you have agreed to something in court it is very hard to appeal against it later on, even if you get new evidence to support your case. The fact that you agreed to it in the first place will be used against you when you want to change it. You can't just say that your lawyer told you to agree – although if you did agree to something on their advice which you later want to take back, you should make a formal complaint to your lawyer about the way they mis/advised you [xi]. Again, make sure at this point that all special occasions and religious holidays are included with any contact that you agree to.

12. Care proceedings

If the Local Authority decides to take you to court under care proceedings, the court must complete its hearings within 26 weeks from the day that the application was issued. Cases often take longer than this, but time scales are supposed to be adhered to.

12.1 First hearing – Case Management Hearing/ Directions hearing

This is a short hearing to make plans for how and when the case is going to be decided. The court will make directions to get all the information it needs and to allow everyone involved to have their say by making a statement in writing or providing evidence. This might include saying that certain assessments of the parents or children should be carried out. Where there is more than one of these hearings they are called "further case management hearings".

At every stage, i**t's really important to stay on top of what your solicitor is doing** and make sure that you tell them clearly what you want them to press for. It's always best to put everything you want them to know in writing so that you can refer to it at a later date in case you disagree with something your lawyer has done (see 23). If you are representing yourself, ask the court to give directions about how you can be involved in the advocates meeting which usually takes place before each court hearing. You are entitled to take part in this but often you are not informed this is happening.

The court will make directions about what steps need to happen next and everything decided in court should be in the court order which you should get a copy of.

In order to start court proceedings, CS have to make an application for a Care or Supervision Order to the court, and they must hand in certain documents to the court and send copies to everyone who is involved in the case. These documents should include a social worker's statement giving the history of what they claim has happened up to now, and their reasons for going to court. There should also be what's called a **threshold statement** which says on what basis they want to get a care order (i.e. what is the alleged harm caused to your child and what you have or haven't done about it), and the plan they propose for your child. If any assessments have been done of you or other family members by this time they should also be given to the court and to you. **You have the right to ask CS to disclose any other**

records they have on you (e.g. notes from meetings you have had with a social worker) – if they refuse to disclose these your lawyer should ask for them in court.

If Children's Services want to remove the children immediately and you don't agree, there will be a contested removal hearing (see below). If you agree for example that the children can stay with a relative, an Interim Care Order (ICO) will confirm this. Under an ICO, Children's Services have shared parental responsibility with you and they decide to what extent you can use your parental responsibility (e.g. to make decisions about your child's health care, go to school meetings, etc). Insist on as much involvement as possible so you stay in your child's life. You still hold parental responsibility and are entitled to attend all medical and school appointments unless a Judge has ordered otherwise

An ICO can also **order that a named adult should stop living with you**, if they think the person is a danger to the children. They cannot impose this on you, you have to agree for it to happen; if you don't agree, the judge might decide to remove your children from you. Think carefully, especially as domestic violence is now the major reason children are removed from their mothers (see 17).

At this stage, the court will appoint a Children's Guardian. This is a social worker from CAFCASS who is appointed by the court to represent your child during the proceedings. They are expected to read all the court documents and will meet you and your child (sometimes together, sometimes separately). They do not work for Children's Services so use the Guardian as an opportunity to explain your side of the story; you should ask a family member or friend to be with you when you speak to them, or to speak to them separately from you if they are reliable and you think it's a good idea. You are allowed to record these meetings. Guardians who are truly independent can be decisive in arguing for the welfare of the child and preventing unwarranted separations. Sadly, many we have met were biased against the mother and more inclined to side with social workers – they have usually worked for a local authority before becoming Guardians and are often more concerned with keeping those connections than looking at challenging evidence with an open mind. But some are good and are genuinely concerned with what is best for your child. It's also worth remembering that if your child's wishes are not being put forward by the guardian, children over the age of 10 are entitled to engage their own lawyer if they are "Gillick" competent.

The Guardian will prepare a report for the final hearing. **It will really help your case if they don't agree with the CS proposals to take your children away!** If you don't agree with the Guardian's report it's really important that you **go through it carefully with your lawyer and make sure they challenge what you don't agree with**. The Guardian can be told to come to court to give their evidence in person, which means they can be cross-examined by your lawyer. The Guardian has their own solicitor and usually also a barrister who represents them in court.

If you need assistance in court

If you have a learning difficulty, a medical issue or are considered "vulnerable" for other reasons, you should be treated according to Practice Direction 3AA[21] Vulnerable Persons Participation in Proceedings and Giving Evidence. This means there should be an assessment of your needs done by a Court appointed

assessor. This must be someone who must be jointly agreed so if you have someone in mind then you can ask for them to assess you. For any assessors the court suggests, read their CVs carefully and challenge them if you don't agree with the person chosen to assess, in particular if they are nor specialists in your condition. If required, an advocate (in addition to your lawyer) will be appointed to meet your needs and additional time in court to make decisions will be given, read paperwork and write and serve your position statements.

12.2 Contested Removal Hearing

If CS wants to take your children away from you immediately and you don't agree, **there will be a court case to decide where the children can live while court proceedings are going on**. Often the LA may try to have the contested removal hearing on the same day as the initial hearing, arguing that otherwise there would be delay. It is vital for you or your lawyer to argue that this would be unfair and to ask that the case be adjourned to a date when a proper amount of time can be allocated, a Guardian's views be made available and you can have time to choose a lawyer (especially if up to this point you've gone ahead with a lawyer recommended by Children's Services).

It is really important for you to press for the child/ren to stay with you while assessments are being done. The law says that your children should only be separated from you if there is evidence that this is necessary for their immediate safety. Present any evidence you have that there is no immediate danger to your child and that separation would cause irreparable harm and trauma to your child.

Lawyers are not always ready to fight on this and do not always raise that separation itself will cause harm to your child. They are often reluctant to insist that CS **produce evidence** of what harm has been caused to the children or might be caused if they stay with you during court proceedings. You have to be ready to insist that this is what you want them to fight for and that they are supposed to take your instructions, not just tell you that the judge won't like it! It may be true that the judge won't like it, but if you want to win you must make your position clear from the very beginning of the case. You are much more likely to be able to pass whatever assessments are being done if you are able to maintain a good and close relationship with your children during the court proceedings.

If despite your efforts the court doesn't agree that the child should stay with you, try to **put forward a family member** (e.g. grandparents, sister, auntie) who agrees to look after the children during this period. It is usually much more damaging to the children to go into foster care than to stay with your extended family, and more difficult to get them back. Start thinking about which family members or friends may be prepared to look after your child/ren long-term if they are not allowed to stay with you. This may be the only way to avoid the children going into long term foster care or being adopted by strangers. Once you have put people forward, they will have to have a "viability" assessment done by CS, and this can take 11 weeks. Anyone can have someone present during the viability assessment and they are allowed to record it. The person must be given a copy of their viability assessment and if it is negative, they can appeal either to the team which carried it out, or via the judge through the mum's lawyer. If the assessment is positive, this may be a good time to

apply to be made “party to proceedings” which means that the person/s can be directly involved in the court proceedings [18].

If the children are not allowed to stay with you**, ask for as much contact as you can** (e.g. several times a week). Request weekend contact and special holidays such as birthdays and religious days. Social workers will argue that they cannot facilitate weekends and holidays such as Xmas day and birthdays. You are entitled to have these, it just comes at a cost to them, something they may not be happy about. It’s really important to keep up your relationship with the children while you are being assessed – they are likely to be very upset at being separated from you and need to know you haven’t abandoned them. If there is more than one child, tell your lawyer to press for them to be kept together whether they go to family or into foster care. If there are problems with the contact centre where you are to see them, ask for a better venue but **do not stop contact whatever happens**. If they try to reduce your contact saying it’s because of “lack of resources” do not accept this and insist on a full and precise explanation.

The court could decide to issue an **Interim Supervision Order** (rather than a care order) – this means that the children stay with you or a family member and CS will monitor you.

12.3 Issues Resolution Hearing (IRH)

Once all of the evidence is gathered together and social services have said what their final plans are for the children, the court will hold an Issues Resolution Hearing (IRH) to see if some or all of the issues can be agreed. It will decide whether your case needs a fact finding hearing, particularly if it is a medical case (eg you are being accused of harming your child) or involves domestic violence. Sometimes parents agree that a child should go and live with a relative for example and if everything is agreed the court can make final orders and finish the case at this point.

At the end of the IRH, the court will either order a fact finding hearing or make a list of things that need to happen next. This is called “directions”. This will include whether there needs to be another hearing about where the children are to live while court proceedings are going on, any reports that are needed from the social worker or other professionals, and whether an expert report (e.g. a psychological assessment) is needed.

At this point you are expected to put forward any family members who would be ready to have the children long-term if they are not allowed to stay with you. This can be difficult when you are still fighting to keep your children yourself, but if you don’t put family members forward so that they can be assessed at an early stage, it may be too late later on. So, it’s best to discuss with your family now and put them forward for assessment. If your relatives agree that you should keep the children, make sure they state this so it is clear that they are putting themselves forward only in case the court decides you should not keep the children.

If there are expert reports that you want to get (e.g. from a breastfeeding expert or a domestic violence expert or a medical consultant) you should ask the court to agree to these at this stage. They are often reluctant to, preferring to rely on the social worker and CAFCASS but you can make the case that they do not have the

specialist qualifications to deal with this aspect of the case. You can do this by asking for a Part 25 application [19].

The date for the next hearing will be set at the IRH. The next hearing will either be a fact-finding hearing or a final hearing. If anyone involved is **asking for the timetable of the case to be extended beyond 26 weeks** (for example while a family member assessment is done), the Issues Resolutions Hearing will decide whether to allow this or not.

12.4 Fact-finding Hearing

Fact-finding hearings can happen during **Care Proceedings** when the Local Authority has concerns about children and in **Private Proceedings** where each parent or carer makes allegations against the other.

A fact-finding is a very important hearing because it is used by the court to decide whether or not allegations are true, based on the balance of probability. "Allegations": when you or someone else accuses or is accused of having done something illegal or wrong which is abusive, dishonest or harmful – domestic violence for example. If there has been a guilty verdict in a criminal court, there is no need for a fact finding on that allegation. Only allegations the court decides are relevant will be considered.

The onus is on the person/authority making the allegations to prove that they are true. A single judge rules on who is believed, whether on the "balance of probabilities" the allegations are true or not. The judge's ruling becomes a "fact" for all future judgements, regardless of whether you disagree.

The court might decide that a fact-finding hearing is required to determine the following questions (eg in the case of a fracture or bruising):

- Is the fracture a non-accidental Injury?
- Was the fracture or the bruising or both caused by accident, recklessly or deliberately?
- If a non-accidental Injury, who might have caused it? If more than one person, the court and lawyers will often refer to a 'pool of possible perpetrators'.
- Can anyone be excluded from the pool?
- If a parent or carer is found to have caused the injury by a reckless or deliberate action, what steps should the court take?
- If the court makes a non-accidental Injury finding that one or more persons – including a parent – may have caused the injury, what will happen?

12.5 Fact-finding for medical cases and non-accidental injury

Accusations of non-accidental injury are very serious. If you are accused, you might be arrested and then you are involved in both criminal and family court cases.

It is important to try to find a family lawyer who specialises in medical cases, because they are used to accessing and reading medical records. These types of cases are complex and often regular family lawyers have no understanding of medical issues that might affect your case.

There is often confusion expressed about why both criminal AND family cases can run together, based on the same concerns that a child has been hurt. In some cases, the criminal proceedings will stop or not even start and only the family case continues. This is because of the different roles and responsibilities of the criminal and family courts.

As punishment in the criminal court can involve being sent to prison, the standard of proof is high – 'beyond reasonable doubt'. In family court you can be found to have harmed a child based on "probability", where judges take the view that if there is no parental explanation which is acceptable, there must be an explanation which puts the blame on parents.

If you are accused of harming your child physically it is important that you give an accurate statement of what you know and that you are honest about what you can or cannot remember, what you saw or did not see, what you did or did not do. However, if you are arrested it is important that you engage a criminal lawyer straight away and that you give a "No Comment" interview. Your criminal and family lawyers must work together to make sure that anything you say in family court cannot be used in criminal court.

If you are under pressure to "cover up" for someone else and you're frightened, you should ask the court for protection or you may end up being blamed for something you didn't do. Inconsistencies in what you say can and will be used against you and will have an impact on the final judgement.

Prior to the fact finding hearing itself, the court will ask for evidence to be gathered. This could include midwife/obstetric/GP/Health Visitor records, ambulance audio (of the 999 call) and notes, hospital records, police disclosures, any initial post-mortem report and statements from any relevant family members.

The LA will be required to submit to court their "Schedule of allegations", which will be the basis for their case. This is called a threshold document and will be the basis for their case against you.

If you can get any medical or other expert evidence to back up what you're saying, or you have evidence from other professionals (eg teachers, health visitors, ISVA etc) or there are other people who can back up what you are saying (including family friends, work colleagues, etc) you should put all of them forward by making a Part 25 application[20]. If any of these witnesses are contested by the other side,

the court will make a decision about whether to accept them or not, keeping in mind that professional experts carry a lot of weight in court and can determine the outcome of a case. The court may give permission 'only if the court is of the opinion that the expert evidence is necessary to assist the court to resolve the proceedings.' Judges often limit the number of professionals and witnesses you can have in court so this needs to be planned very carefully. The court cannot compel witnesses to come to court to be questioned, so the witnesses you request must be willing to attend court.

The court will also decide on a medical or other expert to oversee the medical evidence and make a statement to court. Both sides are expected to agree on this court appointed expert. Look carefully at the CV of any medical expert the LA might suggest – these are often experts they have used before and are favourable to the LA, so they might not look at the evidence independently. You have the right to object and suggest your own preferred expert, although this won't necessarily be agreed.

The court can also ask for all police, medical or school records, mobile phone or social media records to be presented. It is very important at this point to not be posting anything about court on any social media platform. These can be accessed and used against you in court to show you in a bad light.

The FF hearing

- The LA will present its evidence first followed by their expert witnesses. Your team will have the right to cross examine. If you feel that any evidence is wrong it is important to let your lawyer know so that they can question the witnesses while they are on the stand.
- Your witnesses will be called to give evidence after the LA has finished and again, all teams will have the right to cross examine.
- You will then be asked to give evidence and be cross examined by not just the LA but also the Guardian's lawyer. If you have a partner, their lawyer will also cross examine you. It has been known in these cases that you might be on the stand for days, during which time you will not be allowed contact with either your own lawyers or any witnesses involved in this case.
- After all the evidence has been heard, all parties' lawyers each take turns to sum up your case. Your lawyer will ask if you want them to do this in person or if you prefer written submissions.

If you disagree with the expert medical evidence, you should expect your lawyer to forcefully challenge it. The standard of proof at fact finding hearings is the "balance of probabilities". This is much lower than the standard of proof in criminal cases which is "beyond reasonable doubt".

If you're not found guilty, ie no findings are made against you, you should ask for immediate reunification or an immediate end to the proceedings.

If findings are made against someone else which affects you eg, if your partner is found guilty of having caused harm, you should take immediate advice about how to ensure your children remain with you. This may mean ending a relationship or

cutting yourself off from people you may care about whom the court has decided are harmful to your child/ren. It is also advisable not to use the same lawyer as your partner during this period.

If findings are made against you, you need to consider whether you have any grounds to challenge them. It is very important to appeal if you disagree with the judge's finding. It's better to lose an appeal than not appeal at all because if you don't appeal, it looks like you accepted the judge's ruling. You only have 21 days to file your appeal and often this will not be covered by legal aid so you need to consider quickly whether you will appeal on your own. If you don't appeal or the appeal fails, you will be expected to accept what the court has ruled regardless of whether you think it's true or not. If you don't, this will be used against you.

Fact finding should be based on facts but given that judges and Children's Services can object to your experts being heard and that regardless of your experts, the judge could ignore their evidence and form their own conclusions, you might find that your evidence has not been heard. Your lawyers should object at every point, please insist they do even when they tell you there is no point. This becomes important if you later feel you want to appeal, and transcripts can be used to show that your objections were either ignored or unfairly dealt with.

The judge will usually give the court a date when Judgement will be given. This could be a few weeks away when you will be asked to attend court again to hear the judgement.

12.6 Final Hearing

You should be represented by a barrister at the final hearing. Ask your solicitor to arrange a case conference with them BEFORE THE FINAL HEARING so you can go through the case with them and make sure they have all their facts right and are ready to represent you properly. You have the right to this under your Legal Aid certificate and it should be several days before court so you can consider their advice. Lawyers are often reluctant to do this, but **your children's welfare and happiness are at stake so insist!**

Before court starts your barrister will go and speak to the other barristers, and may strongly advise you to agree with some or all or the CS care plan. **DO NOT AGREE UNLESS YOU REALLY DO!**

At this hearing CS should produce their final Care Plan. This is your chance to make the strongest case possible about why your children should stay in your care. A final decision will be made regarding with whom the child will live. If they do not stay with you, the court will say what are the contact arrangements for you and your wider family.

The previous court order will have stated the date by which you should get copies of the CS final care plan, any expert reports (e.g. psychologist), contact centre notes (if relevant) and the Guardian's report. This may only be a few days

before the hearing and often LAs and Guardians fail to make these deadlines, leaving you with little or no time to respond before the hearing. If you have a lawyer, we suggest you email them on the deadline date and insist that they start chasing and ask the court to agree that your response can be filed late so that you have the same time to respond. **Make sure you go through all the documents very carefully**. This is crucial because your solicitor has to help you to **make your own very detailed witness statement, putting your position strongly and responding to anything in the other reports that you disagree with**. Insist on an interpreter if you need one. **Ask any counsellor** or other professional **you've been working with**, and **relevant family or friends who know you and the children well, to make a witness statement** – they have to be ready to come to the final hearing and give evidence if they do this, if the judge agrees. Tell your solicitor who you want statements from so they can make sure they are done officially and **can be added to your position statement as an exhibit – this might also include photos and recording with the permission of the Judge.**

12.7 Useful TIPS – Giving evidence in court

The way the courts are set up is daunting for anyone – proceedings can be hard to follow and even to hear. Here are some tips that might help you:

- It can be helpful to dress smartly.
- Always address the Judge as either your honour – in lower courts or His Lordship in Higher Courts.
- First your own barrister will ask you questions as a way of you expanding on your position statement so it's important to answer all their questions as best you can.
- Then you will be questioned by the LA barrister, then the CAFCASS barrister and sometimes the Judge. When you're being questioned by them it helps if you can try to keep your answers short, even just yes or no. Try not to expand too much on your answer or go off the topic as this gives barristers a way to open up further questions.
- If a barrister asks you the same question over and over again just repeat the same answer. This is a tactic lawyers use to try to get you to give different answers to make you seem confused and therefore lying. You may also say, I have answered that question.
- No matter who is asking the question, look at the Judge when you answer as s/he is the person that you are trying to convince.
- It is hard not to get angry when lies are being told about you/your children but having an outburst may be used against you. Winding you up is a tactic often used by lawyers (or a father who is a litigant in person) to try to push you into having an outburst or saying things you don't mean. They are trying to get you to look bad in the eyes of the Judge.
- If you are feeling scared, it is important to say so.
- You are entitled to ask the judge for a break at any point, but keep in mind that once you have started giving evidence, you are not allowed to talk to your legal teams or anyone else in the case until your evidence is finished. Your evidence could go over a few days – you will not be allowed to talk to your lawyers during this time so make sure you ask them any questions before you start giving evidence.

- If the opposing teams question you on a detail contained in one of the documents, you can ask the judge to see a copy of this in the court bundle and refer to it as you speak. They might be talking about a document that has nothing to do with you and if that is the case make sure that you say this document is not yours.
- If you do not know the answer to a question say so. Never try to make an answer up because you think the court needs an answer. You can always say "I am sorry I don't know that" or "I don't remember".
- If you are giving evidence over several days, you are not allowed to speak to friends, family or even your lawyer during this time about what is happening. If you do, you could be charged with "Contempt of Court".

12.9 Possible outcomes from a final hearing

No order

Your children should be returned to you immediately.

A Supervision Order

This means that your children will stay with you but a social worker will "supervise" you. A supervision order can be for six months up to two years. If this order is made there will be a supervision plan which will say what you are supposed to do and what services you can get from CS.

A Special Guardianship Order

This means that your children will live with someone else (usually an extended family member on either mother or father's side) and they will have parental responsibility (as well as you, but they can over-ride you). The court should agree what contact you and other family members can have with the children.

It is possible for a Special Guardian to apply to the Local Authority for a Special Guardianship Allowance but it is not automatic and so it's always worth applying. The allowance is means-tested but guidance is given in the **Special Guardianship Regulations 2005**. These Regulations direct Local Authorities to have regard to how much fostering allowance would have been paid had the child been fostered rather than cared for under a Special Guardianship Order. Recent case law confirms that the rate for Special Guardianship Allowances should be calculated in line with fostering allowances, but they are dealt with on a case by case basis and are usually much less than foster carers get. Deductions may be made to take into account Child Benefit and Tax Credit. There are other services which should be available, eg counselling and advice and information; access to support groups; therapy; training for the SGO to meet the needs of the child and respite care.

A Child Arrangements Order

This means that your children will live with someone else (usually a family member, e.g. ex-partner) without CS being involved, and they will have parental responsibility as well as you. The court should agree what contact you and other family members can have with the children, which should be included in the order.

A Care Order

This means that your children go into foster care. It gives CS parental responsibility for them (as well as you, but they can override you). You should have contact with your children and if you disagree with what the CS propose, ask the court to make a contact order specifying what contact you can have.

Under a Care Order an Independent Reviewing Officer should be appointed to monitor your child's case and to have regular reviews (at least 6-monthly) which you can attend. This is called a Looked After Child Review (LAC, see 16).

A Placement Order

This means that CS wants to place your children for adoption – usually they go for a care order as well whilst they find adoptive parents.

13. Can I appeal against a care order?

You can appeal against the care order but it must be within 21 days from the date the order was made. As soon as a final decision is made in court, if the judge has got some things wrong you should raise it immediately. Judges do have the power to change their decisions at any time before the final order is drawn up (ie it is sealed with the court stamp). You should also ask the judge to order a transcript of the case to be paid for by the local authority. This often takes some time and you should ask the judge to agree that the 21-day time limit for appealing should only start once the transcript has been provided. It's a good idea to inform the judge that you plan to appeal.

The appeal has to be on at least one of three grounds:

1) the judge made a mistake in the law;

2) they didn't take into account an important piece of evidence, or they took into account some evidence which they should not have;

3) some new evidence has emerged that proves that the allegations against you were untrue or that social workers lied in court.

Ask your solicitor or barrister to say what grounds you could appeal on. Many lawyers are reluctant to do appeals as they are time consuming and they may tell you there are no grounds to appeal. In that case, it's always worth doing it yourself anyway [23]. You may not get legal aid to do this if your lawyers have not agreed that there are grounds.

If you are not able to access legal aid to submit an appeal you can also ask the Bar Pro Bono Unit to represent you at appeal but they do need at least three weeks before any hearing to assess your case[iv].

If your case was heard by magistrates, you don't need to ask for permission to appeal. If it was heard by a district judge or a circuit judge, you do need to ask for permission to appeal, so make sure your solicitor knows you want them to do this before the end of the final hearing. If that didn't happen, or the judge refused to give

you permission, you have to apply for permission first from the appeal court [24]. You can request an oral hearing of your appeal but the judge who is considering the appeal papers may not agree and can make an order preventing any further oral hearing.

14. Can I stop my children being adopted?

Applying for permission to revoke a **final care order** or **placement order** under s24 of the Adoption and Children Act 2002 [27]. You can do this only if:

(i) the child has not yet been placed for adoption, and
(ii) the parent(s) can show a 'change of circumstance' since the placement order was made.

If the potential adoptive parents have applied for an adoption order – you can apply for permission to contest the making of an adoption order under s47(7) of the ACA 2002 but only if you can show a change in circumstances (see below).

Time limits for appeal: you must tell the court you want to appeal and why within 21 days of the decision.

Post Adoption Contact
Usually the birth family are not allowed contact with children who are adopted, except via the "Letterbox" scheme where you can send and (hopefully) receive one letter (and maybe a photo) via the social worker. There is no obligation on the adoptive family to send you a letter in response, and even if they start off by responding, they may not continue as your child gets older. But in 2014 there was a change in the law[v] allowing for the possibility of post adoption contact. This means that you can ask the court for direct contact with your child, as well as the indirect "Letterbox" contact which is standard. We don't know of any successful cases, but you do have the right to apply for it.

15. Can I have contact with my children in care?

If your child is removed from your care, the court should specify how much contact you can have with them, where it should take place, whether it should be supervised (and if so by whom) or unsupervised and this will also include indirect contact such as phone calls, letters and gifts. You should be given a written contact agreement which spells out how you are expected to behave during contact, any issues you are not allowed to discuss with your child and whether you can take photos, where contact is to take place and what you can bring with you. It's important to try to stick closely to the contact agreement because if you don't, it can be used as an excuse to reduce contact or stop it altogether. Make sure to always ask for a copy of the "contact notes" and check them for accuracy. If you think they are wrong, correct them immediately in writing to the social worker.

It is vital that you go to every contact appointment, arrive on time and stay focused on your children. When contact is supervised, the supervisor will look out for how focused you are on the children's needs during the visit. Respond to what your children need and want at all times, even though it's a very artificial and

uncomfortable setting. It's important not to take phone calls during the visit and not to get into disagreements with the person supervising or anyone who has dropped them off. (If you want to raise anything with them, wait until the contact has finished.) Do not discuss the case with the children and don't say negative things about either the foster carer or anyone looking after the children. Remember that everything you say and do is being written down by the contact supervisor, so don't give CS the opportunity to stop your contact! Once stopped it is much harder to get back.

The contact supervisor will take notes and is supposed to send them to you, but it is often very difficult to get them and you may want to ask for an order to be made in court for you to get them. Read them carefully every time. **Check the notes are accurate and challenge in writing anything that is inaccurate and ask that the notes be corrected**.

If CS changes the contact arrangements which were agreed in court you should immediately write to them and ask them to put in writing why they have made this change. You should also raise this at the six monthly LAC review meetings (see 6.1) and make clear that you want the court order to be followed. If you want more contact than the court order gave, and the social worker won't increase it, you can go back to court to apply for a contact order [26]. Do not accept "lack of resources" (eg shortage of contact supervisors) as an excuse for reduced contact. Contact is also possible on holidays such as Christmas and birthdays but you have to insist on these as it is costly to CS.

Unsupervised contact is a crucial step towards getting your children back. If your contact is supervised ask for it to be unsupervised as soon as possible and for an increase in how much contact you have.

If and when there is a change in your circumstances you can apply for the court to discharge the care order [25]. You may be able to get a solicitor to make this application for you but it depends on your means and also whether they think you have a good chance of succeeding. You can make the application yourself and it is really important to show how your circumstances have changed and how the situation the children are in is damaging/detrimental to their well-being. If CS are very hostile to you, ask the judge to order a report by an Independent Social Worker who can interview you and your children.

16. What is a LAC Review?

There is a legal requirement that a meeting must be held four weeks after your child goes into care (called a "looked after" child (LAC). If your child remains in care, there must be a second review no more than three months after that and then further reviews must be held at least every six months (or sooner, if needs be). These meetings include the professionals involved in your child/ren's lives who will all contribute to say how they think your child is doing and if there's anything that needs to be put in place to help them further. It is also required that the "care plan" for your child/ren is reviewed at every review and thought is given as to whether anything needs to change. This ranges from contact arrangements, to placement options, to legal status – anything which affects your child and you.

The people that you expect to attend is yourself, the other parent, the children if they are old enough, advocates for yourself and your children, chairperson (usually an Independent Reviewing Officer), minute taker, foster carer, foster carer social worker, the children's social worker, social worker's manager, any health professionals involved or therapists, education professionals and if applicable a domestic violence keyworker. You should know everyone at this meeting.

Government guidelines state that you should be involved and that everything should be child-centred and focused on the needs of the child and the family. You should be sent a "Consultation document" which enables you to record your views ahead of the meeting. The Chair should also meet with you before the day of the conference to get your views and answer any questions you may have about the conduct of the meeting. If there is an issue of domestic violence, the social worker or Chair may decide that the perpetrator is not to attend, but they will always ensure that they have a voice via other means such as a letter/email. If English is not your first language and you need an interpreter, you can ask your social worker to arrange one. You can ask if a family member can translate for you, but that needs the agreement of the social worker and the Chair a few days ahead of the conference.

The social worker and Chair should also make sure you know that you can have an advocate with you at this conference. The advocate can be a family law solicitor, a friend, or someone like your community psychiatric nurse or key worker. You do not have the legal right to have someone there, but the social worker/Chair should make you aware that you can. It helps to have someone who can take notes, and generally those present behave better when you have an advocate present.

In LAC meetings you can raise issues about contact with your children, their education, health, foster care, safeguarding issues and any assessments needed.

You should receive minutes after each meeting, make sure these reflect accurately what was discussed and if not, you can contact the IRO and challenge them.

17. I am a victim of rape/domestic abuse

Official figures show that:
1 in 6 women are raped, while 1 in 4 suffer domestic violence and 1 in 7 suffer marital rape. Two women every week are murdered by a partner or ex-partner. The CPS (not known as a progressive body) acknowledges that malicious false allegations are minute. [xii] In an 18-month period, the authorities only prosecuted six cases of false reports of domestic violence out of 111,891 reported.

17.1 I'm in danger from a violent partner

For help in reporting to the police see Women Against Rape's self help guide Justice is your right. If you need to get away urgently contact Women's Aid to find a refuge place.

You can apply for an emergency "without notice" non-molestation order - this aims to prevent your current or former partner /spouse from threatening or using violence

against you or your child. The order aims to stop any harassing or intimidating behaviour, to protect your health, safety and well-being [28].

You can also apply for an occupation order. This decides who can live in the family home. It can also mean that your abuser is in breach of the law if they enter the area nearby. Do you feel unsafe living with your partner? Or have you left home because of violence? If either of these things are true and you want to return to your property but exclude your abuser you can apply for an occupation order.

You can also ask for a non-molestation injunction order to be made alongside a Child Arrangements Order (see below) which you can do by making an application to court [29].

If your abuser breaks the orders they will be committing a criminal offence and you can get the police involved and have them arrested. It can be useful to have police evidence backing your claim. But if you don't want to call the police, you can take your abuser back to the civil court for breaking the order.

17.2 Can I get an injunction?

To be eligible for an injunction you must be an "associated person" meaning that you and your abuser are connected with each other in at least one of a list of ways [xiii]: If you are eligible:

- Download and fill in the application form [30] and make two copies
- Download and fill form C8 [31] if you want to keep your address and telephone number private.
- Deliver or send all documents to a court which deals with domestic violence cases.
- If you are under 16 you will need permission from the High Court. If 16-17 you'll need to appoint a "litigation friend" to represent you, usually a parent, family member or close friend
- After you have applied you must arrange for the person you are applying against to be told about the application (unless you are applying "without notice"). You will be given a "Notice of Proceedings" which tells you when to appear in court.
- If you need an interpreter, you should ask for one when you make your application. The interpreter can translate but not represent you or give legal advice.

18.Going to court to sort out residence of the children

In this section we concentrate on situations where a mother has been the victim of domestic violence, but the process described here also applies to any parental dispute about contact or residence.

If you have recently separated or never made a formal arrangement about the children after you separated from their father, you can apply to court for a **Child Arrangements Order** [32]. This is where you say where you want the children to

live and what contact they should have with their father. If you don't have a lawyer or legal aid hasn't come through yet. you can fill in the form yourself and take it or post it to the nearest family court to where you and the children live [33]. If you are on benefits you **do not** need to pay the court fee (at the moment £215). You will need to fill in a **Fee Waiver Form** [34] and get a letter confirming your benefit payments which should be dated within the last three months. If you or the children are at risk of harm or abuse you need to fill in an additional form [35] and give brief details.

If you are representing yourself remember to carefully read the Guidance Notes for all these forms because if you don't follow the requirements (eg by not taking copies of the forms with you) your application will be rejected.

You are entitled to legal aid (now called Public Funding) if there has been domestic abuse (either in the past or if it is continuing by the father pressing for residence/contact). Domestic violence (DV) includes controlling, coercive, abusive behaviour and is NOT limited to rape, sexual and/or physical violence. If you want to apply for legal aid under the DV rules [36], go to your GP and ask them to **refer you to a DV organisation** (for example Women Against Rape or Women's Aid) and that organisation can then refer you to a lawyer for legal aid.

If you cannot get legal aid always take someone to court with you, especially if you don't have a lawyer. A friend or relative can be your McKenzie friend (see 2) and judges are supposed to be a bit more considerate towards anyone representing themselves. We know that fathers are more likely to have a lawyer than mums so it's important to know your rights and stick up for yourself in court!

As a victim of domestic violence, you have a right to be treated as a vulnerable witness in court. Two useful legal documents are **Practice Direction 12J**, and **Practice Direction 3AA**. PD12 J says that where allegations of domestic violence have been made, the judge should have a fact-finding hearing. And it also spells out how women with a violent ex-partner ought to be treated in family proceedings. If you have a lawyer, make sure they use these documents and ask them to insist that the judge follows them as this could make all the difference to your case.

If you are representing yourself you can still ask the court for protective measures under PD12J, which includes the use of video link for giving evidence, a separate waiting area and screens in the courtroom. It's important to email the court ahead of time, explain you are requesting these protections under PD12J, and then take a copy with you to show court staff in case no arrangements have been made. It is not uncommon for the arrangements not to be in place, so you may need to insist once you're at court and show the proof of making the request. Stick to your guns!

18.1 First Hearing and Dispute Resolution Appointment (FDHRA)

The first hearing will either be in front of magistrates or a district judge.
Once there's a date for the hearing you should be contacted by a CAFCASS officer who will speak to you (and separately to the father) on the phone. If you have any concerns about domestic violence or other reasons why you dispute the father having contact with the children you need to tell the Guardian right away. They will

then write a “safeguarding letter” to the first hearing to say if they think there are issues which need to be investigated further.

If the CAFCASS officer recommends that there are issues that need to be investigated, the court will appoint a Children’s Guardian (still CAFCASS) to represent the children for the rest of the hearings. They will be asked to write what’s called a Section 7 report where you and the father will be interviewed. Once a Guardian has been appointed, cases can take much longer and you can feel under great pressure. Disputes about contact can lead to changes of residence, especially where “parental alienation” is alleged (see 22).

If you and the father are both litigants in person, your ex will not be allowed to as you any questions directly but he can put questions through the judge. The judge is supposed to look at the questions in advance and remove any that are not appropriate or harassing. The judge can dismiss some or all of the questions and ask their own. Remember, you can give evidence by video link or behind screens.

Stop press: at the time of writing the Domestic Abuse Bill is going through parliament and once it has been brought into law, there will be further protections which we will incorporate here.

Under PD12J the court must consider whether to have a fact finding when allegations of domestic abuse have been made and the judge will decide during this first hearing whether to order a fact finding. This should always be considered in domestic abuse cases and if you feel you have evidence that you want the court to consider it is your right to request a fact finding, though not always granted. The court needs to be clear that you have enough evidence on which to proceed such as medical or police evidence or that of a witness.

In court **you need to be very clear what you are asking for in the long term and what you want the immediate arrangements to be**. There are likely to be at least two and sometimes more hearings before the arrangements are finalised and the process can take months, so the interim is important. You should specify what if any contact you think the father should have while the court hearings are going on; he will also say what he wants, and the judge will decide. **If you do not agree with the judge’s decision be sure to object and say why.**

After each court hearing there will be a **Court Order** which will set out what has been agreed between the parties and what the court has decided. The order will say what the next steps are with deadlines for any documents (including your statement) to be submitted in time for the next hearing.

18.2 What happens if the court orders a fact-finding hearing?

Before the hearing

The court will expect you to provide a list of the matters that are of concern so that the other parent can respond. Courts often ask the parents to limit the matters complained of to six of the most significant incidents. This will be completed on a Scott Schedule (see 19).

You should try to give the date and location of the incident, a summary of what happened, who was present (any witness or the child) and what happened afterwards. You will also be asked to prepare a statement of what happened on each occasion. At the hearing, this statement will count as your evidence.

If an allegation was reported to and investigated by the police, make sure that all relevant reports are given to court. This could include any statements taken at the time, photographs of any injuries and any written recordings made by police officers. If you sought medical assistance, it is important to provide the court with these. The court can also order any relevant records to be released such as police records.

It is important that if a fact finding is ordered, applications under Part 25 have been made so that witnesses can be called. The judge has the right to refuse to allow witnesses, but s/he must have grounds, or this can be used as the basis of an appeal. Professional witnesses rather than family or friends have more credibility as courts tend to give less weight to statements from friends or relatives that are confined to general statements of how good one parent is and how bad the other is.

The fact-finding hearing

Usually, you will give evidence first as you have made the allegations. Then the lawyer for your perpetrator will ask you questions. If your ex-partner has no lawyer the judge will not allow them to question you. This process is then repeated for any witnesses who have filed statements of evidence on your behalf. It will then be your ex partner's turn to give evidence.

If a Guardian has provided a Section 7 report, s/he may be asked to attend to give evidence.

After all the evidence has been heard, the lawyers will make submissions to the court on points of law or issues of significance. The onus is on you to prove the allegations are true. A single judge rules on who is believed, whether on the "balance of probabilities" the allegations are true or not. The judge's ruling becomes a "fact" for all future judgements, regardless of whether you disagree, although you will have the chance to appeal.

The court will then consider its decision. The judgement might be given on the same day but if there were a few witnesses the judge might request time to consider the evidence. The judgement is usually read out and will refer to each of the allegations in turn.

If none of the allegations are proved, the court may proceed to make a final order. If some or all the allegations are proved, the court has to decide what happens next. This might include needing further reports from the Guardian for example.

Getting a finding of fact that you were **not** the victim of rape or DV is very damaging, so it's always worth appealing if you can. If you don't appeal, the judge can say that you lied not only about the particular allegations, but about other things as well, or use it as "evidence" that you're just being vindictive against the father. Some mums who have lost a Finding of Fact hearing have seen residence given to the father, even when the judge knew his history of violence!

Where a finding of domestic violence or abuse has been made

'The court should in every case consider any harm which the child and the parent with whom the child is living has suffered as a consequence of that violence or abuse, and any harm which the child and the parent with whom the child is living, is at risk of suffering if a child arrangements order is then made. The court should only make an order for contact if it can be satisfied that the physical and emotional safety of the child and the parent with whom the child is living can, as far as possible, be secured before during and after contact, and that the parent with whom the child is living will not be subjected to further controlling or coercive behaviour by the other parent.' Practice Direction 12J

We do know that the courts nearly always agree to some form of contact and at this point you should be discussing supervised contact with your lawyer. The court can also decide whether one or both parents should attend courses or undertake work in relation to domestic abuse and violence prevention measures.

19. Useful TIPS: Scott Schedule

You will be asked to provide a list in chronological order of each individual accusation of violence/abuse, dated and timed, and to say what evidence you have for each allegation. This is called a SCOTT schedule. The Judge usually sets a limit of five to seven allegations but you can argue for more in court. (See sample Scott Schedule Appendix 2.)

When considering which allegations to pursue, consider which incidents you have supporting evidence for (eg police or GP records, texts or social media) as this will strengthen your case. You may not get this evidence before the date set for you to complete your Schedule, so be careful to try and be precise about any details. It is important to remember that you do not have to have witnesses to your allegation; the court will listen to your evidence and decide if your account is accepted on the "balance of probabilities".

The fact that the court limits the number of allegations can be a problem especially if you are alleging a history of controlling or coercive behaviour. A frequent question asked is: "how can I prove a course of coercive control over the entire relationship if I am required to limit my allegations?" One way to deal with this is to ask that the court order which sets out the timetable for the fact-finding hearing makes clear that the limit of allegations "does not prevent me from pursuing a case of coercive control over the course of the relationship". This can also be addressed and included in your position statements before each court hearing, where you can make the case to argue for more examples to be added to an updated Scott Schedule

At the court hearing you will give evidence in the "witness box" or at your seat in the court room (unless you have applied for "special measures" [38]. In which case you might be giving evidence via video.

20. Final Hearing

The CAFCASS report and any other reports (eg psychological, medical) will be considered and the professionals who wrote them should be there to give evidence. **You and the father can give evidence and can challenge the other person's evidence.** The Final Hearing produces a Court Order stating where the children will live and how much contact the other parent will have. Children's Services will only be involved if there has been a referral made (usually but not only before these proceedings started).

21.Ongoing disputes over contact or residence

Whenever you are making the case for less or more contact, stress the ways in which this is what is best for your child, always put their needs in relation to contact before yours.

If you are in dispute with the father about him having contact with your child, make notes on every contact visit e.g. if he arrived on time, and how the child was when she/he returned e.g. clean, fed, happy, distressed, crying, scared. Note how the child/ren behaved before and after and what they said about the visit.

Ask other witnesses to do a statement. If anyone sees children before and/or after the contact with the father and notices how the child is, ask them to put it in writing. Any observation from a witness can be helpful.

If your children live with their father or other relative under a Child Arrangements Order and you want more contact and/or unsupervised contact, you can apply to the court to change the contact arrangements [41].

If a parent ignores or changes the Court Order you can apply for an **Enforcement Order** [39] and there will be a court hearing where you say what has happened and that you want the Court Order to be enforced.

If you are worried that the father might take the children out of the country or even away from your care **you can apply for a Prohibited Steps Order** [40].

22. "Parental alienation" – what is it?

Accusations of "parental alienation" are commonly used by violent fathers and social services to take children from their mothers.

If you are in dispute with your child's father over contact and/or residence, if your child has alleged being abused (sexually or otherwise) by the father, if your child doesn't want to see the father (for whatever reason), and you try to protect your child by reporting this and/or refusing to force your child into contact with the violent father, you can be accused of "parental alienation". That is, of "unreasonably" trying to prevent the father's unsupervised contact with your child, or of "coaching" or "manipulating" your child to make false accusations of abuse against the father in order to get back at him.

Instead of being seen as a mother trying to protect her child, you can be blamed for causing them "emotional harm" and accused of wanting to deprive them of their father. Professionals may line up to dismiss all your concerns citing parental alienation, rather than looking into the evidence that you or your children provide. The fathers are often portrayed as 'charming' and 'reasonable' while mothers are dismissed as 'emotionally unstable' and 'unable to work with professionals'.

Not surprisingly, many mothers feel caught in a "catch 22" - they are desperate to stop their children being abused, but know that if they raise their concerns, their children might be taken away and given to their abuser, or to strangers, making it even harder to protect them. Meanwhile the children continue to suffer, and in some cases (such as Claire Throssell's two sons killed by their father during unsupervised contact) to be greatly harmed, even killed. Some judges have insisted on contact and even residence, dismissing what women and children were telling them about how dangerous the man was. Nineteen children and two mothers were killed between 2005 and 2015 following court orders to allow fathers unsupervised contact.

Where has "parental alienation" come from?

"Parental alienation" is the discredited theory of Dr Richard A Gardner [42] a US misogynist psychiatrist who dismissed domestic violence, defended paedophilia, and argued that children who objected to seeing violent fathers should be forced to have contact. Soon after he gave "expert" evidence in a family case, where the children were forced to have contact with their father, one of the two teenage sons committed suicide.

The fathers' lobby – groups of domestic violence deniers like Families Need Fathers and Fathers4Justice has been pushing "parental alienation". They have been strengthened by the Children & Families Act 2014, which introduced the presumption that it is always in children's best interest to have contact with both their parents, almost regardless of a father's involvement or lack of it prior to separation and of the way he has treated you and/or the children.

Families Need Fathers claim that '*False and unfounded allegations poison proceedings when a non-resident parent is seeking parenting time with his children. Judges need to make findings of fact as soon as possible and to take false allegations into account when determining the best interests of the child*.' They accuse women of '*making allegations*' as '*a motorway to obtaining legal aid*'. And they often make counter allegations against the mother in order to discredit her.

Shockingly, research published in 2017 in the US, where mothers face similar injustices, found that the family courts only believe a mother's claim of a child's sexual abuse in 1 out of 51 times (2%) and that mothers lose custody more than half the time (56%) when 'parental alienation' is mentioned!

We don't have comparable figures for the UK although the recently published MOJ Review referred to earlier, has valuable information which you could refer to. We know from experience that fathers' claims of "parental alienation", based on the old sexist myth that women commonly lie about rape and domestic violence, are often backed by the family courts. This is largely because CAFCASS has been heavily

influenced by the fathers' lobby[vi] making such claims, blaming mothers for being too "anxious" when they raise concerns about former partners being a danger to their children.

22.1 What can I do if I'm accused of "parental alienation".

If you are accused of "parental alienation" and your children are strongly objecting to seeing their father the following may help.

1. **Try to get independent medical or other evidence** that sexual or other abuse is taking place. This is really important as you are much more likely to be accused of making false allegations if you have no evidence backing your or your child's claims. A sports centre worker, teacher or family friend can write a statement explaining anything they have noticed or witnessed.
2. If you are in court proceedings, **you can ask for an independent social worker** for the children to speak to about their "wishes and feelings". You or your lawyer can do this by submitting a Part 25 application [43] to court. If this application is denied you/they could either appeal this decision or find your own independent social worker (who will usually charge) and admit their evidence as part of your position statement.
3. The children can ask to speak to the judge [44].
4. **A child who is 10 or over can ask for an independent advocate**, for example from Just For Kids Law [45], who can ensure their wishes and feelings are heard in court.
5. **Explain that "parental alienation" is the discredited theory** of a misogynist US psychiatrist who defended paedophilia – Dr Richard Gardner see above. Refer to the MOJ Review which confirms that accusations of "parental alienation" are used to attack mothers, especially when the children are adamant that they don't want to see their father
6. **If the court orders contact, insist that it must be supervised so that the children can be protected.**

23. Problems with lawyers

Lawyers have told us that family law work has less status and kudos and pays less than other forms of law, for example corporate law, and that a good family lawyer is very hard to find! In our experience many lawyers represent mothers badly – they don't 'take instruction' from you as they are supposed to, shut you up, tell you they are in charge of the case and you should do as they say, prevent you from getting corroborating statements or telling your side of the story in court…They seem at times to be working for the other side. This may be because they are incompetent, biased, or because they in fact often act for the other side and may get better paid when they represent them than when they represent you on legal aid. Whatever the reasons, evidence is often not presented or not highlighted to the detriment of your case.

If this is happening to you, change lawyers ASAP and hopefully find a better one. **We recommend that you get a lawyer who does not represent local authorities.**

You need to tell the legal aid board why you're not happy with the way you're being represented and it helps if you've also complained to the lawyer concerned in writing, so that your reasons are clear. If it is too late to change lawyers (e.g. you have a court hearing which is imminent), speak up in court. It is your life and your child's life so be prepared to raise evidence you think is relevant (see Useful Tips 11). Be prepared to sack your lawyer on the spot too; bad representation can be worse than no representation.

24. Can I ask for a different judge?

It is a basic principle of English law that a judge should not sit to hear a case in which "the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that [s/he] was biased". It is an even more fundamental principle that a judge should not try a case if he is actually biased against one of the parties. The concept of bias includes any personal interest in the case or friendship with the participants, but extends further to any real possibility that a judge would approach a case with a closed mind or, indeed, with anything other than an objective view; a real possibility in other words that he might in some way have "pre-judged" the case [xiv].

If you feel that a particular judge in your case is biased against you (for example if they say right at the beginning of a hearing that they are going to insist on a father having contact or they don't believe a word you're saying) you can ask the judge to recuse themselves or step down simply by saying verbally or in writing something like:

"I hereby make an application for you to recuse yourself on grounds of your bias or apparent bias".

When you (or your lawyer) says this, the judge is supposed to immediately stop the proceedings and pass the matter to a more senior colleague to continue the proceedings. If the judge refuses to do this or just dismisses what you say without responding, you are entitled to appeal and the proceedings must stop until that appeal has been dealt with. To make an appeal you need to make an Application to court under the Civil Procedure Rules (in this case CPR 23). (For more on case law see Family Law Week, 2017)

25. Breastfeeding – what can I do to protect my child's right to breastfeed?

If you are breastfeeding an infant or older child you are following recommended best practice and making a unique contribution to the welfare of your child. But shockingly, social workers, CAFCASS officers, lawyers and judges, are notoriously ignorant about breastfeeding and unsympathetic to breastfeeding mothers. They see breastfeeding as interfering with a father's "right" to see his child, since he can't breastfeed, or with their plans to have the child taken from you to a foster care placement or an adoption. Even health visitors and some midwives who should know better, have been known to undermine a child's right to breastfeed. They may treat it as a "lifestyle choice", which many disapprove of especially if it's on demand, goes on for more than a few months, and along with carrying a baby in a sling, co-sleeping and other aspects of "attachment" parenting. They may pressure you to stop

breastfeeding in order to break the healthy bond of love and security it creates, and use it against you. We have seen examples of social workers and judges claiming that a mother is over protective or over anxious or controlling because she insists on breastfeeding her child.

If professionals undermine breastfeeding they are in breach of established UK and UN official health policy, which aims to support and increase breastfeeding. (See below.)

25.1 What can I do if I'm being threatened with my child being taken from me while breastfeeding?

1. Carry on breastfeeding. Do not agree to stop. Stress that your child needs and has a right to your breastmilk to thrive. Refer to the official medical advice and evidence confirming the critical importance of breastfeeding to giving the child the best start in life nutritionally, health wise and emotionally, setting her/him up for long term health and well-being. Refer to proven risk of significant harm caused by formula – it can make your child very ill.

This is a key argument against taking a breastfed baby away at birth or during infancy, because if that happens, the best interests of the child are not at the heart of the decision. The baby is being deprived of the best start, and this cannot be replaced. There is no comparable substitute for a mother breastfeeding her child.

2. If Children's Services are determined to take your new born away press them to find a residential or foster placement for mum and baby together.

   If time is needed to set up a placement, press to be allowed to stay in hospital with your baby until one can be found.

3. If the baby is taken away, you can express milk – ask them for a breast pump. Some mums have got this, but if they are slow getting it to you, don't wait for it. Ask for your milk to be given to the child again on the grounds it is the best food for her/him. Expressing will also help maintain your milk supply so that you can breastfeed during contact visits.

4. Get as much support as possible: try to have someone with you whom you can count on when you press your case – relative, friend, breastfeeding counsellor. Put your request and reasons in writing.

25.2 What can I do if the father is insisting on overnight or extended contact while my child is still breastfeeding?

1. Refer to the expert advice and the health benefits of breastfeeding (see below).
2. Stress that you are breastfeeding because it is in the child's best interest for comfort as well as nutrition, and for no good reason. It's not something that you've chosen to do in order to deliberately limit your child's contact with their father, and it is wrong for anyone to imply this.
3. If you are being criticised for breastfeeding, refer to the "attachment" theory established in the 1960s by British psychologist, John Bowlby, now widely accepted by child mental health experts. He showed that babies need a primary

care figure to form an attachment to and that this is important for emotional security. For a young child this usually means they need to be with their mother, whom they've been mostly with since birth [46].

4. If you have a breastfeeding counsellor/support worker or sympathetic paediatrician/GP, ask her/him to write an expert report or at least make a statement to court about the benefits to your child in particular of continuing to breastfeed, and the harm of not breastfeeding. The report should be specific to your situation and you can either attach it to your position statement or you can ask for it to be submitted as a witness statement (as long as the author is prepared to give evidence in court) by making a Part 25 application. If you don't have a counsellor, you can contact La Leche League [47] and ask for their help. Their website has a lot of useful information on breastfeeding generally and on how to handle contact issues, which you should look at. Insist that your lawyer does too. S/he can ask the court to commission an independent breastfeeding report and expert witness.

It has been successfully argued that a baby's human rights under Article 8 of the European Convention on Human Rights must be recognised. Like everyone else, they have a right to "physical and moral integrity" which can include the continuing physical and emotional significance of breastfeeding. It can be argued that a disproportionate interruption/disruption of nursing and/or time with mother is a breach of that right. It is crucial to raise the significant harm that has been or will be caused by separating a breastfeeding child from their mother. Refer to the old and new research on the fundamental importance of the child's attachment to the primary carer for sound emotional, mental and physical development, with breastfeeding central to that in the early years.

The UK Royal College of Paediatrics and Child Health states:

> *We strongly support national policies, practices and legislation that are conducive to breastfeeding, as well as promotion, advice and support to new mothers… Mothers should be supported to breastfeed their healthy term infant exclusively for up to 6 months…. encouraged to breastfeed beyond 6 months, alongside giving solid food…supported to continue breastfeeding for as long as they wish…*

The UN Human Rights Council stressed that:

> *Breastfeeding is a human rights issue for both the child and the mother. Children have the right to life, survival and development and to the highest attainable standard of health, of which breastfeeding must be considered an integral component.*

APPENDIX 1.

Template for a Subject Access Request

(insert date)

(insert organisation address)

To the **(Data Controller or Data Compliance and protection team)**

Re**: (insert your name and current address)**

I am writing to make a subject access request under the Section 7 (1) of the Data Protection Act 1998 for any personal information you hold about me and my child/children.

Please process ALL information held including the list below:

All information held by yourself.

1. All test results, x-rays etc held by yourself. **(do not include this for school or Social services)**
2. All internal and external emails whether I was CCed or not.
3. All internal and external phone logs where my family was discussed, including those not made to myself.
4. All minutes of any meetings that have taken place whether I was asked to attend or not.
5. All minutes of any Professional meetings whether I was asked to attend or not.

I understand that I am entitled to a response within forty working days. I would be grateful if you would confirm this request by email **(or by post if you do not have an email)** as soon as possible. Please send acknowledgement to **(insert email address or postal address).**

Yours faithfully

APPENDIX 2 – Sample Scott Schedule

IN THE CENTRAL FAMILY COURT **CASE NO: Please add number**

IN THE MATTER OF THE CHILDREN ACT 1989

AND IN THE MATTER OF … (D.O.B.)

BETWEEN:

… (Applicant) And … (Respondent)

RESPONDENT'S SCOTT SCHEDULE

Dated: Add the date

Date	Respondent's allegation	Applicant's response	Judge's finding
05/06/2018	**1**. Applicant pushed Respondent down the stairs after an argument. **Reference:** Police report dated 06/06/2018. Bundle F2. GP letter dated 07/06/2018. Bundle F3.	Allegation denied. Respondent fell down the stairs of her own accord after assaulting applicant. See counter schedule.	
02/04/2018	**2**. Applicant locked Respondent outside of the house overnight after an argument. Reference: A's statement dated 05/07/2018. Bundle C5.	Admitted.	

[1] http://courtwithoutalawyer.co.uk/mckenzie-friends.html

[2] https://www.legislation.gov.uk/ukpga/1989/41/section/1

[3] CAFCASS aims to "(a) safeguard and promote the welfare of the children,(b) give advice to the court about any application made to it in such proceedings,(c) make provision for children to be

represented in such proceedings,(d) provide information, advice and other support for the children and their families."[14]

[4] A CAFCASS officer appointed as an "independent" voice for the child.

[5] http://www.legislation.gov.uk/ukpga/2002/38/contents

[6] Sect 11 (2) a)

[7] Everyone who works with children - including teachers, GPs, nurses, midwives, health visitors, early years' professionals, youth workers, police, Accident and Emergency staff, paediatricians, voluntary and community workers and social workers - has a responsibility for keeping them safe. Working Together to Safeguard Children, HM Government, March 2013

[8] Section 11 (2A) of the Children and Families Act 2014 provides that a court is "to presume, unless the contrary is shown, that involvement of that parent in the life of the child concerned will further the child's welfare".

[9] eg Just for Kids Law

[10] www.gov.uk/apply-direct-payment

[11] https://www.gov.uk/apply-disabled-facilities-grant

[12] https://www.familyfund.org.uk/faqs/how-do-we-apply

[13] Care Act rules and more info on the process and your rights.

[14] https://www.safecic.co.uk/your-scb-acpc/55-free-downloads-and-safeguarding-links/61-safeguarding-children-board-links

[15] This refers to young people between 16 and 18 where their capacity to consent to for example, medical treatment or to instruct lawyers, depends on an assessment of their maturity and understanding of the issues involved. The law was established by *Gillick v West Norfolk and Wisbech AHA* [1986]

[16] https://www.londoncp.co.uk/chapters/best_prac_cpc.html#conf_chair

[17] Williams & another (Appellants) v London Borough of Hackney [2018] UKSC 37

[18] Use Form C2 for this application.

[19] https://www.justice.gov.uk/courts/procedure-rules/family/parts/part_25

[20] This refers to an application under Rule 25 of the Family Procedure Rules as amended by s.13 of the Children and Families Act 2014, which states: 'the court may give permission…only if the court is of the opinion that the expert evidence is necessary to assist the court to resolve the proceedings **justly'** (s.13 (6)).

[21] https://www.justice.gov.uk

[22].https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/337568/iro_statutory_guidance_iros_and_las_march_2010_tagged.pdf

[23] The form for Notice to Appeal is FP161 https://www.gov.uk/government/publications/form-fp161

[24] https://www.gov.uk/government/publications/where-to-appeal-a-family-court-decision-fp201

[25] S39 of the Children Act 1989 FORM C110A https://www.gov.uk/government/publications/form-c110a

[26] Use a **C1 form** (or a **C2 form** if in existing court proceedings) and the supplement **form C15**.

[27] See form A52 Application for Revocation of a Placement Order, S24 Adoption and Children Act 2002. https://www.gov.uk/government/publications/form-a52

[28] Part IV of the Family Law Act 1996 https://www.gov.uk/injunction-domestic-violence

[29] https://www.gov.uk/injunction-domestic-violence

[30] Form FL401 https://www.gov.uk/government/publications/form-fl401

[31] Form C8 https://www.gov.uk/government/publications/form-c8

[32] Form C100 https://www.gov.uk/government/publications/form-c100

[33] https://courttribunalfinder.service.gov.uk/

[34] Form EX160 https://www.gov.uk/government/publications/apply-for-help-with-court-and-tribunal-fees

[35] Form C1A https://www.gov.uk/government/publications/form-c1a

[36] https://www.gov.uk/legal-aid/domestic-abuse-or-violence

[37] https://www.justice.gov.uk

[38] There are now two sections of the law that can protect victims of Domestic Abuse. Firstly Family Procedure Rules Part 3A and secondly Practice Direction 12J. Practice Direction 12J makes clear that if victims or children require special measures within the family court, appropriate arrangements, including separate waiting rooms and arrangements for entering and leaving the building, need to be made. You are also entitled to Video linked evidence as well as pre-recorded evidence from a separate room or to have screens in court throughout all the hearings. Some Courts are extremely bad at facilitating the needs of domestic violence victims. Make sure that you put all your requests in writing, carry copies of everything you have asked for in writing and insist that it is implemented. The perpetrator will not be allowed to question you in court and if you are self-litigating, write your questions down for the Judge so that you do not have to speak to your abuser.
https://www.justice.gov.uk/courts/procedure-rules/family/practice_directions/pd_part_12j
https://www.justice.gov.uk/courts/procedure-rules/family/rules_pd_menu

[39] Form C79 https://www.gov.uk/government/publications/form-c79

[40] Form C100 https://www.gov.uk/government/publications/form-c100

[41] Form C100

[42] https://www.independent.co.uk/news/obituaries/dr-richard-a-gardner-36582.html

[43] https://www.justice.gov.uk/courts/procedure-rules/family/parts/part_25

[44] https://www.gov.uk/government/news/children-will-be-seen-and-heard-in-family-courts http://www.bailii.org/ew/cases/EWFC/HCJ/2017/48.html - a case where a Judge did speak to the 14 year old boy and wrote a letter to the boy after judgement.

[45] Just For Kids Law only operate in the Greater London area.

[46] More recently eminent child psychotherapists, Dr Margot Sunderland, Director of Education and Training at the Centre of Child Mental Health London (http://www.margotsunderland.org/) and Sue Gerhardt, Why Love Matters, have written about this.

[47] National helpline 0345 1202918

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[i] Victoria Climbie was murdered in 2000 aged 8 after being tortured by her aunt and her boyfriend, despite being known to Haringey Children's Services, the police and NHS and other professionals who repeatedly ignored her injuries. See eg The Guardian 24 September 2001

[ii] Peter Connelly died in 2007 aged 17 months after suffering more than fifty injuries over an eight-month period at the hands of his mother and father and his uncle, during which he was repeatedly seen by the London Borough of Haringey Children's services and National Health Service health professionals. See eg The Observer 16 August 2009

[iii] See for example, articles by **Ray Jones**, Professor of social work at Kingston University and St George's, University of London. The Guardian 12 January 2015; Community Care 12 December 2012

[iv] Section 36* of the Data Protection Act 1998 & 2018 and now the General Data Protection Regulation (GDPR) rules establish that: "Personal data processed by an individual only for the purposes of that individual's personal, family, or household affairs (including recreational purposes) are exempt from the data protection principles and the provisions of Parts II and III. See also The Guardian 17 June 2015 .

[v] In the year ending 31 March 2014, 5,050 children were adopted from public care, an increase of 26% from 2013, and of 58% from 2010. Adoptions are now at their highest point since the start of complete collection of data. 96% of all adoptions take place without parental consent. Adoption Without Consent – Study for the Peti Committee, European Parliament 2015

[vi] Eg Rotherham where many hundreds of children were raped (https://www.theguardian.com/uk-news/2018/feb/20/rotherham-sexual-abuse-victims-rises-to-1510-operation-stovewood;

https://www.theguardian.com/uk-news/2018/apr/25/rotherham-scandal-watchdog-reveals-98-investigations-into-police.

[vii] http://www.legislation.gov.uk/ukpga/2014/6/notes/division/2

[viii] See https://www.carersuk.org/home

[ix] Babies at risk of 'adoption by stealth', family charity warns, The Guardian, 10 July 2017

[x] Under s44 of the Children Act 1989

[xi] (complaint vs solicitor https://www.lawsociety.org.uk/for-the-public/using-a-solicitor/complain-about-a-solicitor/);against a barrister https://www.barstandardsboard.org.uk/for-the-public/reporting-concerns.html

[xii] https://data.gov.uk/dataset/0a8cc8f9-c9e7-4921-8b60-b9808c48ecd2/crown-prosecution-service-annual-report-2012-2013

[xiii] You are or were married to each other; you are or were in a civil partnership; you live with each other or used to live together; you live or used to live in the same household; you are blood relations; you are or were engaged to be married to each other.

- You have children together - as parents or have parental responsibility for the same child.

[i] Royal College for Paediatricians and Child Health, UNICEF UK, Association of Breastfeeding Mothers, La Leche League

[ii] https://bilson.org.uk/Family_Law_prepub.pdf

[iii] The NHS refer to one study published in 2000 which estimated 89 cases of FII in a population of 100,000 over a two-year period

[iv] https://www.lawworks.org.uk/
http://www.nationalprobonocentre.org.uk/finding-legal-help/

[v] Via an amendment to the Adoption & Children Act 2002

[vi] CAFCASS' stakeholders include 5 fathers' groups and just two women's groups.