



# Cafcass Cymru

## Harmful Conflict: Practice Guidance



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# Harmful Conflict: Practice Guidance

## 1. Introduction

Cafcass Cymru provides expert child-focused advice and support, to safeguard children and make sure their voices are heard in family courts across Wales so that decisions are made in their best interests.

All cases we work with are referred to us by a court with the child's future welfare being at the heart of every piece of advice and recommendation made by Cafcass Cymru. We are part of the Welsh Government's Health and Social Services Group. We are accountable to both the Deputy Minister and the Director General for Health and Social Services.

Our statutory functions are:

- Safeguard and promote the welfare of children;
- Give advice to any court about any application made to it in family law proceedings;
- Make provision for children to be represented in such proceedings;
- Provide information, advice and other support for children and their families.

This practice guidance is intended to support all practitioners working with issues of harmful conflict; whether the practitioner is managing it as a rule 16.4 Children's Guardian or as part of a s7/Child Impact Analysis, regardless of whether the Local Authority has become involved. Not all rule 16.4 cases will involve harmful conflict, and not all cases featuring harmful conflict will be undertaken under rule 16.4. For simplicity, the case holding practitioner will be referred to in this practice guidance as a Family Court Advisor (FCA).

This practice guidance has been developed along with other practice guidance documents, stemming from the Private Law Programme: Child in Focus, which sets out how children may experience parental separation and how this can be understood and acted upon by Cafcass Cymru. This Practice Guidance has been developed in collaboration with FCAs to support structured professional analysis and assessment of the risk and child impact throughout the duration of the case.

This practice guidance applies throughout all cases where harmful conflict arises, and can be used alongside Cafcass Cymru's [Domestic Abuse practice guidance](#) and / or [Child Refusing / Resisting Contact practice guidance](#). All relevant factors for the child will be considered as the assessment progresses.

When using this harmful conflict practice guidance, FCAs should refer to the resources for [direct work with children](#) and the [CC – CAWAC](#) (Cafcass Cymru – Child and Adolescent Welfare Assessment Checklist).

**Link:** [Cafcass Cymru Safeguarding Procedures](#)

This guidance is not designed to be prescriptive and should be used as an aid to practice; it contains recommendations for further reading and practical application of organisational procedures, as well as ways of working with children and their parents in these difficult situations.

An additional document entitled [‘Harmful conflict: Additional research and resources for working with cases featuring harmful conflict’](#) supports this Practice Guidance should you want to read further around the research underpinning approaches to this work.

**The purpose of our work with cases featuring harmful conflict, is not to apportion blame or ascribe labels, but to focus throughout on the impact on the child.**



## 2. Defining Harmful Conflict and Case Planning

- While it's possible that the risk of conflict increases for some families when relationships break down, this will usually subside for most people who are separating or divorcing. In recent years, the level of private law applications being made in Wales has increased significantly and the number of families seeking the intervention of the family courts to resolve their disputes has continued to rise. Rule 16.4 applications make up on average 20% of all private law work we are involved in at any time.
- The starting point for you should be to establish what the issues are for each individual child. Firstly, you need to ensure that any issues of safeguarding or domestic abuse including coercive and controlling behaviour are raised and addressed at the earliest possible opportunity, to ensure the court is able to make swift decisions on behalf of the child (see the [Domestic Abuse practice guidance](#)). Remember you can also signpost individuals you are working with to the [LiveFearFree](#) Helpline.
- Public Health Wales' [Welsh Adverse Childhood Experience \(ACE\) and Resilience Study](#) includes experiences of parental separation within a range of stressful experiences which can occur during childhood which directly hurt a child or affect their environment and can have a lasting impact on their health and wellbeing. The Welsh ACE and Resilience Survey asked approximately 2500 adults (aged 18 – 69) about a range of such resilience resources as children and adults, their exposure to 11 ACEs and their physical and mental health. The study found that parental separation was the highest reported ACE at 25%.

### Models of defining Harmful Conflict

- As with all forms of harm to children, conflict can vary in nature, intensity and impact. Cafcass Cymru uses the term 'harmful conflict' to encompass parental conflict of any level which is detrimental to the child's wellbeing and to bring the focus to the impact on and experience of the child. There may be a situation in which the conflict could be viewed as 'low level' but the impact on the child is high. The use of CC – CAWAC within Cafcass Cymru is an important component in evidencing the impact on children.
- The most essential element is to assess the extent of the impact on each individual child involved in the case. The conflict may have a different impact for each individual child within the same family, depending on their level of resilience and vulnerability and their unique circumstances. Age and position within the family can also affect a child's experience of the situation.
- When considering context, you should consider whether other people within the family network are significantly fuelling the conflict; this may include step-parents or grandparents, aunts, uncles, etc.

## Distinguishing between Harmful Conflict and Domestic Abuse

- › Conflict is not the same as domestic abuse, although conflict could be an indicator of domestic abuse.
- › The definition of domestic abuse is set out in the Violence Against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015 as:  
*“...Any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members regardless of gender or sexuality. The abuse can encompass, but is not limited to psychological, physical, sexual, financial and emotional.*
- › After separation the abuser might use legal disputes over the children to harass and punish.
- › Situational Couple Violence (SCV) is not part of a general pattern of coercive control, but occurs when a couple’s conflict becomes arguments that turn to aggression – perpetrated by men and women. SCV can occur as a result of life crisis events and vary in intensity and frequency dependent on the relational couple dynamic. It is important to recognise that SCV could occur as a result of coercive and controlling behaviour, and distinguishing between the two could be difficult.
- › Persistent ‘low-severity’ abuse can cause significant emotional harm to children who have to live exposed to it.
- › Violence that carries a high risk of severe harm can be used in a context where neither partner has (yet) established a pattern of control over the other.
- › If domestic abuse or other forms of harmful parenting, such as drugs or alcohol misuse, are the key case factor, dispute resolution or other forms of conflict reduction intervention may not be appropriate. For cases featuring domestic abuse, refer to the Domestic Abuse practice guidance.

**Link:** [Domestic Abuse Practice Guidance](#)

## Distinguishing between Harmful Conflict and situations of children resisting or refusing contact

- › Children can refuse or resist contact for a number of reasons; at times this may be linked to their experience of conflict between their parents, but at other times, there will be completely different factors at play, some of which will have nothing to do with their parents. These might include their wanting to spend time with friends, engage in clubs or activities or just finding time at one parent’s home less interesting than being in their other home. Another factor may be that their needs may have changed since a previous order was made.
- › Harmful conflict cases may feature allegations of ‘parental alienation’. This is a concept that appears to be gaining traction in the Family Courts over recent years despite the lack of an agreed definition and on-going debate about the scale of the issue. The Cafcass Cymru commissioned literature review has informed our approach in these cases.

**Link:** [Review of research and case law on parental alienation](#)

- › It should be noted that parental denial of contact is often referred to in the Family Courts as ‘implacable hostility’ which is included in the guidance in Practice Direction 16A - *Representation of Children* as a reason for considering the making of a 16.4 Children’s Guardian appointment (PD16A 7.2c). Cafcass Cymru does not use the term implacable hostility. Many parents do not understand the term and it can be regarded as a ‘label’, giving the impression of a situation which is ‘stuck’ rather than a dynamic difficulty which can be worked with.

### Key points from research – to inform practice

- Conflict between parents is not always harmful. Some degree of conflict is ‘normal’ and if it is successfully resolved allows children to learn from this (Harold and Sellers, 2018).
- Poor child outcomes associated with separation and divorce can be mitigated if conflict is resolved or parents enable children to understand and accept that the conflict is not their fault.
- Enduring parental conflict is a more potent predictor of child adjustment than divorce or separation.
- The fact that some children have been shown to prosper after separation, having lived with conflict, suggests that it may be helpful or harmful, dependent on whether it adds or removes stress and trauma in children’s lives, and on a range of other individual and family characteristics (McIntosh, 2003).
- The impact of separation is greater for those children already vulnerable through other factors (Emery, 1999).





- At the outset of what appears to be a complex private law matter, the practitioner will always need to weigh up the benefits of recommending that the Court considers making a rule 16.4 Children’s Guardian appointment, specifically what value it would add to the case, against the likelihood of this increasing the duration of the case and the potential impact of this on the child. The Family Procedure rules<sup>1</sup> set out what issues the Court should take into account when deciding whether to make a rule 16.4 Guardian appointment. It may be that the Court contacts Cafcass Cymru via the judicial hotline because they have identified a case which may benefit from a rule 16.4 Guardian appointment.
- Use your case plan to map out how you will gather information from parents, children and professionals to answer the following questions and inform your recommendations.
- Think about how you will assess and analyse the following considerations:
  - ▶ The nature and impact of the conflict on the child.
  - ▶ What type of direct work and / or observation will best help you to understand the child’s experience of the conflict, as well as their wishes and feelings?
  - ▶ Refer to whether you will use CC – CAWAC and if not, why not?
  - ▶ The specific risk to the child, now and in the future if the conflict continues.
  - ▶ Reflect on the cultural sensitivity of your assessment. Have you taken account of issues of diversity for the child and their family, and the [child’s identity needs](#)?
  - ▶ Refer to whether a 16.4 Guardian appointment should be considered at this time.

**Our case planning and analysis in cases featuring harmful conflict needs to take a dual approach:**

- ▶ **Analysing the impact on the child, what they need, and identifying what will help them.**
- ▶ **Analysing what the parents are doing, what they need to continue doing and what they need to change. This includes considering their capacity to change their behaviour, and to do so within timescales which meet the child’s needs.**

<sup>1</sup> [https://www.justice.gov.uk/courts/procedure-rules/family/practice\\_directions/pd\\_part\\_16a#IDANRUKC](https://www.justice.gov.uk/courts/procedure-rules/family/practice_directions/pd_part_16a#IDANRUKC) Section One 7.1 and 7.2.



### 3. Children's Experiences Of Harmful Conflict

There are a number of factors which determine how children experience harmful conflict, which can be broadly identified as follows;

- › The level of conflict
- › The resilience factors and vulnerabilities in each individual child
- › The extent to which the parents are able to focus on their child and their needs and recognise the impact their behaviour has on the child

Key practice points	
<b>Consider: Child impact and risk</b>	<ul style="list-style-type: none"> <li>› <b>Past</b> – What has been happening for this child?</li> <li>› <b>Present</b> – What is happening now?</li> <li>› <b>Future</b> – What might happen?</li> <li>› <b>Risk</b> – How likely is it to be repeated?</li> <li>› <b>Impact on the child</b> – How serious would it be?</li> </ul>

#### Consider what a child exposed to harmful conflict may be experiencing:

The following indicators, including but not limited to, may be present:

- A high degree of anger and mistrust between their parents**
- Incidents of verbal abuse between their parents**
- Ongoing difficulties in communication and cooperation**
- Loss of their parent's focus on them**
- Observing their parents 'digging in of position' and inability to compromise**  
*such as micro managing contact and communication*
- Being drawn into managing the parent's communication and behaviours**
- Lengthy court proceedings or repeat litigation**
- Escalation into incidents of violence or physical aggression**  
*Please refer to the tools and guidance on [domestic abuse](#) and the distinctions on page 5 of this guidance.*
- Feeling they should 'take sides' or opt out**  
*Please refer to the tools and practice guidance on [children's resistance or refusal to spending time with a parent](#).*

### **Consider the impact of these experiences on the child:**

- Children are often preoccupied with surviving the emotionally volatile climate in their divided family.
- They are often confused and burdened by their sense of divided loyalties and wanting fairness.
- They may suffer anxiety or depression.
- Common emotions include anger, grief, sadness and guilt – a tendency to blame themselves.
- They may experience changes in behaviour, heightened aggression or withdrawal, loss of appetite and disrupted sleep and loneliness.
- Pre-school children may be less likely to get respite from the conflict at home if they are below school age, and they may be less able to remove themselves from the situation within the house.
- Studies involving families from diverse cultural and ethnic backgrounds have found similar associations between conflict and poor child outcomes as studies with families from less diverse backgrounds.<sup>2</sup>
- The impact of harmful conflict is not dependant on gender difference between parents and can occur within same sex relationships.
- The impact on children can be the same whether the two parent figures are both their full parents or if one is a step parent.
- Children in this situation may feel a great sense of uncertainty / instability, due to the ongoing disagreements between their parents e.g. if their parents cannot agree on where they should live, attend school, whether they have permission to go on holiday, join clubs, and so on.
- Children may be confused about behavioural boundaries and messaging about adult relationships if parents cannot agree on these, or if one 'spoils' the child as a form of point scoring in the conflict.
- Their capacity to enjoy wider family relationships might be impaired because of the conflict.

Members of the child's wider family may be actively contributing to the conflict or preventing the parents from drawing a line under their conflict, or alternatively may be a significant help / support for the child.

- Public Health Wales' ACEs study indicates how if a child faces several other forms of adversity, the negative impact of parental separation on them may be increased, as this impacts on general resilience.

**Link:** [Public Health Wales: Adverse Childhood Experiences – Resilience Report 1 \(2018\)](#)

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<sup>2</sup> Stuzman, S.V., Bean, R.A., Miller, R.B, Day, R.D>, Feinauer, L.L., Porter, C.L. & Moore, A. (2011) Marital conflict and adolescent outcomes: A cross-ethnic group comparison of Latino and European American youth *Children and Youth services Review*, 33, 663 – 668

### Factors which may reduce the impact of conflict:

When we consider the impact on children caught up in these situations, the levels of resilience can be as important as the level of conflict they are exposed to.

- Individual resilience of the child (although this may be difficult for you to assess).
- Parental warmth, praise and recognition of the child's experiences.
- Provision of an honest but sensitive shared parental narrative about the reasons for the separation.
- Beneficial relationships with siblings and / or wider family members (Jappens, 2018)
- A positive relationship with an adult outside the home, such as a teacher or relative, (Harold and Sellers, 2018).
- A school counsellor or other supportive adult may help the child with safety planning or ways to boost their resilience and coping strategies.

### Experiences of young people in their own words

Part of the work undertaken in these cases might involve helping children to feed back to their parents about how the conflict is making them feel (this will be considered further in section 5). There is already evidence available from other children about how their experiences have impacted them, with examples such as these:

*Duane: "The worst thing was my mum and dad slagging each other off on social media and everyone else getting involved. All my friends could see it too and I didn't want to know all that detail."*

*Gregory: "I was worrying all the time at school, for example if my mum and dad came together for parents' evening they would argue and tell the teachers different things about me and I would want to shrivel up and die. I couldn't concentrate and was fidgeting, and my marks that year were really bad."*

*Maddy: "I took a piece of paper to my meeting with the Cafcass lady. I had been folding and refolding it and it was ripped. The contact arrangements I was thinking of were written on the paper, but I couldn't read them anymore. I was feeling like I was responsible for making sure everyone was happy. I didn't want to say what I wanted, and I didn't really know anymore what that was. Having to make the decisions felt like a massive weight on top of me."*

**Link:** [Family Justice Young People's Board Top Tips](#)

## Assessing when a safeguarding referral may be appropriate due to emotional harm arising from the conflict

- The safeguarding of children and adults is a key priority for Cafcass Cymru and is the golden thread that underpins all its functions and duties. Cafcass Cymru staff and contracted practitioners have a duty to safeguard and promote the welfare of children. Cafcass Cymru adheres to the All Wales Child Protection Procedures 2008 (AWCPP) as well as the Welsh Government Guidance Safeguarding Children: Working Together under the Children Act 2004 (WAG 2006).
- Section 35 of the Children Act 2004 imposes a statutory duty on Cafcass Cymru to safeguard and promote the welfare of children and provide information, advice and support to children and their families in family proceedings.

**Link:** [Cafcass Cymru Safeguarding Procedure](#)

**Link:** [Wales Safeguarding Procedures](#)

- When a safeguarding referral has been made on an 'open' case, a s16A Risk Assessment Report must be filed with the court in any proceedings heard under Part II of the Children Act 1989 (private law proceedings) where there is a suspicion that a child is at risk of harm. The threshold for compliance with s16A is where a FCA suspects that a child is at risk of any type of harm, and not just significant harm. It may be that the child is either being directly or indirectly harmed by the harm being experienced by the adult.

**Link:** [Safeguarding Operational Flowchart](#)

The extent and type of harm experienced by children may differ because of specific features of both the conflict, and the child's individual characteristics and needs.

In harmful conflict cases, children are being exposed to their role models providing an example of an unhealthy relationship. Not only might this make them feel less safe with these primary carers and attachment figures, but it also gives them negative messages about how relationships should be managed and how differences of opinion should be addressed.

There is a growing range of evidence that the risks arising from exposure to inter-parental conflict can converge and accumulate across childhood and adolescence, setting the stage for problems and patterns of relationship behaviours to be repeated across generations.

## 4. Undertaking Direct Work With Children

- Children should always be provided with a children's pack which explains to them the role of their FCA, a choice of versions being available for children depending on age and level of understanding. You should consider looking through the pack with the child to discuss its content and to make sure the child understands your role, and that of the solicitor if appointed.
- Article 12 of the [UNCRC](#) states that every child has the right to express their views, feelings and wishes in all matters affecting them, and to have their views considered and taken seriously.
- Ensure the work is carried out 'with the child' rather than 'done to them'.
- Let the child know how their views will be shared with their parents and the court and ensure they are comfortable with this. Consider how you can help them to explain their own views to their parents. You could suggest they write a letter to their parents, or create some 'rules' which they would like their parents to follow. Including these in the report will further strengthen the evidence about how the conflict has impacted upon the child.

### Considering the child's wishes and feelings

- Amplifying the child's voice above the adult conflict is a fundamental task. Consider using the '[All About Me](#)' tool to help understand the child's perception of the situation. This tool addresses how to identify aspects of resilience, as well as when children do and do not feel safe.
- In addition to the CC – CAWAC, or those for whom CC – CAWAC would not be appropriate or for children aged 5 or younger, you should consider the [Cafcass Cymru Direct Work tools](#) to work sensitively with each child.
- Ensure you are clear about the child's beliefs about why their parents have separated, as this may differ from the reason given by the parents; help the child to express their ideas about why their parents are no longer together and how they feel about the separation. If there is a difference, this should be brought to the parents' attention so that the child is helped to make sense of the situation. Parents' ability to reflect upon what their child's understanding is and acceptance of the impact of their role in the conflict will be crucial in formulating your analysis and providing an indication of their ability to achieve lasting change.
- Are there any factors impacting on the child's ability to express their wishes and feelings? If so, make appropriate arrangements to facilitate this. For example, involve a school counsellor or use an interpreter.
- Respectful child-centred practice requires us to report the child's views, using their own words where possible and allowing them to be seen and heard in the court arena as directly as possible. There may be occasions where it might not be appropriate to directly quote a child's expressed views, such as if they are assessed to be echoing those of an

aggrieved parent rather than being the child's own views, or where the professional assessment is that they may exacerbate tensions, to the detriment of the child.

- In other cases it will be appropriate to ensure their direct work is directly embedded into a report or by supporting them to write a letter to the Judge.
- Consider how you can empower the child to find their own coping strategies for example, identifying safe and supportive adults that they can get support from.

### **Considerations for observing and analysing a child's behaviour**

- Observing contact can be a crucial part of gathering a child's wishes and feelings, through observing how children respond to spending time with a parent; this may be contrary to their verbally expressed views. Any noticeable differences between how they behave with someone and what they say about them should be addressed with the parents to enhance their insight into the effects on the child, and within the report.
- A child may have developed specific behaviours as a way of managing the harmful conflict which surrounds them, either as a coping mechanism that they have developed, or because they have been influenced to do so by a parent. For example, they may become withdrawn or defensive with one parent or you may observe them being particularly vigilant.
- If you believe a child has developed such adaptive behaviours, it may be important to analyse the child's insight into those behaviours and their capacity to change those behaviours.
- In cases in which a child is rejecting and / or completely refusing to see a parent, you should also refer to the Practice Guidance: [Children's Resistance or Refusal to Spending Time with a Parent](#)

### **Children with additional needs**

- Children with disabilities may find it harder to articulate the difficulties they are experiencing. It will be important in this instance to target the direct work tools planned at the child's functioning age rather than their chronological age. Teachers or other professionals may be best placed to advise you about a child's level and means of understanding.
- You may need to consider specialist interpreting services e.g. Makaton or British Sign Language.
- Observation of how a child responds to their parents might be especially valuable in informing your assessment.

**Link:** [Harmful conflict: Additional research and resources for working with cases featuring harmful conflict](#)



## **Using the Cafcass Cymru – Child and Adolescent Assessment Checklist (CC – CAWAC)**

The Cafcass Cymru Child and Adolescent Welfare Assessment Checklist (CC – CAWAC) has been developed by Professor Gordon Harold, Professor in Psychology, in collaboration with Cafcass Cymru, to assist FCAs in assessing the psychological risk to children who are, or who have been, exposed to inter-parental conflict and / or domestic abuse.

**Link:** [CC - CAWAC](#)

FCAs must be trained and accredited in its use and interpretation. The CC – CAWAC is particularly applicable to cases of harmful conflict and its use should be considered in all such cases. The CC – CAWAC tool is also an excellent tool for capturing children's perceptions of their own relationships with their parents.

The case allocation note will prompt you to consider the use of CC – CAWAC. You should always consider using the tool in these cases, subject to whether the child falls within an appropriate age range (generally about 6 – 16 years) and is willing to engage. There may be exceptions when its use is not appropriate because the child would find it difficult to understand or because a child is clear that they feel very uncomfortable engaging with that form of assessment. You should refer to having considered the use of CC – CAWAC in your case plan, including an explanation as to why CC – CAWAC is not being used if that is your decision.

Completing the CC – CAWAC tool enables you to clarify the ways in which children feel worried by what is / has been happening, identifying whether they feel directly threatened or blame themselves for example. It enables you to highlight the ways in which children's relationships with their parents may have been damaged; for example whether they experience their parents as rejecting or detached. The Strengths and Difficulties Questionnaire provides an evaluation of the extent to which the child is experiencing emotional, social or behavioural difficulties, as compared to other young people of a similar age.

Some of the questionnaires in the CC – CAWAC will elicit a 'score' which indicates that a child may be being particularly harmed by their circumstances, and also what the particular difficulty is for them, e.g. whether they are blaming themselves for the difficulties. Where results fall into the category of 'high risk', the evidence from the CC – CAWAC may be particularly helpful in informing a referral either for safeguarding or support services.



When you are working with children encountering harmful conflict between their parents, you need to analyse the information available to you carefully:

- ▶ You need to balance the benefits to the child of making recommendations in line with their wishes and feelings, against whether that might increase any risks for them or be contrary to their welfare needs.
- ▶ You also need to consider whether the child's expressed wishes and views seem to be entirely their own or whether they have been influenced by a parent, either deliberately or unconsciously, and whether quoting them directly might inflame the conflict.
- ▶ Reflective discussion with your line manager can be very beneficial for reflecting on how to balance these issues.



## 5. Working With Parents And Analysing The Drivers And Impact Of The Conflict

### **Analysing current levels of harmful conflict in the context of the history of the relationship**

When working with parents in private law cases, it is important to set clear expectations that the focus of your work will be the impact on the child. The rule [16.4 expectations statement](#) can assist with this if the court has made such an appointment; it will help the parents to understand that their child is being made a 'party' and clarify your role to them. Make sure that parents have seen and considered the expectations documents and check their understanding of what we can and cannot do.

Consider whether the information shared with parents as part of the Child Impact Analysis approach can be used, ensuring that parents have a sense that you are seeking to work with them; this involves helping them to consider other perspectives and offering dispute resolution throughout the case as and when appropriate. Remember the accepted principle that safe agreements negotiated between parents generally enhance long term co-operation and are better for the child.

**Links:** Child Impact Analysis [Expectations Document](#) | [Letter to Parents](#)

- If harmful conflict appears to be the primary factor and not domestic abuse proceed with use of this practice guidance. If the dynamic appears to involve a perpetrator and a victim, then refer to the domestic abuse practice guidance.
- Keep in mind the opportunities to help the family reduce the level of conflict and work towards cooperative parenting at all stages of the case, if safe to do so. Adopt a dispute resolution approach to your work throughout the life of the case and look for opportunities to aid other ways of assisting communication between the parents.



In cases of harmful and enduring conflict, it is important to consider the drivers and factors that are causing this. Consider the following key points and questions:

- ▶ ***Who or what is driving the conflict?*** Are wider family members / new partners involved as well as parents? Are the parents themselves fully aware of what is driving the conflict?
- ▶ ***Is the conflict focussed on a single key issue or about multiple issues?***
- ▶ ***Is there additional litigation taking place, such as a divorce or money / property disputes?***
- ▶ ***What are each parent's contributions to continuing hostility, disputes and further litigation?*** What are the behaviours which characterise the conflict? What is the evidence base?
- ▶ ***Has either parent disengaged with the other?*** Are parents refusing to communicate? Refusing to share information about the child?
- ▶ ***What is the realistic prospect that either parent could change his or her behaviour?*** Is it helpful to refer to WT4C?
- ▶ ***What purpose is the conflict fulfilling for the parent?*** For example, maintaining the conflict may be a way for one parent or both to maintain a 'connection' or relationship of sorts with their ex-partner.
- ▶ ***Have the parents disengaged from the relationship?*** The FCA may consider that one or both parents have not fully accepted the separation, they may still be finding it very painful or grieving for the relationship.

These factors will help to inform your analysis and recommendations about what needs to change for the child and the likelihood that this can be achieved. They will also inform whether it is suitable to suggest to parents that they seek support for themselves.

### **Children who have been adopted or born through surrogacy**

- There can be additional complexities in situations where the child has come to the family via adoption or surrogacy.

**Link:** [Harmful conflict: Additional research and resources for working with cases featuring harmful conflict](#)

### **Involving wider family members**

- You may feel that there is a member of the family who is either significantly involved in the conflict or has the potential to offer significant support to the child. Sometimes wider family members or family friends can be helpful, neutral people to facilitate handovers and support arrangements if levels of conflict between parents remain problematic and a child is best off not being exposed to them meeting.
- In principle a party can have a discussion with any person about the proceedings as long as that discussion is confidential and essentially for the purposes of obtaining support for the child or their arrangements.

## Planning work with parents early on in the case

- The following questions might help you plan an initial meeting with parents:
  - ▶ *What was the pre-existing relationship with the other parent?*
  - ▶ *All families have a unique cultural map, so plan to gather information about issues such as: differences in parenting practices which are culturally informed; stigma attached to divorce; attitudes and support from wider social networks; and the child's unique place and role within the family.*
  - ▶ *Was the conflict an enduring feature impacting on the child or has it occurred primarily post-separation?*
  - ▶ *How were the parenting tasks and responsibilities shared before separation?*
  - ▶ *What is the capacity of each parent to meet the child's developmental needs, particularly their emotional needs, in light of the separation?*
  - ▶ *Does the child have any additional or complex needs? If so, what has the role of each parent been in meeting these needs, and what will these roles be in future?*
- An important piece of evidence about parental capacity to change might be two parents who have previously refused to attend mediation or a dispute resolution appointment together, later agreeing to meet together and being able to work together on a parenting plan or discuss their child's needs together. Consider such opportunities to look for evidence of capacity to change.

## Undertaking further work with Parents

- Parents who are caught up in ongoing conflict very often lose their focus on their child, arrangements for children could be one part of wider litigation and conflict in respect of divorce arrangements, money and or assets. Evidencing whether this is happening will be an important component of your analysis. A key part of ensuring that our involvement improves outcomes for children, is helping their parents to refocus on them.
- A key aspect of applying our understanding of the impact on the child is to intervene wherever possible to repair the harm being caused to them, and to encourage their parents to do so. Consider the options for promoting parental responsibility and cooperation for example by use of joint meetings, co-worked with a colleague if the meeting is likely to be difficult.
- Consider the benefits of working with parents in a way which involves feeding back to them information and evidence about how their child is feeling, following direct work with their child. Providing parents with some feedback following a CC-CAWAC assessment can be a particularly helpful way of helping them to gain insight into how their behaviours impact on their child. This will also provide you with a clear indicator as to whether they are able to understand and accept the impact and the potential to move on and change.
- Providing parents with some examples of letters from and to children written during work with children in similar situations may be beneficial at any point in proceedings to bring focus on the child and help illustrate their experience.
- In cases where children are unable to articulate their own experiences, information can be shared from the accounts of other children in similar situations. Even if their children are very young, they can be encouraged to consider the views of older children as part of

a discussion about what the ongoing impact may be to their child if the conflict is not resolved or reduced.

**Link:** [Family Justice Young People's Board Top Tips](#)

- Children of different ages and stages of development need different arrangements. The Cafcass Cymru [‘The Parenting Plan’](#) is a useful tool which is available to parents via the website. Alternatively, it can be worked through with parents, to help them find common ground and make some agreements about arrangements. This can be undertaken with parents together or separately, but together is preferable as it engenders a sense of cooperation.
- Your role is not to come up with all the answers and in line with proportionate working, the best use of your time to benefit the child may be when the parents have already shown a willingness to improve their cooperation and need help to clarify their areas of agreement. Parents should be encouraged throughout to take responsibility for the arrangements and their child, so that they have a sense of ownership and investment in the plan being made.

Consider holding a parenting plan meeting, allowing child-centred discussion about the best arrangements for going forward. Consider how best to make a meeting work:

- Find a neutral venue**
- Consider who should be present**  
*would it be helpful to have a co-worker present or wider family members?*
- Encourage ground rules, respect, listening etc.**
- Identify common ground / areas of agreement on which to build**
- Consider how much the child wants their perspectives shared at that stage**
- Consider use of ‘contract’ / parenting plan to find areas of agreement**



## Cooperative parenting post-separation: Enabling parents to move on post Cafcass Cymru involvement

### **Definition: Co-parenting**

Co-parenting refers to a situation where two or more adults who do not live together work cooperatively to raise a child. The co-parenting arrangement will need to adapt over time to new circumstances relating to age and stage of development of the child, or other factors such as incorporating new partners into the family system. Consequently, to make it work co-parenting requires an adaptive, child-centred approach that is grounded in good communication. The key to co-parenting is for parents to focus on the child, rather than each other.

There may be cases in which the 'co-parenting' situation involves parenting being shared between a parent and a different family member.

- Benefits for children: Although children can adapt to different routines and parenting styles in different households, in general, authoritative but warm parenting (as opposed to permissive or authoritarian) by both parents during the time they spend with their child is associated with positive child outcomes. Successful co-parenting requires parents to work together on these issues.
- Parents may differ in their parenting style, in respect of how permissive or authoritarian they are.

**Link:** [Harmful conflict: Additional research and resources for working with cases featuring harmful conflict](#)

- Help parents to realise the long-term need for them to consider issues together throughout their child's journey to adulthood (parents evenings, birthdays, Christmas arrangements, supporting sports / concerts, and so on).

### **PRACTICE NOTE:**

- ▶ It is very important that throughout our involvement with families which feature harmful conflict, that we make the best of our social work skills, but that we avoid encouraging a dependency on Cafcass Cymru to solve the problems.
- ▶ Most parents want to get it right for their child, but they may need support to re-focus on that.
- ▶ Indicators of really positive intervention are when we have helped parents who had been caught up in conflict to better understand their children's experiences, and when we leave them more focussed on their child's needs and with an increased sense of responsibility for finding solutions.

## 6. Additional Resources And Case Management Considerations

Remember throughout your work that you are a valuable resource to the family in conflict, as a source of feedback from their child, enabling and encouraging them to reflect on their part in the situation, and providing clear advice regarding how they can support their child and move forwards.

The way in which parents respond to your intervention and advice will inform your analysis and recommendations, which could include where the child lives, how much time they spend with each parent and possibly whether time with a parent should cease to limit the harm to the child, or whether the intervention of an additional expert or service is required.

### **Considerations for cases that increase in complexity during proceedings and may warrant the making of a rule 16.4 appointment**

During the preparation of a Child Impact Analysis report, you may feel that the difficulties are escalating and that a rule 16.4 appointment might be warranted. Issues which may indicate that this is appropriate can include:

- Either parent appears to be driving or escalating the dispute for example by making additional court applications, allegations against the other parent or the FCA, or referrals to the LA.
- One parent suspends contact or does not return the child after contact.
- New allegations or incidents of domestic abuse or harassment, which may indicate that the matter should be returned to court at the earliest opportunity by means of a s16A Risk Assessment Report.
- Lack of acceptance of findings or persisting in making allegations where the court has ruled that no finding of fact is necessary.
- The submission of very lengthy statements or complaints or the filing of evidence / statements or letters of support that suggest that a parent is attempting to draw in other agencies such school, after school club, childminder, GP into the parental dispute.
- A pattern of repeated court applications throughout the lifetime of the child, even if they have previously resulted in consent agreements.

These factors can indicate that the harmful conflict needs to be managed through a rule 16.4 appointment to ensure the child remains in focus during proceedings.

### **WT4C (Working Together for Children)**

- Referral to WT4C at an early stage is really important in these cases. WT4C is a course designed to help separated parents understand what their children most need from them and to learn strategies to manage the separation and the complex emotions of all family members as they adjust to a new family dynamic. It is not a parenting course.



- One or both parties can be directed by the court to attend, though it is usually best when both do, but they will not attend the same course at the same time. The WT4C is usually undertaken in small groups.

**Links:** [WT4C Overview](#) | [WT4C Factsheet](#) | [WT4C Handbook for parents](#)

- Once parents have attended, there is an opportunity for the FCA to measure whether what they have learnt has made a difference to how they approach the conflict. Asking parents to talk about what they learnt and how this impacted on them can provide you with evidence about a parent's level of insight. It could be an opportunity to consider the use of a Parenting Plan at this stage. It is crucial that you reinforce the messaging about the importance of co-parenting now and throughout, and the expectation they can work together toward a common goal (their child) well beyond the conclusion of the proceedings.

### **Finding of Fact Hearings**

- In some cases, the FCA will need to advise the court that they consider a Finding of Fact hearing should take place. A Finding of Fact hearing can be beneficial earlier on in proceedings to narrow the issues and determine some 'facts' prior to undertaking a welfare analysis.
- A Finding of Fact Hearing can be considered at any time during proceedings if new information / allegations arise, or if it proves impossible to move beyond certain disputes.
- Issues which may lead to a Finding of Fact hearing being called in these cases include: whether a parent is deliberately obstructing contact; whether recording equipment has been used with a child; whether a parent is telling the truth about the other harming the child; whether a parent is deliberately influencing the child against the other parent; etc.

**Links:** [Finding of Fact Hearings & Amendments to Practice Direction 12J Practice Guidance](#)  
[Review of research and case law on parental alienation](#)

### **Seeking a Psychological or Psychiatric Assessment**

- There will be some cases featuring harmful conflict when the FCA considers they have provided the parents with advice and guidance and opportunities to develop insight or change patterns of behaviour and there is no sign of change; they may require an expert view as to someone's psychological functioning and / or capacity to change. The use of an expert should be exceptional rather than standard.
- There may be situations when the FCA feels that some of the presenting behaviours are of concern and require further investigation, assessment and possible diagnosis by a suitably qualified expert.
- A psychological or psychiatric assessment may help the FCA in developing recommendations and signposting parents for support, for the ultimate benefit of the child. It is not the role of the FCA however, to directly refer an individual to a particular service. If a need is identified, it will be for the FCA to signpost and for the individual to refer and pay for this service, if there is a cost implication.

### Referral to a Local Authority

- A [safeguarding referral](#) or referral for support services to the Local Authority can be made at any time during your intervention, including at the end of our involvement, though the outcome of the referral must always be gathered and followed up.
- There may be situations when the conflict is so detrimental to the child's wellbeing and the parents are showing little sign of making positive changes, and it is appropriate to recommend to the court that they seek a S37 assessment undertaken by the Local Authority. This would address whether there is significant harm and what the correct level of social work intervention should be. The remit of the S37 report is for Local Authorities to consider whether there is a need to potentially share parental responsibility with parents and issue care or supervision proceedings.

### Referral to a Contact Centre

- Referrals can be made to NACC accredited [contact centres](#) in cases where parents need the intervention or support of a neutral party to enable the child to spend time with the non-resident parent. This should ideally be considered as a short term option, a stepping stone to enable arrangements to progress, rather than a permanent solution. However, there will be some cases where it will not be appropriate to progress beyond contact being supervised in a contact centre due to safeguarding issues. In these cases there is likely to be a longer term cost implication to one or both parties. Before recommending long term supervised contact in a contact centre, ensure that it is a viable option that both parties will ensure is maintained; it is not in the best interests of the child for contact to stop and start.
- The following requests can be made of contact centres, though each area may provide slightly different services;
  - Supervised contact (often involving taking a written record which can be shared)
  - Supported contact (providing a venue and being around, but not a consistent presence)
  - A venue for supported handovers

Parents will need to fund these arrangements themselves, other than the six hours which Cafcass Cymru can fund if the circumstances and financial issues warrant it.

### Other services / signposting

Families can be signposted to other community resources and each area will have a Children's Information Service about what is [available in the locality](#). It may be that what a child benefits from is not so much a specific service which addresses the conflict as an opportunity for 'time out' activities to de-stress.



## 7. Your Analysis And Making Recommendations

### Reflecting and making your analysis

When considering your conclusions or within reflective supervision, have reference to these points and questions:

REFLECTING & ANALYSING

- The impact of the conflict on the child.
- The specific risk to the child, now and in the future if the conflict continues.
- Whether the parents have demonstrated capacity to make changes, informed by their willingness to take on board the advice given and to take some personal responsibility for the difficulties surrounding their child. A parent who still seeks to justify their negative actions, seeks to blame the other party entirely, or minimises the impact on their child may be less willing or likely to change.
- Analyse the parent's capacity to prioritise the needs of their child and the capacity of each parent to meet the child's developmental needs, particularly their emotional needs, in light of the separation.
- What does your assessment tell you about the best arrangements or support for the child going forward? What is the likelihood of the parents complying with any order?
- Be clear about whether the key factors are conflict, domestic abuse and / or a robust analysis as to why the child is resisting or refusing contact. Is the resistance or refusal justified and appropriate in the context of the conflict or other forms of reduced parenting capacity?
- Consider all possible forms of bias, including gender bias and the impact of personal and cultural norms in your thinking.
- Do you feel you have been disproportionately influenced or 'coerced' by the behaviour of one or more of the parties?
- Have you retained your focus on the child impact and risk and tried to help the parents to do the same?
- Consider protective factors for the child, such as a positive relationship with an adult outside the home and the protection that may offer.

- ▶ Refer back to your case plan and revisit the questions you asked at the beginning of the case about what is happening for this child. This helps you to ensure there are no loose ends in your assessment and to consider your recommendations.
- ▶ Consider again the Safeguarding Enquiries Report and whether all the risks have been dealt with. If any of the issues remain a concern, consider your advice to the court about how these should be addressed.

## Make recommendations in the child's best interests



MAKING YOUR RECOMMENDATIONS

- Prior to formalising your recommendations in your report, ensure that you talk with the parents about what your recommendations will be and how they will need to adapt over time to the child's changing needs as they grow and what they can do to avoid having to return to court if further disputes arise, e.g. about education, holidays, house moves etc. Do you need to make clear recommendations about how any such changes should be worked out between the parties once proceedings have concluded?
- Consider the use of stepped recommendations which enable arrangements to develop and progress at the pace of the child, are practical and help the parents take responsibility rather than resorting to further litigation.
- Consider whether the proposed arrangements ensure that the child's identity needs are met; for example, if the parents are of different cultural backgrounds or use different languages, how these factors will be appropriately preserved to support the child's identity?
- Consider what support and intervention might be needed to address any remaining issues including:
  - All local and digital options for signposting the parents to services which can help reduce the level of conflict. Consider the suitability of a referral to mediation – there is further information about mediation available on the [Gov.uk](http://Gov.uk) website or <https://www.sortingoutseparation.org.uk/find-help-near-you/>
  - If the case has not been dealt with as a [rule 16.4 Guardian appointment](#) and it is not possible to resolve the case, consider whether recommending a rule 16.4 appointment would make resolving the difficulties more likely. Or if you have assessed that the likelihood of achieving success in terms of moving contact/relationships on, you should advise the court clearly of this and set out that prognosis for positive change is poor and continued litigation is not in the child's best interest and consider whether ongoing proceedings would perpetuate the conflict for the child.
  - Where you believe the child is suffering or likely to suffer significant emotional harm, consider the need to refer the case to the Local Authority ([see the Operational Safeguarding Procedure](#)) or to recommend the Court order a report under section 37 Children Act 1989 from the Local Authority. A 16a Risk Assessment would be written for the Court in the case of a referral being made.
  - Consider whether the child is experiencing emotional harm attributable to the parent with whom they are living, which could result in a need to recommend a change of residence or suspended change of residence in order to ensure change of parental behaviours.
  - The need to access expert assessment and / or therapeutic intervention. Consider what this will add to your own analysis and what specific questions you would want answered.

- In cases which have been through repeated or prolonged proceedings where there is a risk of ongoing applications which would be detrimental to the child, consider advising the Court about whether an Order under [S91\(14\)](#) should be considered.

**Reminder:** Check that your recommendations address all the issues highlighted by the Court when they ordered the report.



## 8. Support For Practitioners During These Cases

Working with cases involving conflict which we recognise as being harmful for children, can be very intensive, stressful and demanding for FCAs. It is therefore very important that FCAs working with these complex private law cases have regular access to support and opportunities for reflective case discussions.

Support for FCAs should include:

- Provision of a mentor when allocated the first rule 16.4 case and consideration of the relevant expectations documents
- Providing a focussed discussion about boundaries when working with complex rule 16.4 cases, with either the line manager or mentor.
- Provision of regular reflective case discussions with a Practice Manager, which enables consideration of the complexities of the case as a whole and case planning, with an alternative Practice Manager identified quickly by Head of Operations should a Practice Manager become unavailable for a while.
- Ensuring FCAs are aware of the Cafcass Cymru [Safe Working Policy](#) which covers emotional health issues for the practitioners.
- There may be times when working with a particularly confrontational party makes the completion of a pre-incident risk assessment form appropriate to clarify any likely risks and steps to mitigate against them.

**Link:** [Cafcass Cymru Communications](#)

- Consideration of physical support by a PM's presence through difficult meetings or court hearings.
- A heightened level of support should either party make a complaint; cases characterised by harmful conflict may be more likely to result in a complaint.
- It is crucial that FCAs keep up to date with case recording and case planning to demonstrate how these cases are managed and how decisions are made. This should include minutes from case discussions and practitioner support meetings to be recorded on IRIS when making decisions about how the case should progress is equally important.



## 9. References

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