

## **GUIDANCE FROM THE CHIEF EXECUTIVES OF CAFCASS AND CAFCASS CYMRU ABOUT CHANGES IN USE OF CAFCASS PROFESSIONAL TIME TO BRING MOST BENEFIT TO CHILDREN WITHIN THE RESOURCES AVAILABLE**

We are issuing this guidance, with the approval and support of the President of the Family Division, in order to be clear about the best way in which children can be helped by Cafcass and Cafcass Cymru in the family courts throughout England and Wales, during a time of record levels of demand for our services.

We put the emphasis on flexibility, so that Cafcass and Cafcass Cymru practitioners in their various roles before the court can use their time to best effect on the cases that matter most. We ask the judiciary at all levels to support such flexibility and to operate within this framework.

This guidance applies to all staff across the family justice system who are making decisions about how Cafcass and Cafcass Cymru professional time is used, including the decisions taken by Cafcass and Cafcass Cymru staff themselves.

**The ways in which we think Cafcass professional time should be used to benefit children most.**

### **1. Flexibility about the number of case analyses produced in a public law case and their timing**

#### **Rationale**

It is essential that children's guardians produce a case analysis in every public law case, so that each child has a definitive independent social work analysis of what she or he needs. This applies to all cases, whatever the nature of the application.

Flexibility applies to when this is produced and when a case needs one or two analyses. We think that some cases will require only one, not two. The one definitive analysis will normally be produced for the hearing which is making the decisions about the child's permanence placement, whether this is with one or both parents, with relatives, or outside the family. The definitive analysis can be produced either for the Case Management Hearing (CMH) or the Issues Resolution Hearing (IRH), depending on the circumstances of the case. Section 31 and secure applications will always have a position statement for every hearing where this is needed, so that each hearing is effective. Similarly, not all CMH's will need an initial case analysis, sometimes a position statement will suffice.

### **2. Pre-proceedings in public law**

Where arrangements exist, we encourage the local authority and Cafcass/Cafcass Cymru to work together in the pre-proceedings phase so that cases which come to court are those with no safe community-based alternative and so that if the potential application needs to proceed to court, that the issues have been narrowed as far as possible. This is good case management.

### **3. Defined interventions by Cafcass and Cafcass Cymru in private law cases after the First Hearing (FHDRA)**

We think it is crucial that the work carried out by Cafcass and Cafcass Cymru before and at the First Hearing (FHDRA) continues unchanged e.g., the production of a safeguarding letter in every case and as much attendance at FHDRA's as possible. This is in order to maximise the safe resolution of as many private law applications as possible at the earliest possible stage.

The work of Cafcass and Cafcass Cymru after the first hearing will be streamlined and re-focused, so this is the area of work we propose should be subject to most change.

Cafcass and Cafcass Cymru plan to deliver more defined interventions in cases going beyond the first hearing than the traditional section 7 report and they intend to pilot new child impact reports for 3-6 months in Essex, York and North Yorkshire and South West Wales.

The threshold for asking Cafcass/Cafcass Cymru to carry out work beyond the first hearing should be a concern about significant child impact, not the fact that the parental dispute is continuing in court.

### **4. Post-FHDRA Interventions**

At the heart of this change would be a shift from producing a traditional s7 report to producing a short, focussed child impact analysis. The value added by Cafcass and Cafcass Cymru to the court process in all cases is clarity about the voice of the child in the situation, and an in-depth analysis of the best way forward for each child. Courts can get most of the other information they need on which to base a decision from other sources, such as statements, submissions and oral evidence. The views and wishes of parents are much more readily available to courts than the child's perspective on the application before the court. Each child impact analysis will include a structured professional opinion and recommendation by Cafcass/Cafcass Cymru. The new template for this purpose is set out at the end of this guidance. The pilots in Essex, York and North Yorkshire and South West Wales will be evaluated later this year with a view to rollout throughout England and Wales by April 2018 at the latest.

The next defined intervention is brief child-focussed casework. This will be the Cafcass service level for a Rule 16.4 appointment as well. A child impact analysis may also include brief casework within the intervention.

The final intervention is a Court-Ordered Activity Direction for a commissioned service. There will be no change to the current child contact interventions available to courts.

We see no reason to ask Cafcass or Cafcass Cymru to deliver work outside of this framework which in itself reinforces the importance, integrity and principles of the Child Arrangements Programme (CAP). For example, second reports after the FHDRA should only be requested in exceptional circumstances and should not be ordered routinely.

### **5. Attending court**

Our view is that attendance by Cafcass and Cafcass Cymru practitioners at court should be kept to the necessary minimum, to allow them the maximum time to carry out the work with children and families that can lead to positive change for children. A half day spent unnecessarily in court is a half day that can be spent with one or more children, the equation is that stark.

Broadly speaking, we think that social workers should attend court either to give evidence, when their evidence is critical to decision-making, or to hear evidence that is essential for them to hear if they are to be able to carry out their own work and to make effective recommendations to courts.

We do not expect social workers to be sitting through lengthy hearings of any description, unless there are exceptional reasons for so doing. We ask you to pay special attention to this point.

In public law cases, the child's legal solicitor or barrister will still be able to attend every hearing, having taken instructions from the guardian who will remain accessible by phone to the solicitor or barrister in the usual way.

## **6. Advice to courts**

A lot of work is asked of Cafcass and Cafcass Cymru because courts are apprehensive about taking decisions without advice, especially when neither party is legally represented. Rather than order a report from Cafcass, we think it is better if local arrangements are made between Cafcass/Cafcass Cymru, the judiciary and HMCTS, in order to ensure Cafcass advice is available to courts when it is most needed. This already happens in some courts e.g., requests to advise on a specific issue on the day or within a short period of time. The Hotline Protocol in place in Wales ensures that courts always contact Cafcass Cymru prior to making a Rule 16.4 appointment. Cafcass and Cafcass Cymru are more able to respond to these requests in a timely way, than they are to directions to carry out work on cases without safeguarding or serious welfare concerns. We ask for compliance with the national and local protocols in place about this, so that courts can receive the advice they need at the right time and in the most efficient way.

Essentially, this is Cafcass and Cafcass Cymru acting in a social work advisor role to court, as the social work equivalent of legal advisors.

## **7. Implementation of this guidance**

Whilst time is of the essence for the reasons we set out, we recognise a period of consultation on these proposals, followed by support for implementation including training, will be necessary. For that reason, we are asking for views on this framework to be returned to us by 1 June 2017. We are aiming for implementation of a final agreed version by 1 July 2017. Please let us know of any support needed with training or development.

**Anthony Douglas CBE**

Chief Executive, Cafcass

**Nigel Brown**

Interim Chief Executive, Cafcass Cymru

## Cafcass Child Impact Analysis

Date of Application:

Court:

Court Case Number:

Cafcass ECMS Number:

Application Type:

Hearing Type:

Hearing Date:

Cafcass Family Court Adviser:

Office Address:

Date Report Completed:

Filing Date:

Child's solicitor (where applicable)

Details of any current orders

**WARNING: This report is restricted by rules of court. Unauthorised communication of the information in it is a serious matter and may constitute contempt of court**

**NOTE: Significant factual errors (not matters disputed by the parties) in this report should be referred to the author. Any concerns about other aspects of the report (for example, the extent of enquiries, the opinions expressed in it or matters disputed by the parties) must be addressed in court**

Name of child	Date of birth	M/F	Ethnic origin

Name of parties <i>(and other important adults)</i>	Relationship to child	Date of birth	M/F	Ethnic origin

Key agencies involved	<i>(Give brief details of their involvement)</i>

### **1. Summary of issues for the child**

*This section should include:*

- *The specific focus of the analysis as ordered by the court*
- *A summary of the issues in the family (set out in clear, straight forward language) and how they are impacting on the child*
- *Summarise the relevant risk information contained in the Safeguarding Letter.*

### **2. Enquiries undertaken**

- *A bullet point list of enquiries undertaken to inform the child impact analysis.*

### **3. Child Impact Analysis**

- *Set out the evidence base for the impact of the issues in the case on the individual child*
- *Analyse the impact, including from child observation*
- *Include and analyse the child's wishes and feelings, as appropriate bearing in mind the child's age and developmental stage.*

#### **4. Structured Professional Opinion**

- *Bring together a succinct account of the child's experiences and how their safety and well-being can best be promoted*
- *Relate the evidence base back to the application*

#### **5. Recommendations for the child**

- *Specific recommendations about what the parent/s or other key people should do in order to help the child in a sustainable way..*
- *Which court orders and framework are recommended so as best support the child's safety, well-being and future development.*

In compiling this report, I have had regard in particular to the welfare checklist as required by Rule 16.20/16.33 Family Procedure Rules 2010 and I have applied a welfare checklist analysis to the facts of the case throughout.

Signed:

Name:

Cafcass Role: Family Court Adviser

Date: