

## Cafcass Private Law Assessment Pathways



### What are the Private Law Assessment Pathways?

1. Alongside our existing pathway on assessing domestic abuse, we are introducing two new assessment pathways for our practitioners, on assessing high conflict and alienation in private law cases.
2. We have also developed an introductory pathway which sets out the principles of private law assessments in Cafcass and advises on how the subsequent pathways should be used.
3. These pathways are interconnected and interrelated to reflect that children's lives are complex and may be affected by elements from more than one type of behaviour simultaneously (hybrid cases).
4. The practitioner will use the most appropriate pathway(s) to undertake their assessment, checking back to avoid confirmation bias and updating their assessment where there is new information available.
5. The pathways follow a consistent and evidence-informed approach helping practitioners find an outcome which is in the best interests of the children involved.

### What are the intended benefits of the pathways?

1. The damaging impact of parental conflict and alienating behaviour are well known. The pathways have been developed to provide a clearer framework for the robust assessment of the impact of such behaviours on children and to help practitioners identify what is happening in each case.
2. Labels such as Domestic Abuse and Parental Alienation are frequently 'used' within contested proceedings, in a one-dimensional blaming way without objective clarity about the meaning of the terms. The pathways draw attention to and help to tease out the nuances and complexities in these cases. The pathways provide a transparent, comprehensive and reliable frame of reference to facilitate balanced reporting to court.
3. They draw on established and emerging research in these areas and are intended to support practitioners' existing practice knowledge and skills by equipping them with a set of tools to structure and enhance assessment.
4. This systematic approach can also help with the early identification of such cases so appropriate work can take place with the family to improve the situation. An example of this is identification of suitable cases for the Cafcass Positive Parenting Programme.
5. The pathways provide a framework for early triage which provides an opportunity to design a more differentiated route through private family proceedings. For example, early identification of signs of alienation or high conflict may inform an early decision not to go down a route of multiple Section 7 reports followed by a 16.4 appointment, but instead order a combination of interventions, coordinated or delivered by Cafcass.
6. This approach could save time and resources as well as deliver more timely and improved outcomes for children.
7. The model we're using follows the same tried and tested format as our [Domestic Abuse Practice Pathway](#), introduced in 2016 to support and strengthen the systematic assessment of cases involving domestic abuse or domestic abuse allegations.
8. The pathways could assist the courts determination of any allegations of domestic abuse, substance misuse, and compromised parenting.
9. They help the practitioner keep in mind a variety of hypotheses about the cause of the family dynamics impacting on the child, being aware of the problems of confirmation bias.

# Private Law Assessment Pathways

## Introductory Private Law Assessment Pathway

- Underlying Principles of a Cafcass Private Law Assessment
- Successful co-parenting post separation.
- The Parenting Plan.
- Assessing the pre-existing parent-child relationship.
- Ascertaining the child's wishes and feelings.
- Co-developing an age appropriate shared narrative for the child.
- Assessing the barriers to co-parenting post separation.

### Practice Pathway: Assessing risk in **high conflict** private law proceedings

- Distinguishing between high conflict and domestic abuse.
- Assessing the impact of high conflict on the child.
- Severity of the parental behaviours (**Mild-Moderate-Severe**).
- Impact of these behaviours on the child (**Mild-Moderate-Severe**).
- A systemic approach to assessment.
- Integrating the practitioner's assessment (with the other pathways).

### Practice Pathway: Assessing risk where the child may be **alienated**

- Children that resist or refuse post separation contact.
- Affinity, alignment, alienation (**Naïve, Active, Obsessive**).
- Hybrid cases (**Alienation, Appropriate rejection**).
- Assessing the impact on the child Mild-Moderate-Severe).
- Severity of the parental behaviours (Mild-Moderate-Severe).
- Applying a systemic approach to assessment.
- Integrating the practitioner's assessment (with the other pathways).

### Practice Pathway: Assessing **domestic abuse** in private law proceedings

- Emphasises a systematic and structured professional judgement approach.
- Helps FCAs assess domestic violence and abuse in the context of separation and litigation.
- Addressing learning from SCR re 'getting off on the wrong foot'
- Helps to identify those cases which require particular attention and highlights those situations and behaviours by the perpetrator which exacerbate risk.

## Child Impact Analysis

## Recommendations