

**Dispute resolution skills and techniques guidance**

**Please note: it is not appropriate to use these methods when risks from domestic abuse are an unresolved or unassessed issue. There may also be other risk factors that would also render dispute resolution unsafe at the First Hearing Dispute Resolution Appointment (FHDRA).**

This is a brief guide for Family Court Advisers (FCAs) undertaking dispute resolution (DR) work. It sets out some approaches that can help parents refocus on the child’s experience, rather than on their own conflict.

To find more information or access training contact [NIS support.](mailto:NISSupport@CAFCASS.GSI.GOV.UK)

1. **Beginning:**

* **Engage and establish a rapport**: this starts from the first contact. A critical element of good diversity practice is to respect and value the position of the service user. Convey the message that you can be trusted to help them.
* **Listen:** take some time to listen to the different narratives, respecting the stories each party will have. Listen to the feelings and express empathy. Until the parties feel heard they will not focus on change and move on.
* **Acknowledge positions**: ensure they know they have been heard but nudge the conversation from ‘positions’ to ‘mutual interests and benefits’ (including for the child/ren).
* **Be self-aware**: you will have an impact on the dynamics (‘self-reflexivity’). Be aware of difference and your values, as well as those of the parties.

1. **Types of questions:**

* **Be curious:** ask non-threatening open questions to find out more, rather than fall into the “assessment trap” and fire questions at the parties, such as: “I was wondering what has worked well in the past and how you can improve the communication between you?”
* **Ask circular questions:** this promotes mentalisation (see explanation below), such as to a father: “What do you think mother is worried about when she says the child is upset?”
* **Ask hypothetical questions:** “Let’s suppose the children were seeing their father – who would be most upset/ pleased?” Or: “If no changes were made and there was no agreement, what would happen?”
* **Ask ranking or scaling questions:** use these to measure motivation, confidence and readiness to change. Then ask ‘step-down’ questions such as: “What made you say a 6, rather than a 5?” Focus on motivation, rather than why the score was not higher, which can feel accusatory.
* **Reflect and summarise:** “So what I hear you saying is…” This shows empathy and that they have been heard. It also keeps the conversation on track.

1. **Reframing:**

* **Normalise:** “Many people in these circumstances have similar problems and find ways to overcome them.”
* **Give affirmations and positive reframing:** acknowledge that organising children’s time with each parent is very stressful. Help them reframe this positively: “I can see you are prepared to go through a lot to get this sorted.” Emphasise strengths, resources, positive steps taken and past successes. A simple affirmation might be: “You have shown commitment to making things better for your child by coming here today.”
* **Mutualise:** redefine a problem seen as the sole ‘fault’ of one party, to a shared problem that they can both work on together. For example, “It must have been difficult for you both?”
* **Promote mentalisation:** help the parties to understand what they are thinking/saying and what the other person is thinking/saying. Consider motivation and drivers. Help the parties to mentalise their child/ren. Use circular questions for example, “how do you think Jane will respond when her mother speaks to her in that tone of voice?”
* **Positions and interests:** When working with families in conflict it is important to understand everyone’s positions and interests. A position is a fixed stance taken up and offered as the only solution, for example, “I won’t let him see the children anymore.” An interest is a person’s needs, fears, desires and basic concerns underlying their position, for example, “I’m really worried his new partner will take over from me.”

1. **Focus for agreement:**

* **Future focus:** move away from what has happened in the past to what they want to happen from now on.
* **Child focus**: refocus the discussion onto shared concerns and desires for the best for each child. Use future focus or ‘miracle questions’, such as, “What would your child be saying in five years’ time…?”
* **Set goals**: help the parties to agree where they want to get to. Discuss the benefits of, and barriers to, change.
* **Reality test:** think through how options will work in practice. ‘Roll with resistance’ when options are rejected. Encourage the parties to list their own options. Then focus on agreement and commitment to action planning.
* **Be clear** on what has been agreed and not agreed. Agree next steps and summarise what will be reported back to the court.