

Negotiation and dispute resolution (NDR), including Early Neutral Evaluation hearings

Many of the cases before the family court are there because of a high level of conflict between the child's parents and/or carers. A core skill in court welfare work is dispute resolution. Care should be taken to assess for suitability and viability, with dispute resolution only undertaken where it is safe for the family concerned.

NDR at the work to first hearing stage

At the initial safeguarding check and telephone interview appointment, the JFCAS officer will consider if there are issues which may be safely resolved at the first hearing. If this is the case, it will be recommended in the safeguarding letter. Time may then be allocated before or during the first hearing, either with or without the judge present, for the JFCAS officer to discuss the issues with the parties together and attempt to reach a place of reconciliation.

Early Neutral Evaluation hearings

If, at the first hearing, it is recognised that more judicial involvement is needed, and that there are no welfare issues which would warrant more long-term assessment/intervention from JFCAs, the case may be set down for an ENE hearing.

At an ENE hearing, a judge who is not otherwise involved in the proceedings will hear submissions from both parties, and will give advice about the merits of the case, the legal issues, and the facts. It does not result in a binding court order, but can be helpful in resolving cases swiftly, as it enables parties to negotiate after being better informed about the potential outcomes to the formal court process. The judge may require JFCAS to participate if there are pertinent issues regarding children.

NDR as part of further JFCAS assessment/intervention

Where JFCAS are ordered to undertake further work (e.g. a welfare report or CCI) dispute resolution work may take place with the adults in the case to help resolve issues impacting on contact and improve communication. This can include, for example, the completion of a parenting plan, or a Positive Co-Parenting Programme (all our officers are trained in the Cafcass model). Although JFCAS do not undertake formal mediation, much of our work involves formal and informal NDR at all stages of intervention, as issues arise.