

## Annexe 1 – Settlement Conferences: Guidance for parties May 2016

The government is testing a new collaborative approach to dealing with public law family cases ('care cases') called a settlement conference. If parties consent, they will be involved in this test (called 'a pilot'). This guidance provides information on what will be happening during the pilot and what the government will be measuring.

A settlement conference is a hearing held for the purpose of discussion and settlement of the case. It is a without prejudice hearing that takes place before a judge with the consent of all the parties.

A without prejudice hearing means that what is said and discussed during the settlement conference will not be admissible in evidence (except at the trial of a person for an offence committed at the conference or in the exceptional circumstances indicated in *Re D (Minors) (Conciliation: Disclosure of Information)* [1993] Fam 231, [1993] 1 FLR 932 where a statement is made clearly indicating that the maker has in the past caused or is likely in the future to cause serious harm to the well-being of a child). The judge hearing the settlement conference must have no further involvement with the case, other than to make a final order by agreement or a further directions order. The purpose is to try to resolve some or all the issues by agreement. Parties will attend with their legal representatives (where instructed) but are encouraged to speak directly with the judge with the aim of settling the case or particular issues.

The judge hearing a settlement conference will be different to that of the trial judge. They will be specially trained in dealing with hearings of this type. The settlement conference judge is a different person. Before the conference, they will have read the case file and might ask the parties questions during the conference.

The judge may not make an order resolving some, or all, of the issues without the agreement of all parties. Where an application is for adoption or placement, a judge may give a judgment with the agreement of the parties (eg, in care order or placement order application where there is no opposition to the same.)

### Process

Settlement conferences will take place for public law cases. They will ordinarily take place after an Issues Resolution Hearing (IRH). At the IRH, the parties will be asked if they consent to take part in a settlement conference to be assisted by a judge, other than the trial judge. The court will still list the case for a final hearing date as well as a settlement conference date at IRH stage to ensure there is no delay if the matter is not resolved and a final hearing needs to take place.

During the settlement conference the judge will work with parties in a way that promotes settlement. There is no obligation or pressure to agree to anything at a settlement conference. If agreement is not reached, the case will proceed to final hearing.

At the end of the settlement conference if there is agreement on all matters, the case will end and an order drafted reflecting the decisions made; the parties will not have to attend a final hearing. If some or all of the issues remain outstanding the parties will come back to court for the final hearing or adjourned settlement conference if appropriate.

### What will happen in the pilot and what are we collecting

The pilot will be testing how these settlement conferences work. At the end of the settlement

conference the judge will fill in a form (see attached). The form the judge is asked to fill in will help the government understand the reasons why a case is referred to a settlement conference, the outcome, time spent on preparing and facilitating the conference, the number of final hearing days listed and the estimated number of days saved (if a case settles). No personal details about the parties will be recorded.

From July selected judges, Cafcass representatives, local authority solicitors and lawyers involved in the process will be asked to take part in interviews and workshops where they will be asked about their experiences of settlement conferences. They will not be naming individuals that they have worked with, they will only be asked about what they think about the process, what went well and what did not go well. If you (as a party of the proceeding) would like to give feedback on what you thought about the settlement conference you can tell your legal representative who may be asked to provide this as part of the research.

### How long with the pilot last?

Five months starting from June 2016 and ending in October 2016.

### What will happen to the information that is collected?

The information will help government to understand whether this way of conducting a court hearing is a good thing. It will also help identify any problems with the system.

### Information for other people involved

Judges and court staff have been provided with guidance on settlement conferences. If you have any questions or would like to know more information, please ask the settlement conference judge.