

The Court and your child:

when mum and dad split up
easy words and pictures



The Court and your child

when mum and dad split up



child



dad's solicitor



mum's solicitor



barrister

People

These are the people who appear in the booklet.



mum



dad



mediator



mum's sister



mum's friend



child's grandad



CAFCASS officer 1



CAFCASS officer 2

Text



1. When two people have a child and make a family together, they often share the job of being parents and bringing up their children.



2. When parents split up because they do not love each other or do not care about each other anymore, they have to make decisions about where the children are going to live.



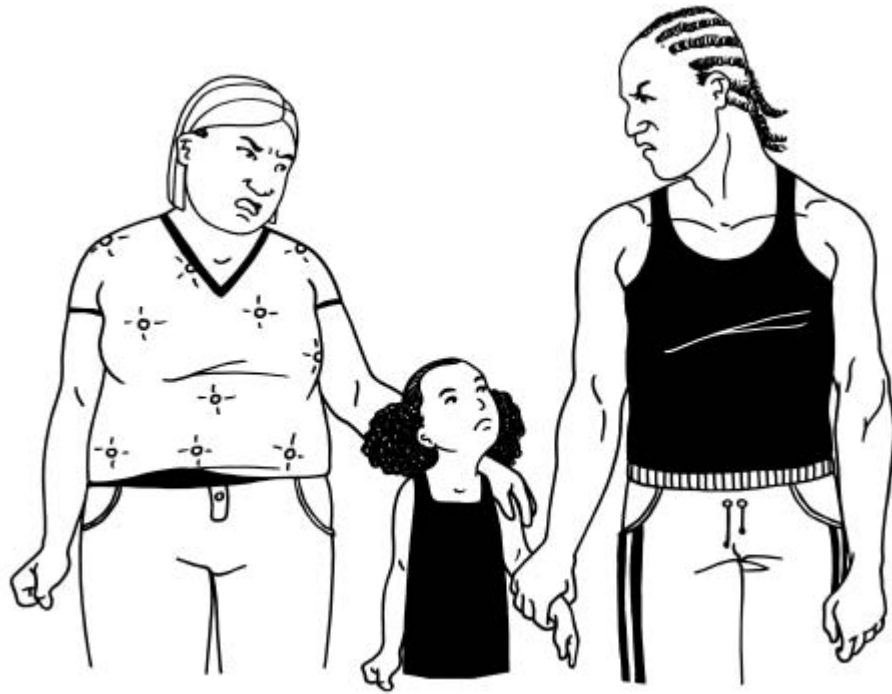
3. Some parents can make the decision about where the children are going to live and about how much time they will spend with the other parent.

Residence



Contact

4. We sometimes call the arrangements for living Residence and the arrangements for spending time Contact.



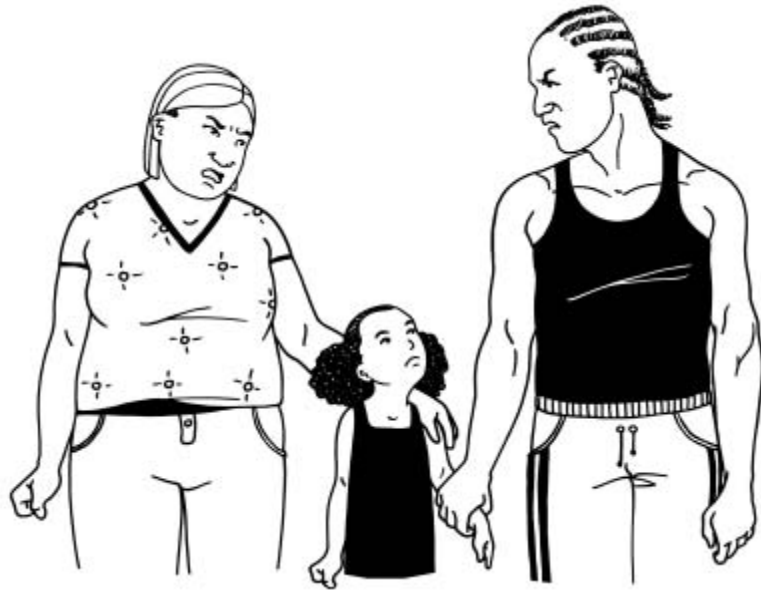
5. Sometimes parents cannot agree about these decisions, maybe because they are not getting on very well after the split-up.



6. Maybe other family members can help with sorting out these arrangements. These other family members will want to carry on seeing the children.



7. Sometimes parents get help with making these decisions from a person called a Mediator. This happens when parents agree to meet with the Mediator and try to come to a joint decision about what is best for their children. They might be able to talk to the Mediator about what is worrying them about the arrangements for the children.



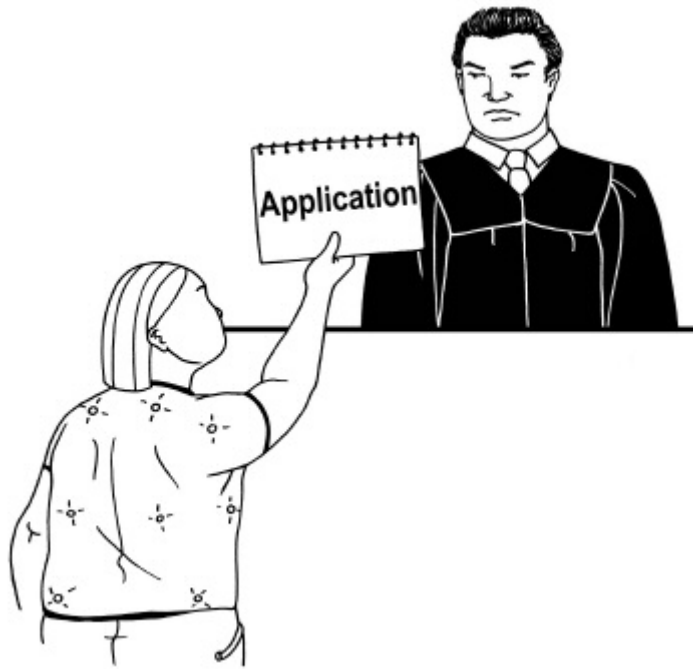
8. Some parents have to use a court to make decisions and sometimes a judge has to listen to what the parents are saying and make a decision about how the parents are going to share the responsibility of bringing up their children.



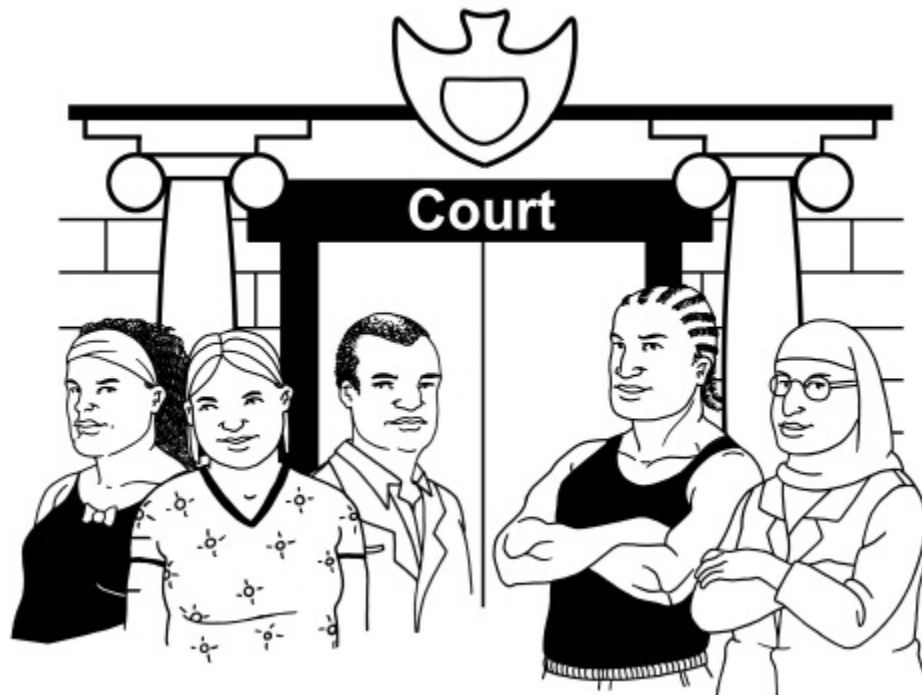
9. Parents who use the court may get help from a solicitor. You don't have to use a solicitor, but you might find it helpful to get advice about what will happen at court.



10. Finding a solicitor is easy. There are names of solicitors in the Yellow Pages or you can ask at a Citizens' Advice Bureau.



11. A Court Application will have to be made. This is so that you can say what you think should happen about the children and why you want it to happen. Usually only one of the parents makes the Application and they say what the problem is. Both parents will go to Court.



12. After the Court has received the Application a date will be set for both parents to go to Court to try to sort things out. You will go with your solicitor to the Court and you can take someone with you to support you. If you take a friend or supporter with you they may not be able to go in to the Court with you when you see the judge, but ask if they can.

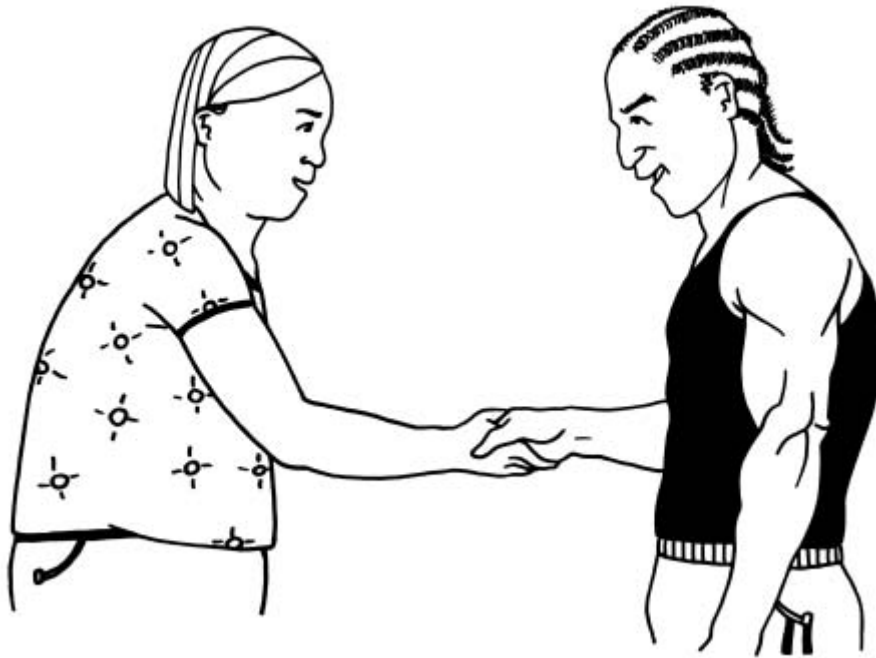


13. When you first go to Court you will probably meet someone called a CAFCASS officer. This person is there to hear what each parent says should be happening with the children. The CAFCASS officer might make some suggestion about what the parents might do.

You do not have to meet with the other parent when you see the CAFCASS officer, but sometimes it can help if mum and dad do meet in the same room to talk things over with the CAFCASS officer. The CAFCASS officer does not make decisions.



14. There will also be a judge there in another room who will want to know what the parents are asking for. The judge will listen to what the CAFCASS officer has heard from the parents and the judge might also make some suggestions about what might be done to sort out the problem.



15. If mum and dad can reach an agreement then the judge will make an Order to set down what has been agreed. If mum and dad do not want an Order made because they feel that they can make the arrangements work without one, then the judge will probably agree and not make an Order.



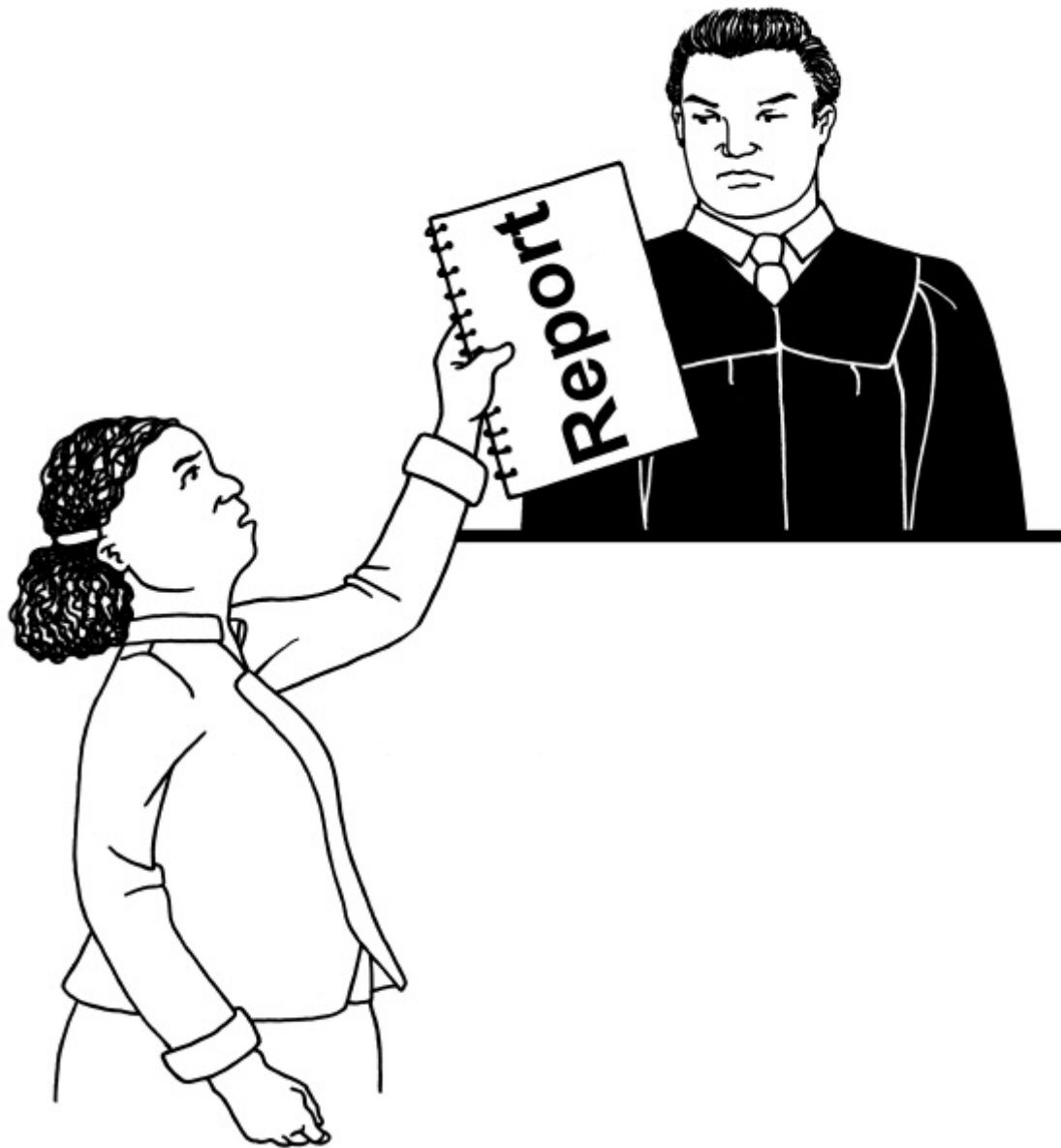
16. If mum and dad still cannot agree about what should happen, then the CAFCASS officer will write down mum and dad's details and arrange for another CAFCASS officer to see mum and dad and the children.



17. This CAFCASS officer will come to see mum and come to see dad. They will want to see the children with mum and with dad.



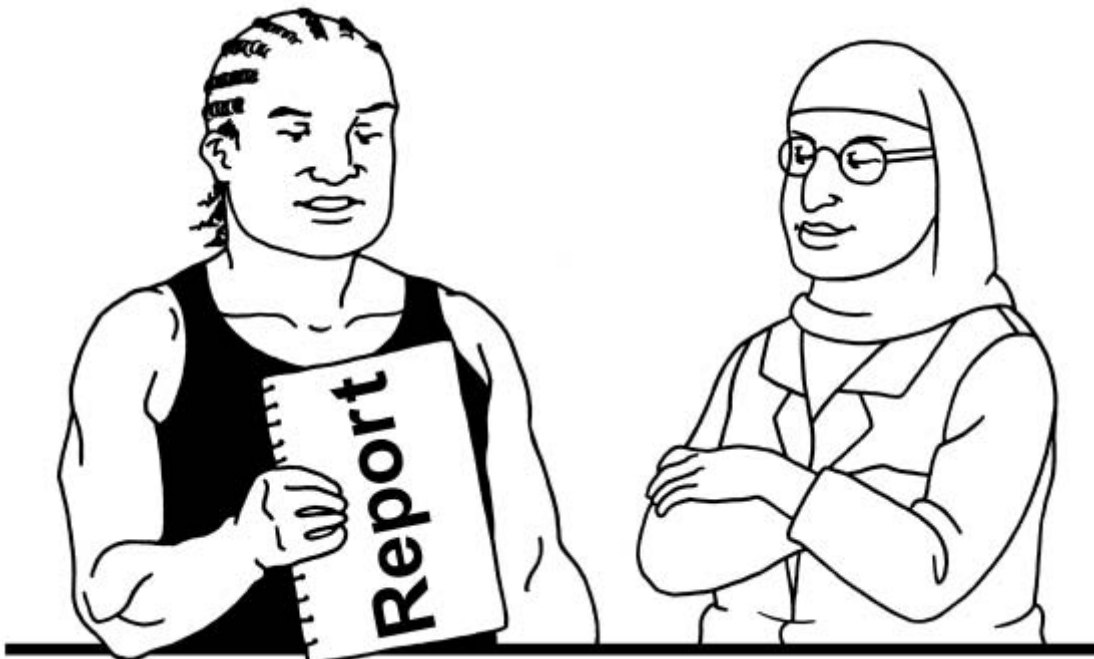
18. They will get in touch with the school or nursery that the children go to and they might talk to someone like the health visitor. The CAFCASS officer might also speak to other family members such as nannan or grandad.



19. The CAFCASS officer will then write a report. The Report should tell the judge what the CAFCASS officer thinks is the answer to the problem that mum and dad are having in making arrangements for the children.



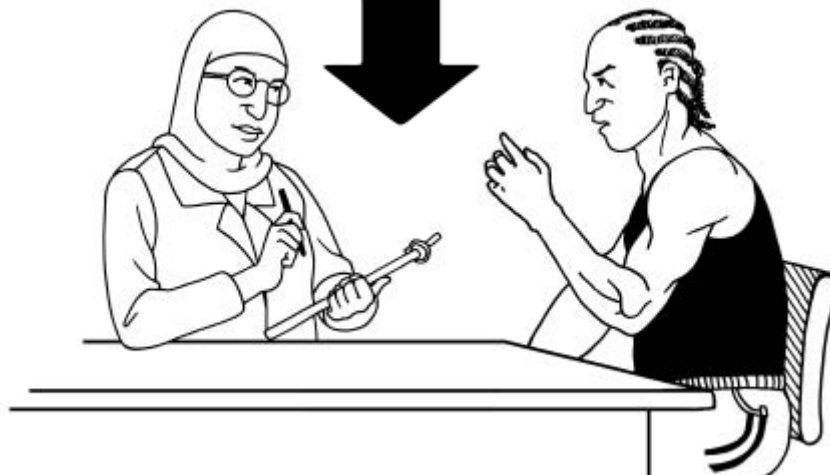
20. The report can take as long as 14 weeks to get ready. After the report is ready mum and dad will go back to Court with their solicitors and see if they are now able to reach an agreement about what is best for the children.



21. Before going to the Court, each of the parents will have a chance to read the Report with their solicitor and understand what it says and what it suggests should happen next.

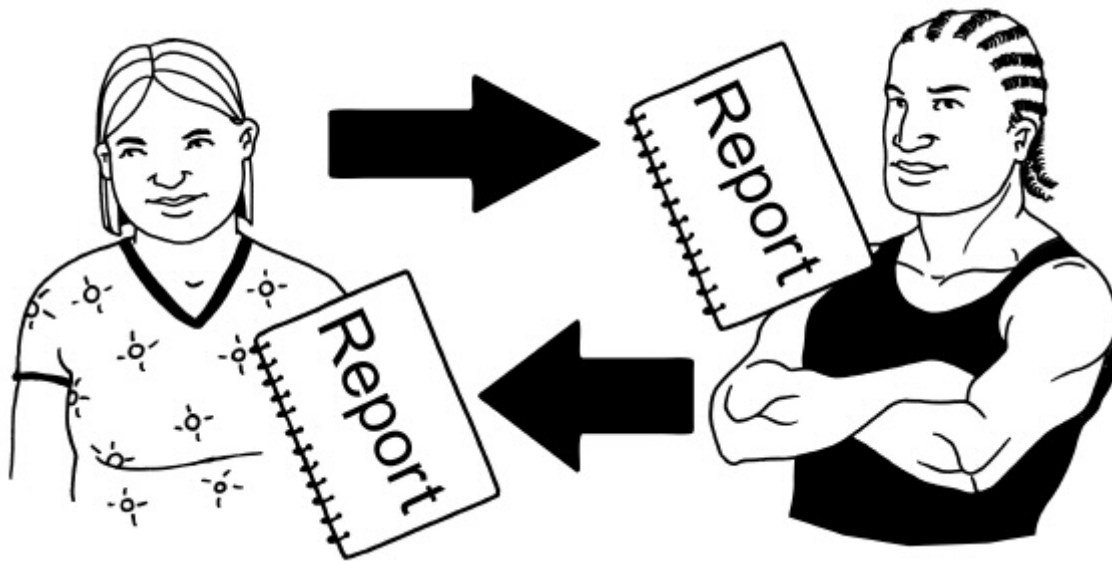


22. If mum and dad can now agree what should be the arrangements for the children, like where they should live and how they will see the other parent, then the judge will be able to make an Order.



23. If there is still no agreement, then the next step is for the Court to hear all that mum and dad and the CAFCASS officer need to say that will help the judge make the final decision.

Mum and dad will each have to help their solicitors to put their views clearly to the judge in a Statement. This is your chance to say what you want the judge to know. The statement will set out what has happened in the past and what you want to happen in the future. Everything that you say in the statement must be true.



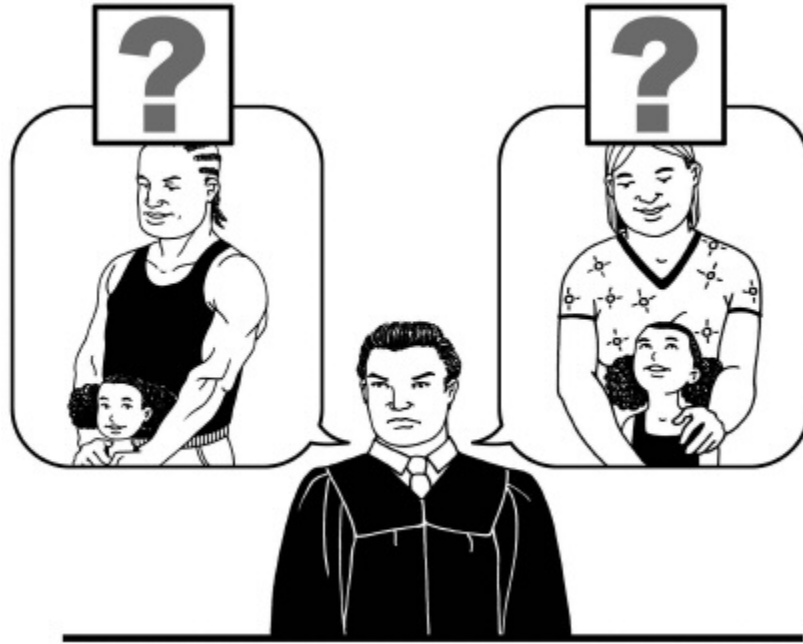
24. When the statements are finished they are sent to the Court and to the other solicitor. In this way mum and dad (and the judge) get to see what is being said by the other parent. There are no secrets!



25. A date will be set for a judge to hear what mum and dad want to say. The day may be a long one with the judge hearing from mum and dad, the CAFCASS officer and any other people mum or dad think might help them to put to the judge what they want to be heard.



26. These other people are called witnesses. Only use witnesses if they will help and can say things that you cannot say. You might have the help of a barrister to make sure that the judge has heard everything that you want to say. A barrister is a lawyer who goes to court.



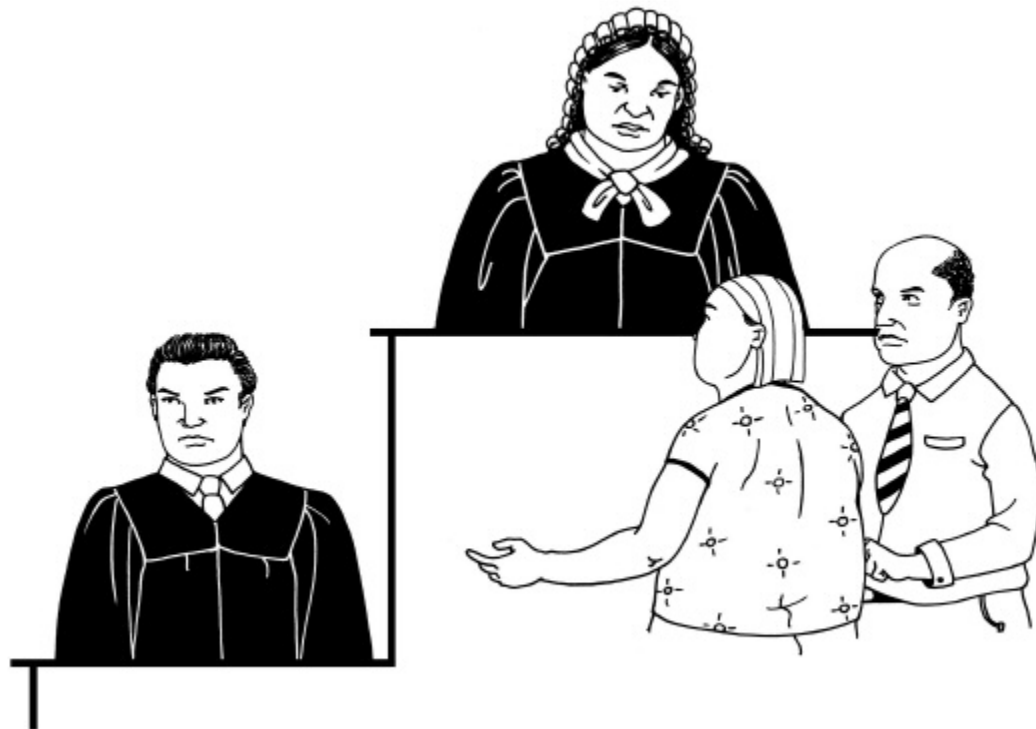
27. When the judge has heard all of the evidence, a decision will be made. The judge gives a judgment and will probably make an order.



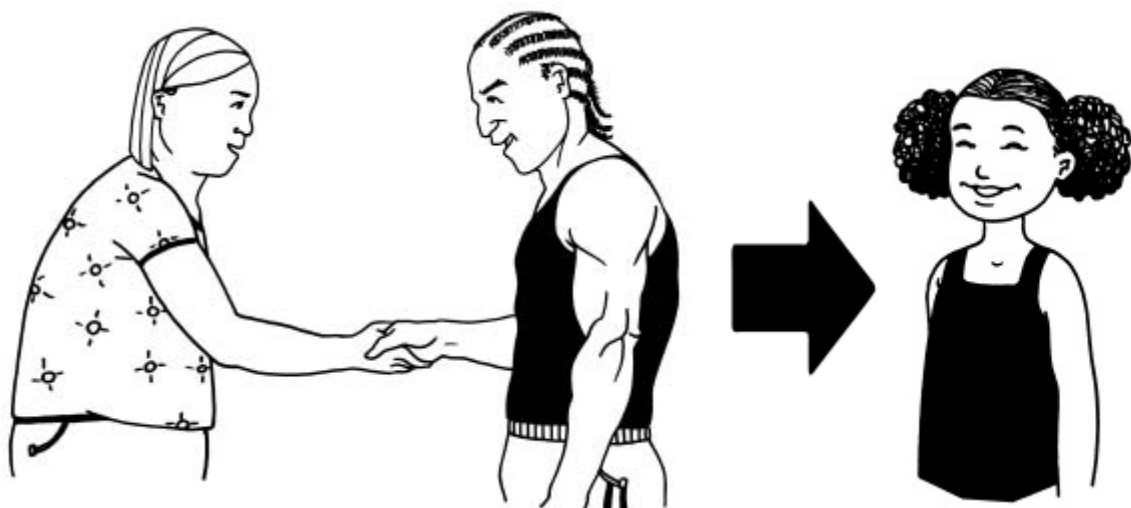
28. The judge can give the judgment in writing so that the parents can read it through afterwards with help from their solicitor and a supporter.



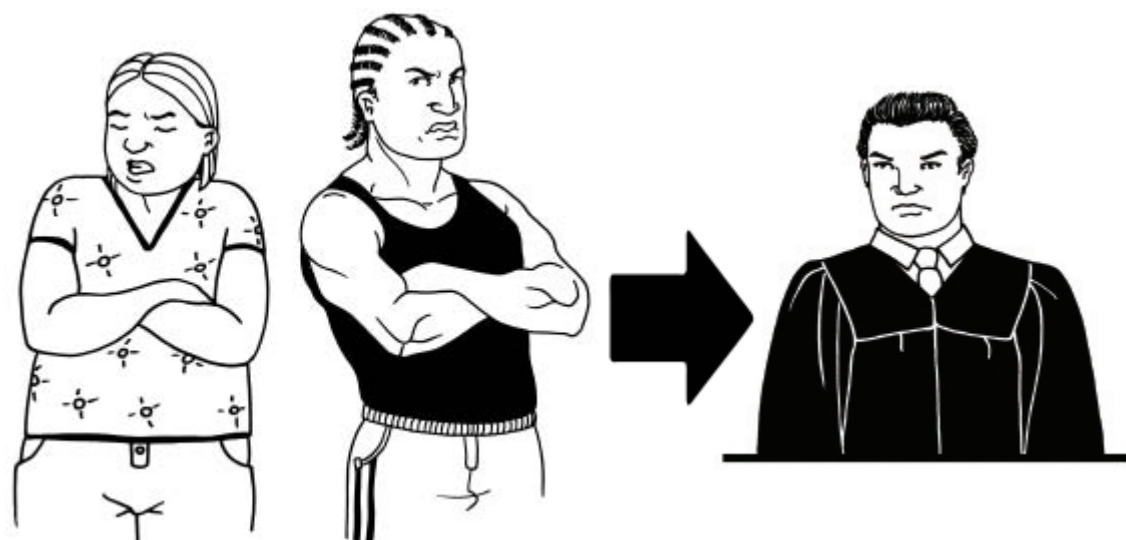
29. The order will give the judge's answer to the problem that mum and dad were having in deciding what was best for the children. The order must be obeyed. You must do what it says.



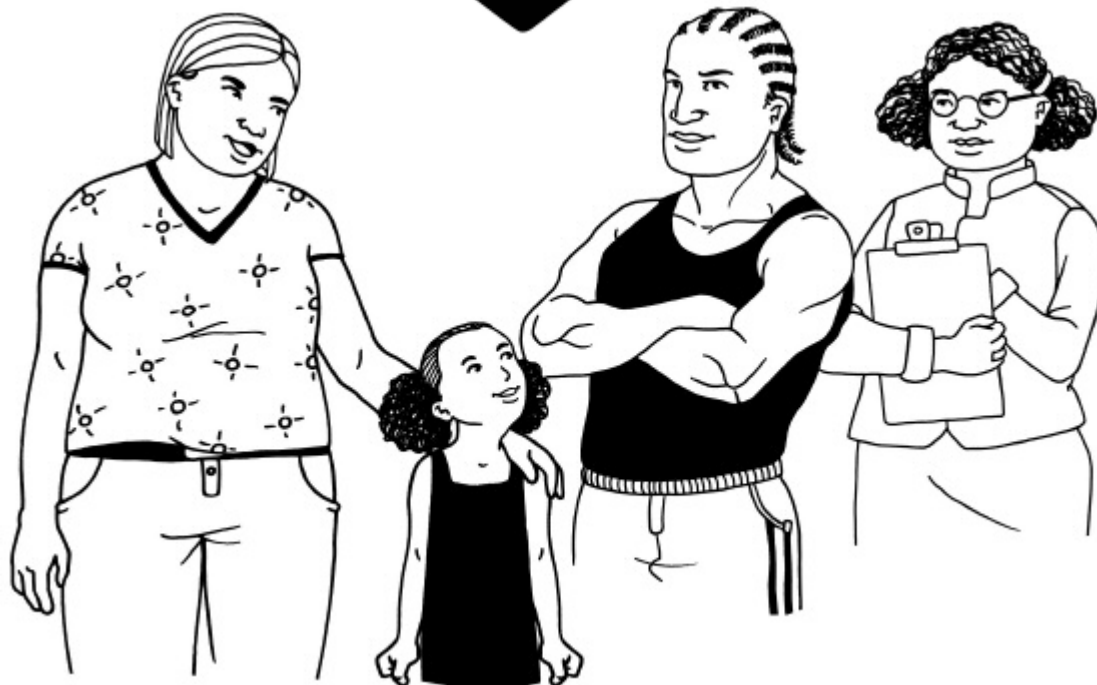
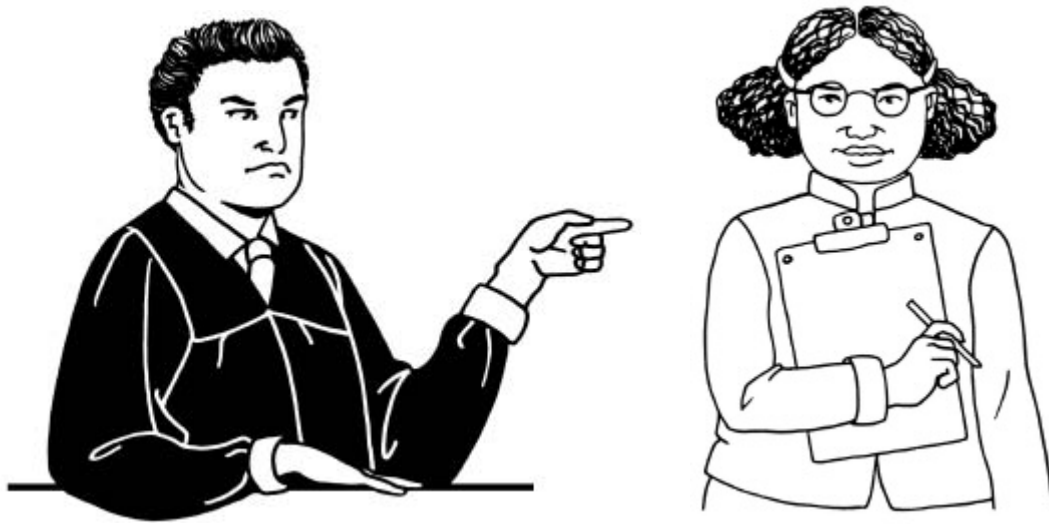
30. If your solicitor thinks that the judge has got the decision wrong because the law has not been used correctly, then you might be advised to appeal the decision. Very, very few cases are appealed. It is not often that judges come to a wrong decision. You might not like the judge's decision but this does not make it a wrong decision.



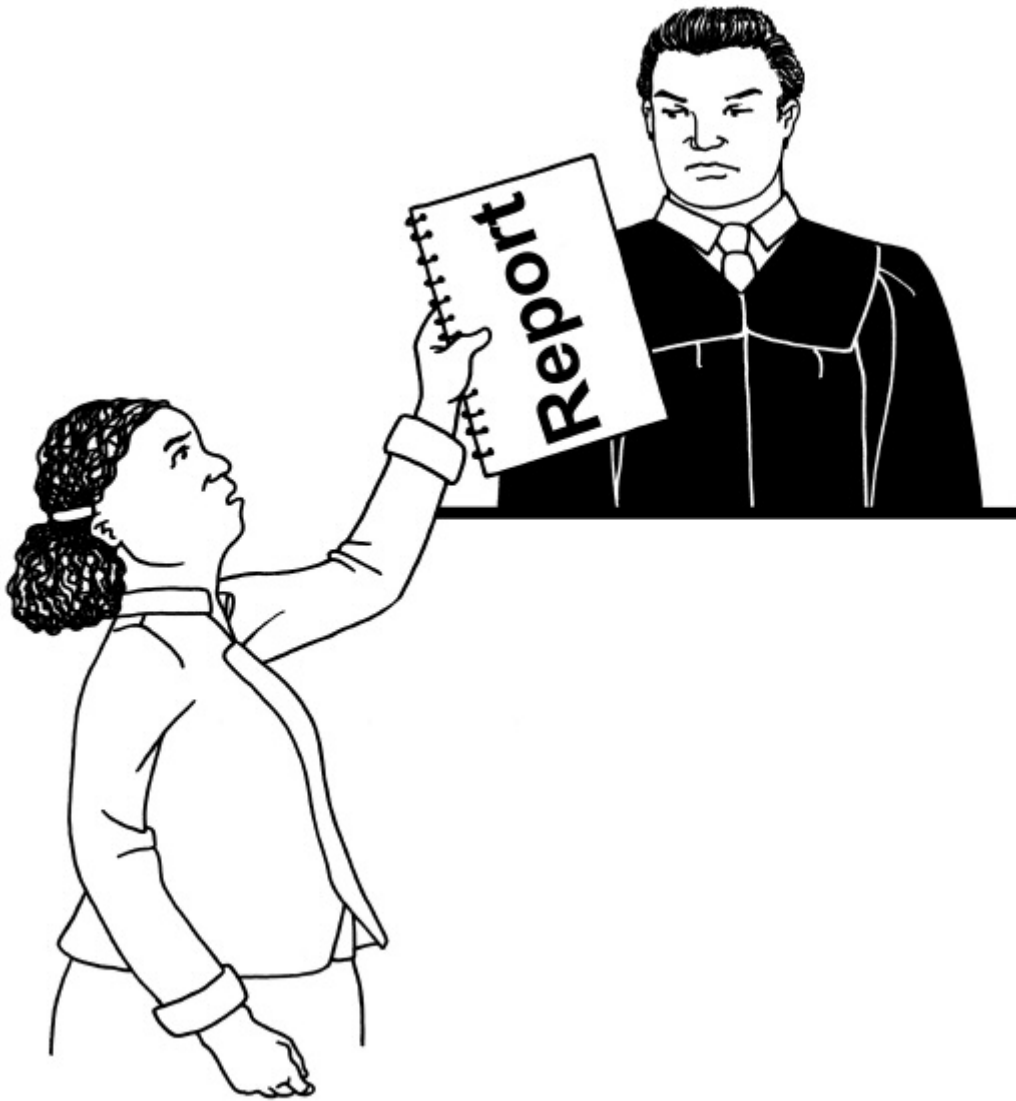
31. It is now down to mum and dad to make the arrangements work. If it works well then everyone, especially the children, are happy.



32. If it is not working well then either mum or dad might bring the case back to the court for some more help.



33. The judge does not want the parents to keep having to come to court, but the judge might feel that it would be best to look at the family after a few weeks or months to see whether everything is working well.

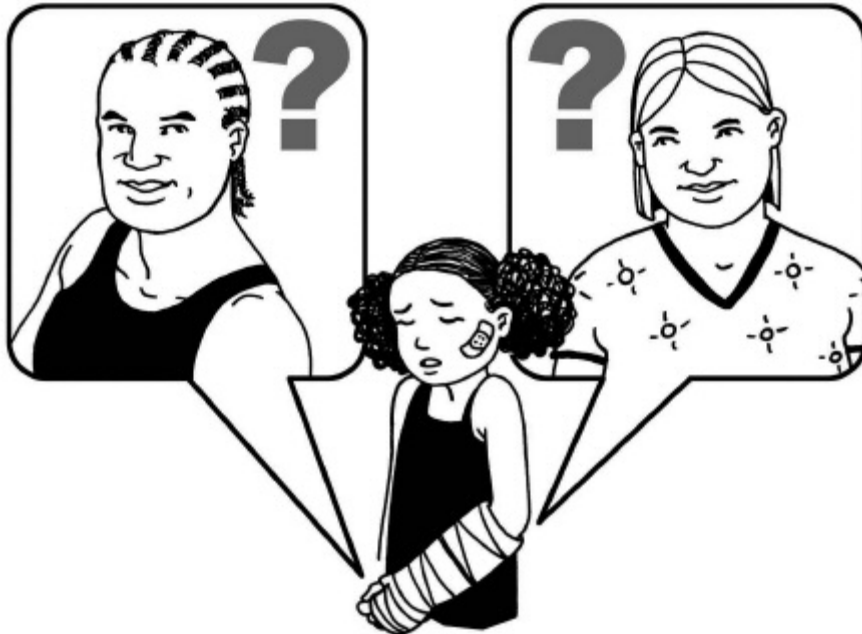
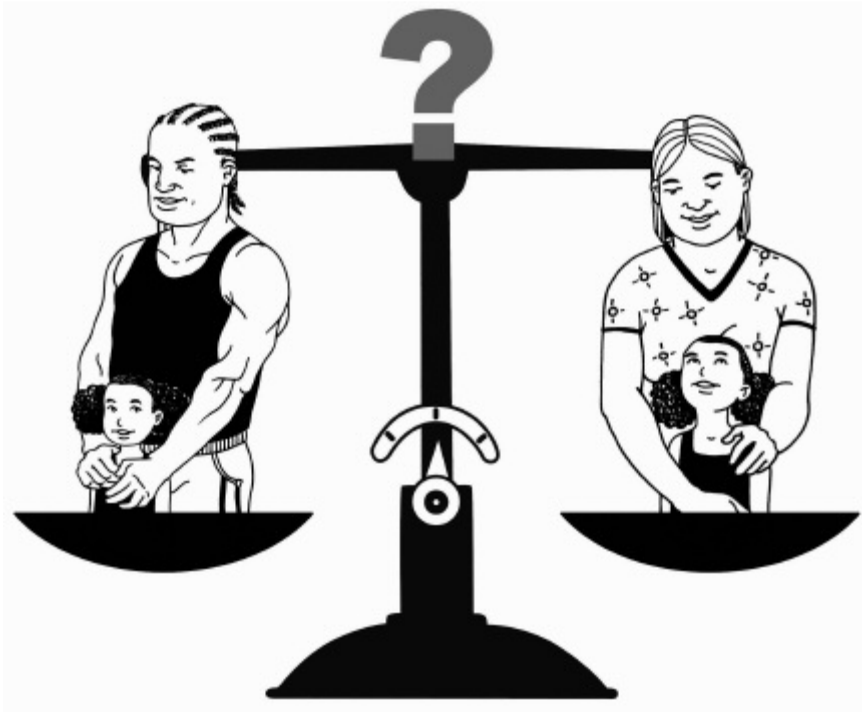


34. If this happens then there will be a review at court and there might be another short report from the CAFCASS officer telling the judge what has been happening. The judge will usually be the same person as made the decision.

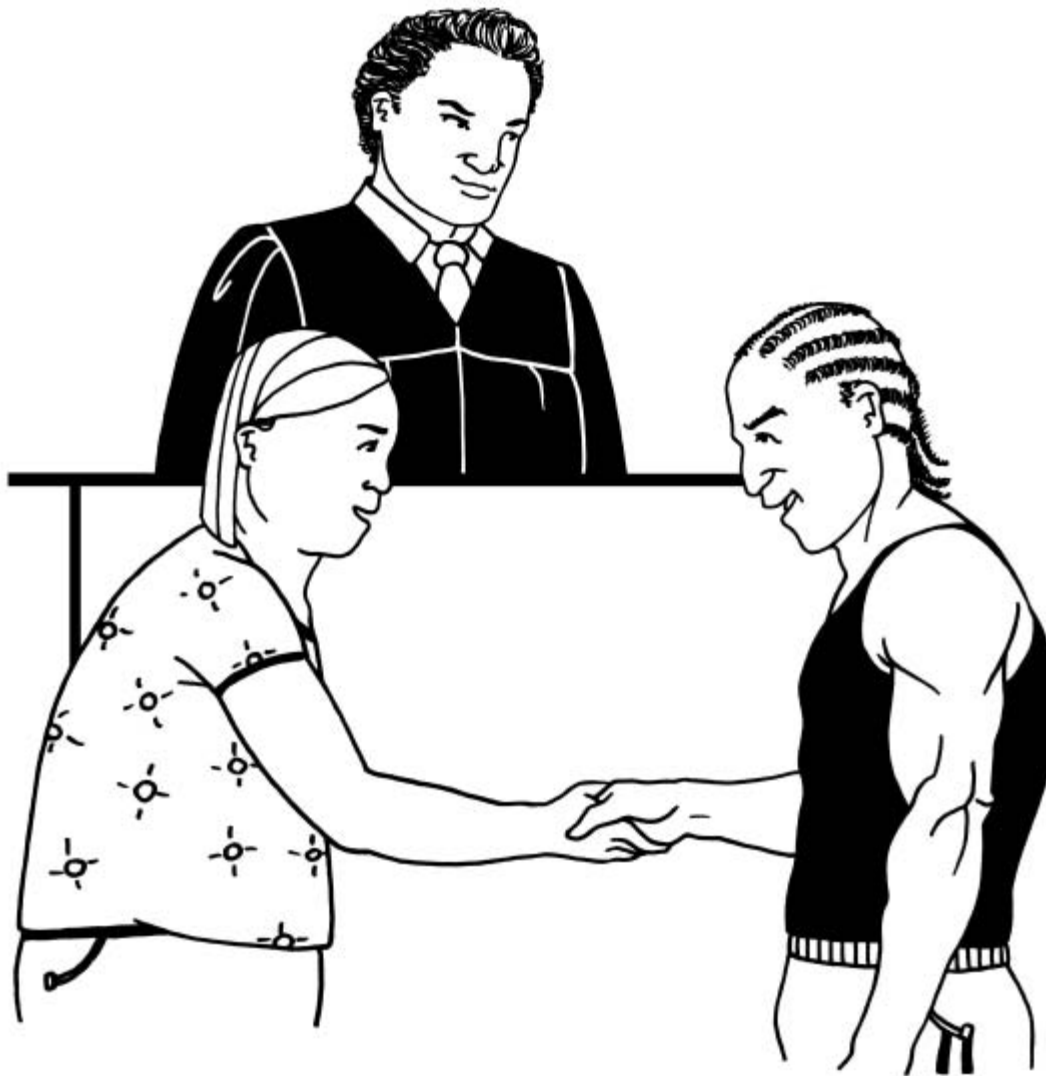


35. What are the things that help the judge make the decision? There are certain questions that the judge must ask and think about when making the decision.

- **The judge must always do what is best for the children.**
- **The judge must think about what the children are saying they want - but this always depends on how old the children are and how much they understand. The judge hears about this from the CAFCASS officer. The judge does not meet the children**
- **The judge must think about the children's needs - the care they need, the education they need and their emotional needs.**



- The judge must consider any effect that change might have on the children - change can be hard especially when children are upset because mum and dad have split up.
- The judge must ask himself how able each of the parents is to care for the children.
- The judge must decide whether the children have suffered any harm and who might have caused the harm.
- The judge must think about anything else that has been said by the CAFCASS officer or by the parents.



36. Many parents are able to reach an agreement even at the last stage in the court and do not need the judge to make a decision. This is what the judge wants. The judge does not want to interfere with people's lives if they can make arrangements for themselves.



37. Always talk to your solicitor at the end of the court day so that you understand what has happened and why it has happened. Make sure that you understand what the arrangements are for the care of the children. What are mum's responsibilities? What are dad's responsibilities? Do you know the details of when the children will be with mum and when the children will be with dad?



Try to stick to the pattern so that everyone knows what is happening. The children are much happier when they know what is going on. Don't forget those special days such as birthdays and Christmas. Don't spoil the days for the children by having arguments about the arrangements - get them sorted now.



38. Afterwards it is up to mum and dad to make the arrangements work. Don't forget that there are people who can help you if things go wrong in the future.



39. You can always use the court again if that is the best way to sort out the problem. Ask your solicitor for help.



40. Don't forget that as the children get older they will have their own ideas about what they want to do at school or with their friends. They might have activities that they want to do at school or with their friends. They might join clubs and have things to do at the weekends.

Mum and dad can help them with these and can share the enjoyment of the activities. But it might mean that the arrangements for the children have to change.



41. Sometimes the children do not want to go to see the other parent. If the child is with you, you must help them to go to see the other parent. You might need to understand why they are saying that they do not want to go. Try to talk to the other parent about this. Do not rush back to court.



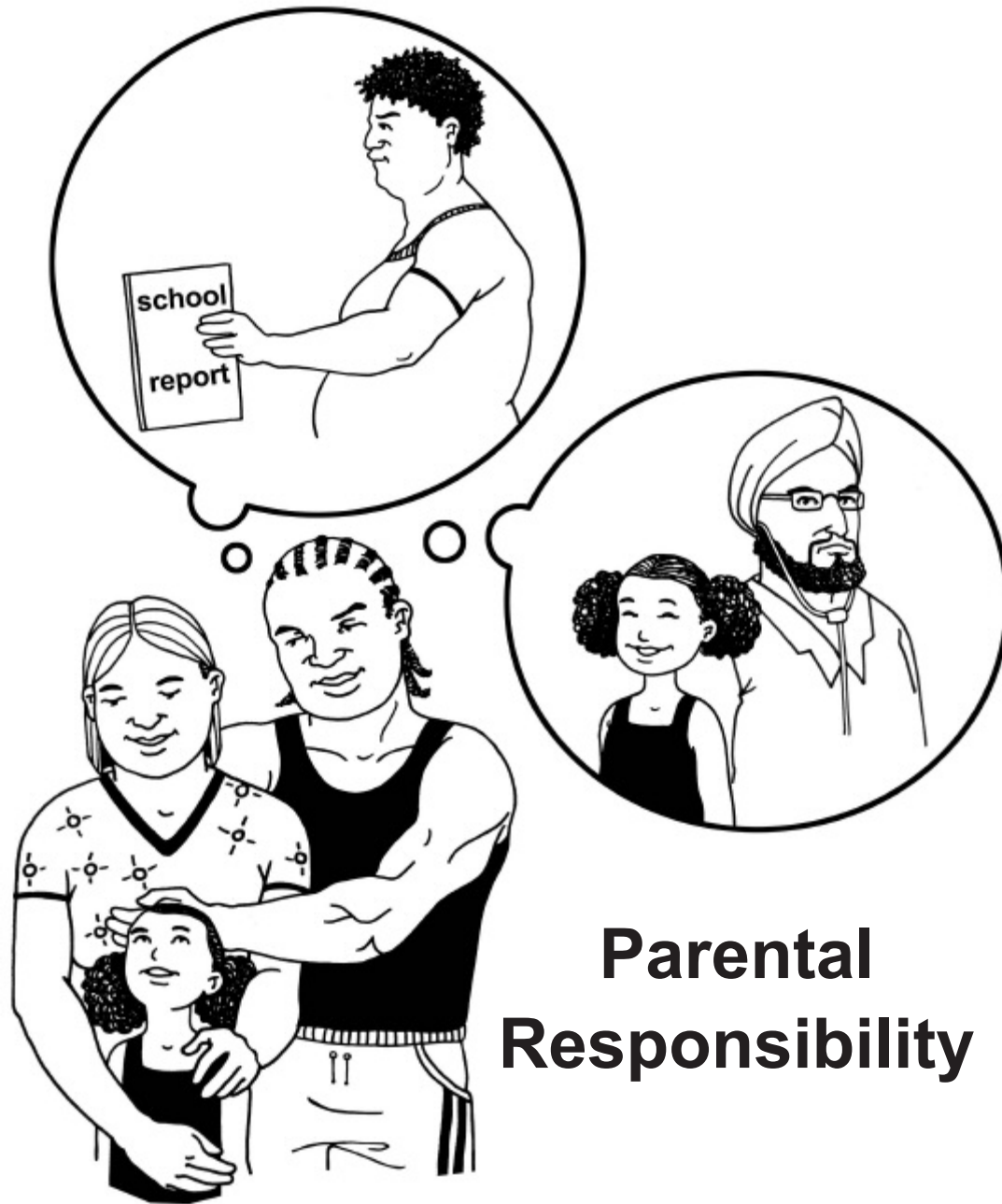
Parental Responsibility



Parental Responsibility

42. When a woman has a child then, as a mum, she has the responsibility for the child and has to make decisions for the child. She has what is called parental responsibility for the child. She always has it because she is mum.

If dad is married to mum when the child is born, or if they get married afterwards, then dad shares parental responsibility with mum. If mum and dad are not married but the baby was born after December 2003 and dad is on the birth certificate, then he gets parental responsibility like mum.



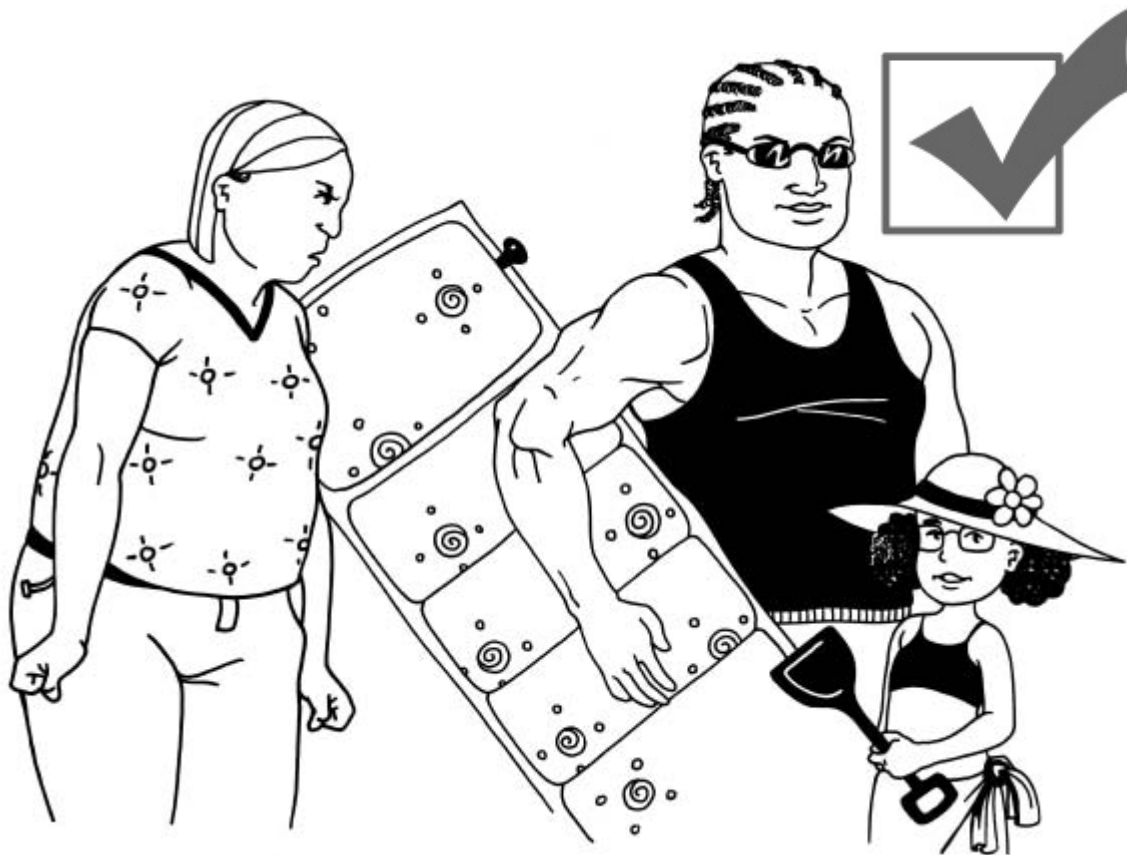
Parental Responsibility

Mum and dad can agree to share parental responsibility by making a Parental Responsibility Agreement through court. A court can also make a Parental Responsibility Order for dad if mum and dad can't agree about this.

It is very important for dads who have split up from the mum to make sure that they have parental responsibility for the child. It means they can get copies of school reports and be involved in other decisions about things like health and education. Dad's solicitor can help with all of this.



43. A court can also make a Prohibited Steps Order. This will stop mum or dad from doing something such as changing the child's surname without the agreement of the other parent. It could also stop mum or dad taking the child away from this country without the agreement of the other parent. These orders are made to stop something happening.



44. And finally, a court can make an order allowing something to happen. This is called a Specific Issue Order. This might be made so that dad can take the child on holiday if mum does not want this to happen. The order will not always be made. A judge must be sure that whatever it is that mum or dad wants to do is best for the child.

The court is there to help mum and dad make the best decisions for the child when, because mum and dad have split up, they are not always able to agree.



Words to Pictures

made accessible by:

CHANGE

tel: 0113 243 0202

minicom: 0113 243 2225

www.changepeople.co.uk

illustrations ©CHANGE 2006

This booklet was produced by:

David Hawkins, barrister

tel: 0114 275 1223

Sarah Jane Lynch, solicitor

tel: 0114 266 6660

The costs of printing this book
have been paid by Wake Smith