Arrangements for the inspection of the Children and Family Court Advisory and Support Service (Cafcass)

A report on the responses to consultation

This report sets out the outcomes of the consultation on the arrangements for the inspection of Cafcass which took place from 15 January to 12 March 2013.

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Introduction

1. This report summarises the responses to Ofsted's consultation on the proposals for a new framework for the inspection of the Children and Family Court Advisory and Support Service (Cafcass). Cafcass is a non-departmental public body with statutory functions to safeguard and promote the welfare of children in court proceedings; give advice to the courts; ensure children are represented in the courts; and provide information, advice and support for children and their families in court proceedings.

2. Over the last four years, Ofsted has inspected practice in each of Cafcass' individual service areas. From 2013, Ofsted proposes to conduct an annual inspection of Cafcass as a national organisation, supported by a detailed examination of practice in up to six local service areas. By carrying out an annual single inspection, Ofsted will capture evidence both at local level and across nationally delivered functions. The greatest weight will be given to the quality of work at local level in the key statutory functions of making recommendations and providing advice to the family courts on how best to safeguard and promote the welfare of children subject to proceedings. The inspection will be unannounced and will take place over three weeks.

3. The consultation, which ran from 15 January until 12 March 2013, invited views in relation to the proposed framework, and asked about the extent to which respondents agreed or disagreed with proposals:

   - to inspect Cafcass annually as a national organisation
   - to (continue to) inspect Cafcass on an unannounced basis
   - to inspect Cafcass' centralised functions and a sample of its regional offices and combine the outcome in a report giving national findings
   - to gather the views of children, young people and adults who receive a service from Cafcass through an annual online survey
   - to make judgements on: overall effectiveness; the effectiveness with which Cafcass promotes and safeguards the welfare of children; the quality of practice; and leadership and governance using a four-point grading scale
   - on the issues to evaluate for the judgement on the effectiveness with which Cafcass promotes and safeguards the welfare of children
   - on the issues to evaluate for the judgement on the quality of practice
   - on the issues to evaluate for the judgement on leadership and governance.

The consultation method

4. The consultation used a range of methods, including a public online questionnaire for adults, a public online questionnaire for children and young people, and focus groups with key stakeholders held in March 2013. There

were 118 responses to the public questionnaire, of which nearly 75% were from individual respondents and just over 25% were provided on behalf of organisations. There were a number of respondents to the questionnaire for children and young people who identified themselves as aged 18 or over. Their responses have been incorporated into this report. The questionnaires were available to all adults and children and young people and not only those who have received a service from, or been involved with, Cafcass. Nine organisations were represented in the focus groups.

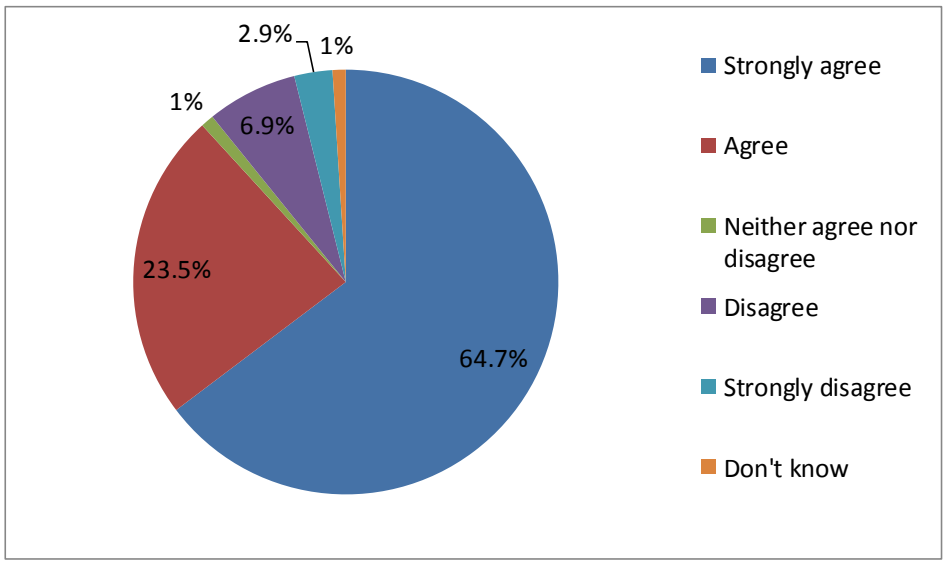
Summary of findings

5. Overall, the responses were strongly in favour of all the proposals for the new framework outlined in the consultation document. The key findings were:

- The proposal to (continue to) inspect Cafcass on an unannounced basis received the most favourable response. Some 95% either agreed or strongly agreed with this.
- The proposal to inspect Cafcass annually as a national organisation received the second most favourable response, with 88% who either strongly agreed or agreed with this.
- The proposed inspection methodology for the effectiveness with which Cafcass promotes and safeguards the welfare of children received the least favourable response, with 74% who either strongly agreed or agreed.
- The comments provided by respondents to supplement their responses have provided a rich source of information which will help to take this forward. The following points are particularly noteworthy:
  - the need to overcome certain practical difficulties presented by the unannounced model such as making arrangements to meet children
  - the importance of consultation with a wide range of stakeholders as well as the children and families who use the service
  - the need to improve the original proposal for an online survey of service users
  - the high value placed on first-hand observation of practice
  - the suggestion to evaluate separately various aspects of Cafcass' remit such as public law and private law
  - the emphasis on evaluating the impact of guardians' work with children given the limited time available to meet children – for example what value guardians add to the work of the local authority in care proceedings
  - the value of research evidence in supporting inspection activity.
- There is a clear mandate to proceed and develop the existing proposals taking account of the views collected through this consultation.

Findings in full

Q1. To what extent do you agree or disagree with our proposal to inspect Cafcass annually as a national organisation?



6. We received 102 responses to this question.

7. While this proposal had the second most favourable response, with 88% in favour and around 10% against, the comments received were more diverse reflecting a wider range of opinions.

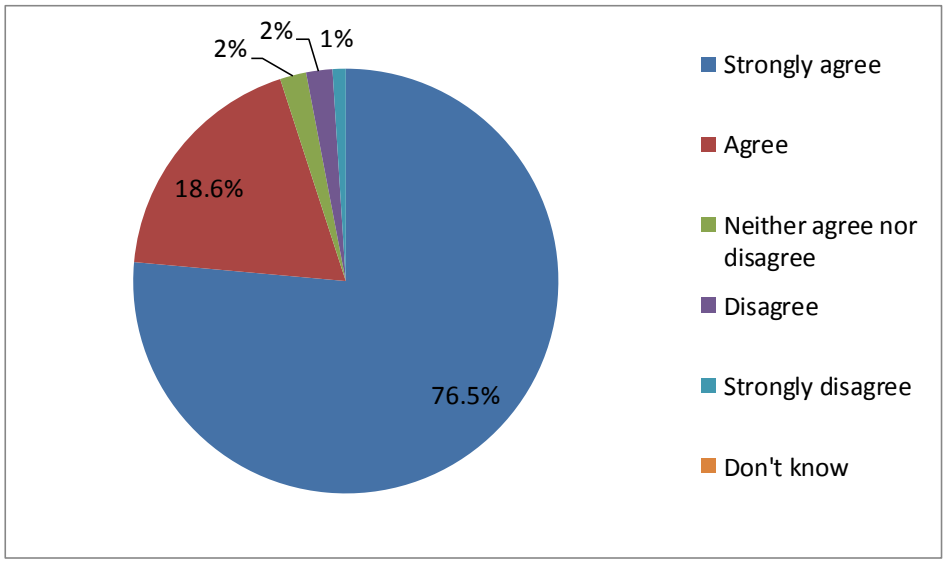
8. A significant proportion of individual respondents have had negative experiences of Cafcass and see inspection as a valuable means of monitoring and improving practice. Most of these respondents were strongly in favour of this proposal and the comment made by one individual – 'the more inspection of Cafcass, the better' – was typical of their responses. Some others who disagreed with the proposal nevertheless shared the same view of inspection. One such respondent said: 'I chose Strongly Disagree because like all companies dealing with the welfare of Children, they should be subject to more inspections'.

9. Another view expressed by some referred to the possible negative effects that preparing for inspection can have on an organisation's normal running. This concern was exemplified by Napo: 'Napo cautiously welcomes this approach if by this the intention is to have fewer inspections overall. Napo respects the need and the ethos of inspection, but is concerned that the overall Cafcass focus becomes distorted by placating the demands of the inspectorate'.

10. In relation to the frequency of inspection, Southend Local Safeguarding Children Board and Southend Council disagreed with the annual proposal, saying: 'A bi-annual inspection of Cafcass as a national organisation would appear more proportionate, and would allow sufficient time between inspections for improvements to the service to be evidenced. We would recommend that more than six service areas are inspected annually as, given the current 17 areas, realistically this might mean each is only inspected every 3 years which is too long'.

11. Devon Council agreed with the proposal and commented: 'We consider that inspecting the national organisation annually plus sampling up to six sites will give a sufficient indication of the operation of the organisation. In our view this will reduce bureaucracy and time taken to inspect, and yet provide sufficient oversight to enable practice improvement and service development where necessary. We consulted with our Children in Care Council in relation to this response. Their view was that it is important to visit each office, otherwise "the inspectors could miss important things if they don't go to each office". We would therefore suggest a rotation of offices visited in the sample to ensure coverage across every service area'.

Q2. To what extent do you agree or disagree with our proposal to inspect Cafcass on an unannounced basis?



12. We received 102 responses to this question.

13. This proposal had the most favourable response, with 95% in favour and 3% against.

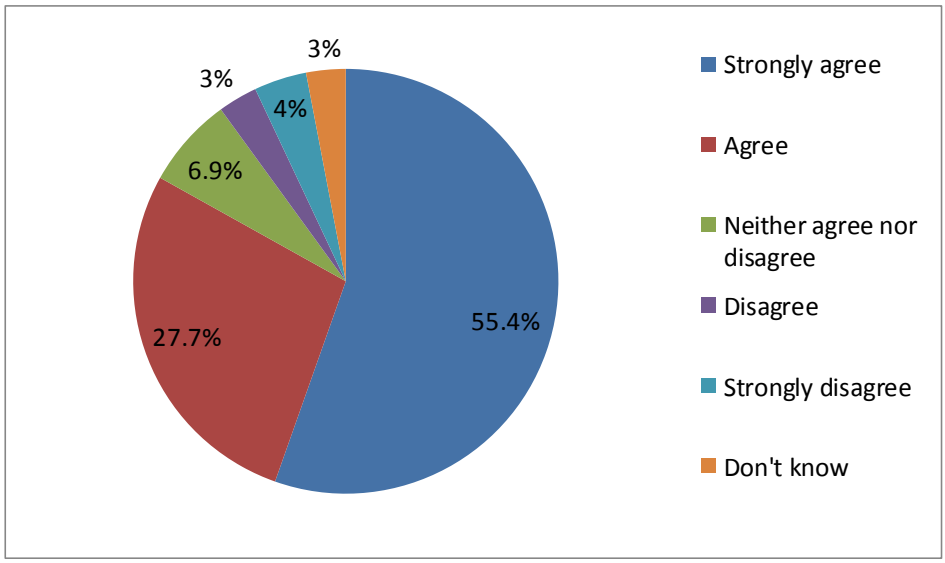
14. Parents Against Injustice commented: 'This is absolutely crucial in order to gain the support of parents and their families to believe that Ofsted is serious in its ambitions to create an effective and rigorous inspection regime'.

15. Buckinghamshire Council commented: 'Unannounced inspection gives a more realistic view of how well or otherwise an organisation is functioning ... In relation to talking to children and young people Cafcass should be encouraged to develop contingency measures for inspectors to be able to access and talk to children and young people'.

16. Some respondents observed that preparation for inspection can take an inordinate amount of time and unannounced inspection can reduce the burden on Cafcass. However, other respondents expressed concern that the unannounced inspection restricts the ability of inspectors to meet with the service users they want to meet, particularly carers and children, and offers reduced opportunities for practice observations. One organisation was concerned that unannounced inspection may interfere with cases and cause concern to people using the service.

17. Devon Council asked their Children in Care Council for views. It was broadly supportive of unannounced inspections, but wished to ensure that children's voices were heard. Their suggestion for overcoming the difficulties of an unannounced inspection was for inspectors to arrive unannounced to inspect records and procedures and then to return the following week to interview young people and their families, as time would then be available to set up the meetings.

Q3. To what extent do you agree or disagree with our proposal to inspect Cafcass' performance of its statutory functions nationally and through a sample of regional offices at the same time, bringing the outcome together in the form of a report giving national findings?



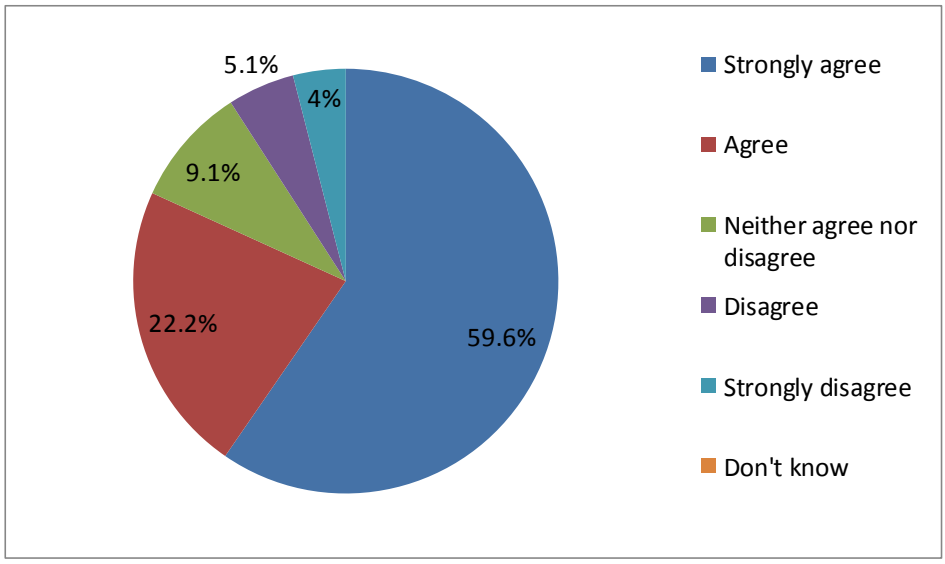
18. We received 101 responses to this question.

19. Approximately 83% were in favour of this proposal while 7% were against. The main theme in the responses was that, while the proposal is broadly welcomed, there are challenges in ensuring the regional sampling approach provides sufficient coverage. The point made by the British Association of Social Workers summarises many of the comments made by respondents: 'We think that there are merits in the suggested approach to provide us with a national picture of Cafcass' overall performance. However, there are 17 service areas and that the annual inspection will scrutinise in detail the practice of 6 service areas. It is important that the practice of the 11 service areas that do not come under close scrutiny is not overlooked as it may be that there are issues of concern that need to be urgently addressed. Ofsted should also take cognisance of the reports of other inspectorates evaluating the quality of family court services as they may also have a bearing on Cafcass effectiveness and performance, locally and nationally'.

20. Among those who disagreed, similar concerns were cited. For example, Southend Local Safeguarding Children Board and Southend Council commented: 'The principle of looking at the national and regional delivery at the same time is a good one, however we do not think this provides enough independent scrutiny at the regional offices. We would prefer to see all regional offices inspected over a rolling programme, with any offices found to be performing inadequately inspected on a more frequent basis, to ensure improvements in service are implemented and embedded'.

21. One parent was concerned that 'there are wide fluctuations in the quality of the reports provided and my fear is a broader inspection may gloss over this'. A professional who disagreed with this proposal commented: 'each area operates differently and to varying standards – to combine them into one inspection could give a slanted view on actual standards within each area'. Others added that important detail from findings about each of the areas visited during the inspection may be lost in an overview report and not reach the public domain.

Q4. To what extent do you agree or disagree with our proposal to survey children and young people who are current and recent users of Cafcass, using an annual online survey?



22. We received 99 responses to this question.

23. Approximately 82% were in favour of this proposal while 9% were against and 9% neither agreed nor disagreed. Comments indicate that almost all are in favour of Cafcass service users being consulted, with a range of views about the most suitable way to do this.

24. There were various comments about this question. Responses included:

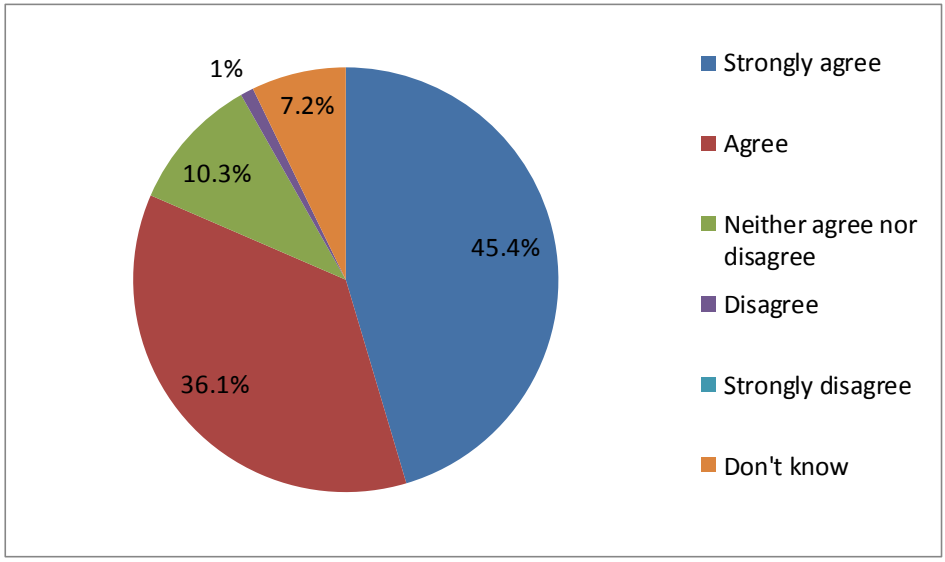
- 'we agree in principle as it is an easy way to access most young people's views however this would need to be in conjunction with direct contact with children and young people as an online questionnaire can't answer any questions they may have'
- most children will only know about their Guardian rather than Cafcass as an organisation
- children are influenced by their parents and may not be able to express their own genuine views
- younger children, children with a disability and children who don't have English as a first language will need to be supported to complete the survey
- how will children and young people get feedback on their responses
- some children don't have access to computers and they should be given other options to communicate, such as telephone and post.

25. Napo observed that 'family proceedings are an extraordinarily unsettling experience for children … Napo suggests that it is not possible to adequately

reflect the dilemmas children face and how this might inform their views of the service they receive in terms of an online form'.

26. The British Association of Social Workers noted that 'the proposals state that inspectors will also where possible, talk directly to children, young people and adults involved in proceedings at the court and also when they visit the Cafcass office. If this cannot be done in a satisfactory way due to the time constraints of the inspection process, Ofsted need to consider how else the views of children and young people can be sought and should consider working in collaboration with other organisations who have the skills to carry out this work'.

Q5. To what extent do you agree or disagree with our proposed inspection judgements?



27. We received 97 responses to this question.

28. Approximately 82% were in favour of this proposal while 10% neither agreed nor disagreed and 7% did not know. The broad agreement was based on the parity the proposed judgement structure has with other social-work-based organisations inspected by Ofsted.

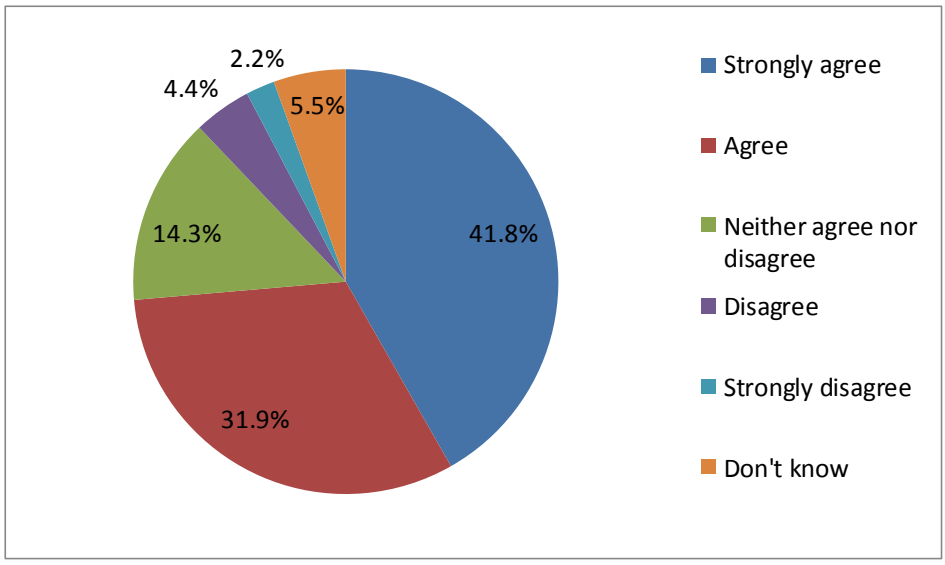
29. Devon Council commented: 'We agree that the proposed inspection judgements are helpful, as they recognise good practice whilst giving opportunity to prompt improvement where necessary. In our view it is helpful to avoid the term 'satisfactory' as it can potentially limit motivation to improve'.

30. The College of Social Work offered a different view: 'We agree but express concern that the four-point scale is simplistic and would prefer to give inspectors more scope for expressing nuanced judgements.' Southend Borough Council/Local Safeguarding Children Board requested the inclusion of an

assessment of the effectiveness of partnership working. The British Association of Social Workers suggested a clear differentiation between Cafcass practice in private law and public law in order to understand how children and young people fare in both systems.

31. Many respondents emphasised the importance of talking to parents and stakeholders and of observing practice first hand in order to form the judgements.

Q6. To what extent do you agree or disagree with our proposed inspection methodology (to evaluate the effectiveness with which Cafcass safeguards and promotes the welfare of children)?



32. We received 91 responses to this question.

33. This proposal had the lowest positive response with 74% in favour. Around 12% either did not know or neither agreed nor disagreed.

34. Several respondents referred to the sizeable challenge presented by the proposed framework. Oxfordshire Council agreed: 'The key features and activity are all that are expected from the inspection process ... The methodology sets out a balanced approach to understanding and informing the analysis. It is an ambitious agenda for the inspectors to cover a national service in ten working days'.

35. Haringey Council similarly commented: 'the stated aim of focusing on the child's journey from an initial application to the conclusion of Cafcass is again particularly relevant given the changes proposed by the Family Justice Review. However, there is a concern that the necessarily broad remit contained within the methodology may mean that in practical terms there may be difficulty in achieving all that it sets out to accomplish'.

36. Another suggestion made in this section was to evaluate separately various functions of Cafcass' remit. Cafcass advised 'a separate focus on public law, private law casework and work to first hearing services would give a better chance of our specialist services being more accurately evaluated'.

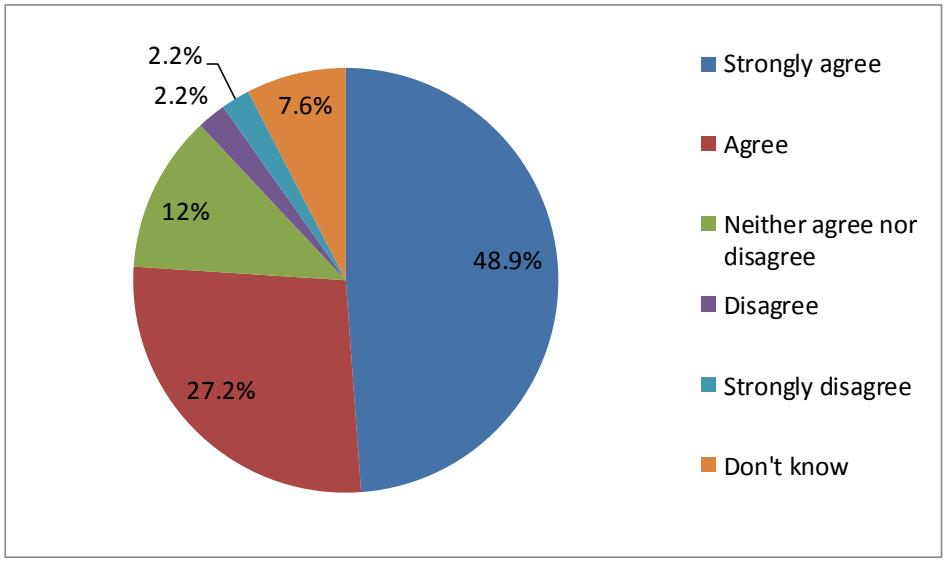
37. Parents Against Injustice strongly agreed with the proposal but commented: 'More emphasis is needed on the scrutiny of reporting within public law proceedings. The quality and accuracy of reports by Cafcass officers need more scrutiny than is suggested in this proposal as feedback from parents who feel they have been wronged clearly points to this area as being one of major concern'.

38. Napo considers that in private family law the ability to obtain dispassionate accounts of provision can vary alarmingly: 'Napo invites Ofsted to take account of the fact that a parent's judgement can be distorted by a sense of grievance of what might be a wholly appropriate outcome for the child. The service that Family Court Advisers attempt to provide parents has traditionally been controversial, particularly when considering the child's welfare is paramount. On those occasions the parents' wishes, however justified they may be, might go unmet'.

39. The British Association of Social Workers emphasises 'the importance of inspecting how much actual time Guardians are able to spend with children and young people, as we know from our members that this has been seriously eroded, particularly with the introduction of the 'proportionate' working model … Again, we would argue very strongly that there is a focus on the child's journey in both private law cases and public law cases; we know that in the case of the former, children and young people can often get a raw deal in a climate of scarcer and scarcer resources in family courts which is being exacerbated by the cuts to legal aid'.

40. One parent commented 'It appears the stakeholders you speak to are representative of the established supporters of Cafcass. You need to speak more often and in a more engaging way with non-resident parents and children who have come through the system'.

Q7. To what extent do you agree or disagree with our proposed approach to evaluating quality of practice?



41. We received 92 responses to this question.

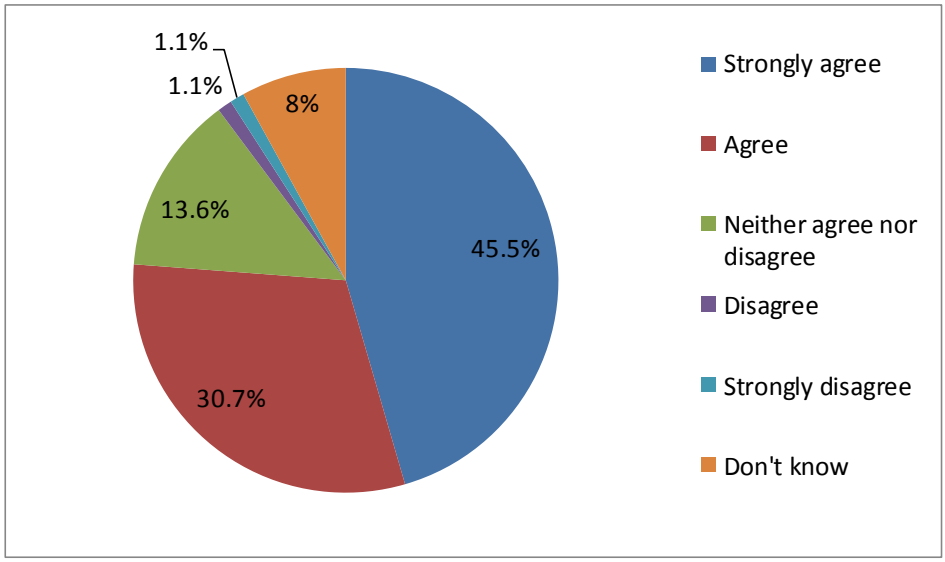
42. Approximately 76% were in favour of this proposal and 20% either did not know or neither agreed nor disagreed.

43. Many respondents again emphasised the importance of talking to stakeholders and direct observation. Children First Family Mediation comments: 'you need to observe more; and talk to parents and other agencies more rather than rely on reading files and looking at systems which can often present a more rosy picture than reality'.

44. The National Association of Child Contact Centres considers the inspection framework should include the views of service users who do not have face-to-face contact with a practitioner but only a telephone conversation, and of attendees on Parent Information Programmes as many have strong views about their experience.

45. Napo agrees with this proposal but asks that Ofsted inspectors pay due regard to advice from the family court adviser if it is felt that observing or engaging with a child might prejudice an outcome for that child.

Q8. To what extent do you agree or disagree with our proposed approach to evaluating leadership and governance?



46. We received 101 responses to this question.

47. Approximately 76% were in favour of this proposal and 22% either did not know or neither agreed nor disagreed.

48. The general view of respondents is that this proposal is robust and covers leadership at all levels. Comments from respondents included that the framework should include evaluation of the mentoring, support and formal training of new managers, and supervision, motivation and appraisal of all staff.

Q9. Do you have any further comments?

49. The following comments provide a good representation of the observations and advice offered in this section.

50. Haringey Council concludes: 'In summary, there is a general agreement with the proposals but there may be a tension between the stated aims of the inspection and the reality of what can be realistically achieved in the allotted timescale. There is likely to be an important challenge to be met in ensuring that "off site" activity involving interaction with service users and live observations of Cafcass practitioners is given the same priority as evaluating hard data'.

51. Cafcass suggests 'a greater focus on practice observations, rather than so much file reading, would in our view give a greater chance of understanding and appraising the changes we make on behalf of children and young people'.

52. Napo offers the view that Cafcass is not a child protection agency on the same basis as local authorities and expresses the concern 'that Ofsted continues to approach Cafcass as if it were a local authority children's service'. Napo would welcome inspection of Cafcass 'within its proper context, that is, the provision of forensic social work within the family courts'.

53. Parents Against Injustice conclude: 'We support the premise that Ofsted, in creating and developing an effective inspection system, needs to continue to consult with organisations that represent interested parties involved in family proceedings. It is disappointing though that parent organisations are often ignored as this can lead to a one-sided view being formed as a result of engaging with the family judiciary, magistracy and local authorities'.

54. The British Association of Social Workers makes an important point about using research evidence: 'Cafcass often features in research undertaken about family law and so it is important that inspectors are also research minded and able to check out in practice some of the assertions that have been made about the quality of the service in order to gain an accurate and well rounded view of Cafcass'.

55. Staffordshire Council recommends that inspectors explore the timeliness of Cafcass assessments and to what extent they have added value to the work of the local authority and other reports received by the court in care proceedings.

56. Southend Local Safeguarding Children Board and Southend Council suggest that some consideration is given to looking at Cafcass performance alongside that of local authority inspections. Southend made this comment in response to the proposal to have fewer inspections of Cafcass.

57. Many respondents stress that inspectors sample the Cafcass complaints process as part of the inspection process.

Responses from children and young people

58. Most children and young people agreed with our proposals for the inspection of Cafcass. They supported a single, annual inspection of Cafcass and felt it was important to see what was happening across the organisation. They did, however, have concerns that if only up to six areas are inspected then some things might get missed. Children and young people also agreed with unannounced inspections. They said this meant that nothing could be changed because an inspection was about to take place.

59. We asked about using an online survey to get the views of children and young people and they said it was a quick and accessible way to provide views and therefore children and young people would be more likely to tell us what they think. However, some thought that children and young people might not want to complete a survey and also raised the issue that not everyone has access to

the internet. Children and young people supported the areas that we proposed to make judgements on, saying that this would let people know how well Cafcass was performing and also highlight to Cafcass where it needs to improve.

The way forward

60. We are grateful to all those who responded to our online consultation or attended the focus groups.

61. Following the consultation period, which produced broad agreement on our key proposals, we reflected on the proposed judgement structure. Building on the experience of completing the inspection programme of Cafcass service areas and the experience of the local authority child protection inspections, we concluded that the separation of 'the quality of practice' and 'the effectiveness with which Cafcass safeguards and promotes the welfare of children' was unhelpful as some of what inspectors would evaluate and report on would be duplicated.

62. We reflected that a more important distinction was the difference between Cafcass practice in private and public law. Cafcass practitioners are the primary social work service in private law proceedings as opposed to the unique role delivered by children's guardians in care, supervision and adoption proceedings. Inspection evidence shows that the quality and impact of each type of practice is different, so we concluded it was the right thing to make a separate inspection judgement about each.

63. A further reflection, as we prepare for the first single inspection of Cafcass as a national organisation, was the importance of distinguishing between the leadership and management of the national organisation and that of the local service.

64. Following consultation with the Department for Education and the Cafcass senior leadership team, we agreed the following judgement structure which differs from that which we publically consulted on, but better reflects the performance of Cafcass' statutory functions:

    - overall effectiveness (including areas for development)
    - the quality and effectiveness of Cafcass private law practice with families
    - the quality and effectiveness of Cafcass public law practice with families
    - leadership and management of local services

    The leadership and management of local services judgement is a cumulative judgement derived from:

        - the leadership and management of service area A

- the leadership and management of service area B
- the leadership and management of service area C, etc.

- leadership and governance of the national organisation.

65. The consultation proposed two weeks of fieldwork and inspection activity in six Cafcass service areas. Development of the evaluation schedule led us to conclude that two weeks would be insufficient to get the right balance of inspection of:

- the local service
- the nationally delivered functions
- the importance of tracking recently closed case files in order to identify key lines of enquiry from cases that have completed, including having reported to court.

66. We concluded that the inspection be delivered over a four-week period with the first week focusing on national functions and case tracking and weeks two and three on-site across seven or eight Cafcass service areas. The lead inspector will remain at the Cafcass national office to ensure the Cafcass senior leadership team are routinely updated and ensure this very large-scale inspection is well coordinated.

67. We also decided that if Cafcass as a national organisation is found to be good or better overall, the subsequent inspection will be three years later. If Cafcass is found to 'require improvement' the subsequent inspection will be within 12 to 24 months and if inadequate overall within 12 months.

68. The inspection programme we completed earlier this year was delivered at no notice for Cafcass. This much larger inspection will take greater time and resources to facilitate, both for Ofsted and Cafcass. We have decided that to get the right balance between time to prepare the inspection and not giving so much notice that this diverts Cafcass key managers from their core duties, we will give Cafcass short notice – two hours.

69. The experience of both Cafcass and Ofsted when trying to engage former Cafcass services users (both adult and child), is that postal and online surveys harvest very low return rates. Following a successful pilot by Cafcass to survey users' views through telephone interviews, we have decided to use this approach in advance of the first national inspection. Former Cafcass service users will be asked to consent to be called by an Ofsted inspector. The telephone calls will be undertaken annually but not linked to the start date of the inspection, as this would have the effect of announcing the inspection. Rather, it will be undertaken during the same business year and the views of service users will be used to identify key lines of enquiry prior to the inspection. Where possible and appropriate, inspectors will take the opportunity to talk with children and young people.

70. Ofsted is committed to evaluating the effectiveness of the new single national inspection of Cafcass to ensure that future planning in 2014/15 remains the most appropriate means of supporting and challenging Cafcass to be 'good' or better.

Annex. Organisations that responded to the consultation

Online questionnaire

British Association of Social Workers (BASW)

Buckinghamshire County Council, Children and Young People Services

Cafcass

Cheshire East Council

Children First Family Mediation

The College of Social Work

Devon County Council

Fathers 4 Justice

False Allegations Support Organisation (FASO UK)

Family Mediation Staffordshire

Gwent Police

Leicestershire Councty Council

London Borough of Haringey, Children and Young People

Mothers Apart From Their Children (MATCH)

Medway Youth Parliament

NAPO

National Association of Child Contact Centres

National Family Mediation

North Tyneside Council

Oxfordshire County Council

Parents Against Injustice (PAIN)

Staffordshire County Council

Southend Local Safeguarding Children Board (LSCB)/Southend Council

Wiltshire Council Young Commissioners

Focus groups

Cafcass

Family Rights

Local Family Justice Board

MATCH

National Audit Office

National Children's Bureau

National Youth Advocacy Service

Natural Parents Network

Office of the Children's Rights Director