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Consultation on
Inspection of Cafcass: report on the responses to the consultation

Updated 17 March 2021

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Introduction

Ofsted's Children's Services consulted between a consultation on the future framework for the inspection of Cafcass. The consultation ran for 4 weeks, closing on 11 November 2020. We received responses from Cafcass staff, Cafcass Family Justice Young People's Board, children and families involved in proceedings or in the family court where Cafcass has a role.

Our consultation proposed:

- to introduce a whole system approach that includes additional visits and activities to inform our inspection judgements
- to introduce a new, more focused and proportionate judgement inspection of Cafcass as a national organisation
- to make a single judgement on the impact of leaders rather than judging local and national leadership separately
- to complete a focused visit at least once between judgement inspections
- that Cafcass should share a self-evaluation with us annually to inform our inspection planning

Our proposals generated a good deal of interest. In total, we received more than 300 responses, from over 200 people, 200 through the online survey, 70 through the Cafcass online response, came from parents. Other respondents included local authorities, children's services inspectors, the judiciary, advocates and the voluntary sector. This report summarises their responses.

Context

Ofsted's Ambition sets out a guiding principle that underpinned the development of the inspection of Cafcass: "Ofsted's Ambition for Children's Social Care Development through inclusive, responsive and focused inspection and regulation".

The changes we are making will play a significant role in enabling us to fulfil our strategic objectives. The new framework will:

- focus on the quality and impact of Cafcass's practice in both public and private family law
- focus on whether the latest Cafcass plans to the family courts are having the intended impact
- focus our inspection of Cafcass more closely with the inspection of local authority children's services (LACS)

The consultation method

The consultation was promoted through GOV.UK and through writing directly to an extensive list of stakeholders, which we compiled in conjunction with Cafcass.

Stakeholders invited were:

- Cafcass staff and managers
- the family justice and legal professions
- HM Courts & Tribunals Service
- Department for Education's Children's Social Care
- the Ministry of Justice
- HM Government (the Department for Education and the Ministry of Justice)
- organisations that represent children and parents involved in family court proceedings
- organisations that work in the fields of domestic abuse, parental alienation (the phenomenon in which one parent denigrates or brainwashes a child to reject a loving and psychological manipulation by another parent) and other relevant disciplines

Most respondents replied through the online survey. A minority returned written responses. We received responses from 200 people through the online survey, and from 70 restrictions. We met virtually with the Cafcass's Family Justice Young People's Board.

Summary of responses

Respondents to the consultation have mostly agreed with our proposals for the future inspection of Cafcass. Responses giving feedback about the length and frequency of inspections, and the proposed focus of our inspection of the quality and national leadership of Cafcass have been constructively questioned.

We have confidence in our proposed approach, but our Research and Evaluation team will review the effectiveness of our of our fourth framework evaluation during early implementation.

Findings in full

Cafcass serves children in family and other matters in the consultation but we fully consulted in all of the proposals before the consultation launched. We held a consultation workshop with the Cafcass Family Justice Young People's Board and officials from the National Leads who confirmed their many approaches to personal approach to the future inspection of Cafcass. We also received individual responses from a small number of Cafcass employees.

The great majority of responses to the consultation are from parents, who described their experiences of Cafcass and family court proceedings. Many were very critical. The nature of the justice system is that it is often experienced as adversarial, leading to some parties feeling that their case has been 'won' or 'lost'. The experiences of respondents who felt that their case had been 'lost' were particularly critical of the way in which they had been treated. Some of such responses are unfounded.

Figure 1. Respondents who completed the online survey

Respondent type	Number of responses	% of responses
A parent	120	59
A grandparent	2	1
An employee of Cafcass	5	2
Judiciary	2	1
A relative/family	16	8
Other	36	18
Total	200	100

One respondent did not provide a response to this question.

All our proposals were approved by a majority of respondents:

- 77% agreed with the proposed whole-system approach, while 10% disagreed
- 55% agreed with the proposal for a more focused and proportionate judgement inspection of Cafcass, while 17% disagreed
- 54% agreed with the proposal to make a single judgement about the impact of leaders, while 24% disagreed
- 71% agreed with the proposals to introduce focused visits between inspections, while 7% disagreed
- 76% agreed with the proposal to ask Cafcass to submit an annual self-evaluation, while 7% disagreed

Proposal 1: A whole-system approach

Summary of proposal

We proposed a whole-system approach that includes:

- asking Cafcass to share an annual self-evaluation of frontline practice in both public and private law
- a quarterly engagement meeting between the Cafcass chief executive and senior leadership team members and Ofsted's national family justice policy and operational lead
- a national judgement inspection in a large service
- focused visits between judgement inspections

What people told us

Overall, there was agreement with the proposed whole-system approach. However, one domestic abuse organisation feared it represented a 'scaling back' of inspection. Most respondents felt it was part of an approach that promotes accountability, transparency and the quality of inspection.

Parents who responded welcomed the additional scrutiny and more regular inspection that the proposals will add to achieve. Some were sceptical about whether Cafcass's greater practice will be truly uncovered.

The small number of children and young people who responded to the consultation also supported the proposed approach.

Cafcass's Family Justice Young People's Board felt that this proposal was better aligned with other inspection frameworks, participating in LACS. An organisation representing some women's charity agreed with the whole-system approach and other organisations felt it was a good idea to inspect Cafcass in a large service. The Children's Commissioner of Ofsted inspections as long as what we do and are seen as the right things. An organisation representing Cafcass staff was uneasy with the statement in our consultation document that our proposed inspection approach were based on Cafcass's continued high performance.

Figure 2. Responses to proposal 1

Response	Number of responses	% of responses
Strongly agree	110	38
Agree	110	38
Neither agree nor disagree	32	11
Disagree	23	7
Strongly disagree	18	6
Don't know	6	1
Total	289	100

Our response

We are confident that the whole-system approach will mean more frequent contact and more regular scrutiny, and that the visiting team of inspectors that we mobilise will have

Our approach seeks to be both risk-based and proportionate. We have reflected on our experience of family service inspection in the inspection of local authority children's services (ILACS) and have taken into account the impact of inspection on children's lives and frequency of activity. Through focused visits, above, or to clearly set out any identified weaknesses in Cafcass's practice, we will be able to inform our judgements, and Cafcass's leaders the organisation, to improve. We are confident that our approach will be widely welcomed by parents, who have felt that their voices have been ignored, and children who they felt will be successfully replicated with Cafcass. This provides added benefits to children and families who are involved in family court cases. We are also confident that its decision, our inspection framework gives us the flexibility to increase the intensity of our inspection.

Should Cafcass be judged inadequate, we will introduce monitoring visits 3 or 4 times each year.

Proposal 2: a new judgement inspection

Summary of proposal

We proposed a new shortened 3 yearly judgement inspection announced with a minimum of 2 working days notice. We proposed that the inspection of Cafcass's role will be carried out in parallel with the inspection of local authorities' children's services.

This is to be followed by up to 2 weeks of on-site fieldwork. Inspection will work in small teams, gathering evidence in the geographical areas covered by Cafcass's operational service leaders (executive directors).

What people told us

While most respondents supported the proposal to carry out inspections at short notice, others, particularly parents, argued that they should be announced. They argued that Cafcass's Family Justice Young People's Board felt that this was a reasonable practice. Parents also felt that 2 working days notice is too short, and that it would be better if it was longer. Some were concerned that Cafcass could use the notice period to cover up or on directly observing practice with, and hearing the views of, children and families.

The other common concern was that a notice period enables the inspected body to cover up any weaknesses. Cafcass, like most organisations, operates with electronic diaries and mobile phones, so the inspection team and inspectors can therefore identify and challenge any recent changes to electronic records.

Proposal 3: a single national judgement about the impact of leaders

Summary of proposal

We proposed to make a single national judgement about the impact of leaders, rather than the previous approach where we judged local leadership and national leadership separately.

What people told us

Most of respondents expressed concerns about the proposal to make a single national judgement about the impact of leaders. They feared that this would fail to hold local leaders sufficiently to account. Cafcass staff felt it was important that local leaders should be held to account for the quality of their local practice, and that it would be transparent accountability is important. Grandparents felt that this proposal risked a 'postcode lottery'.

Some parents expressed approval of this proposal, as a single judgement encourages collective accountability. Others felt that approach inheritance may complicate for such large and complex organisation.

Respondents were in broad agreement with the inspection criteria we published in our proposals but questioned whether they reflected actual practice within Cafcass. Respondents suggested that we should include a judgement about how well it effectively observing Cafcass's practice with families and hearing the direct testimony of children.

Figure 4. Responses to proposal 3

Response	Number of responses	% of responses
Strongly agree	58	19
Agree	58	20
Neither agree nor disagree	28	10
Disagree	27	10
Strongly disagree	68	24
Don't know	9	3
Total	248	100

Our response

This proposal attracted the most scepticism from respondents. Some said that without local leadership judgements, we would be making a judgement about the quality of local practice by accident.

We believe that holding leaders to account is not achieved only through publishing a report. We will publish our report, but we will also use our inspection to ensure the wording of that report will have the impact we want to achieve. We will also be monitoring leaders's strengths and areas for improvement.

We approach, we of experts of the new inspection framework, will be formally evaluated by our Research and Evaluation team. In recognition of the views we have heard, we will also review this approach at this review.

Proposal 4: Focused visits

Summary of proposal

We proposed to carry out 2 day focused visits between judgement inspections, with small teams of inspectors deployed across a sample of geographical areas. We proposed that these visits would be announced with 2 working days notice, and that a sample of the services and area for further improvement. We did not propose to make a judgement on the front-guided social. The principal focus will be the quality and impact of practice (public, private or both) with children and families.

What people told us

Most respondents welcomed focused visits as a positive proposal, providing increased scrutiny of Cafcass's practice between judgement inspections. Some respondents felt that Cafcass's Family Justice Young People's Board and other respondents welcomed whether one focused visit between judgement inspections was enough.

Some Cafcass staff questioned whether 2 days is enough. The small number of judges who responded to the consultation felt that focused visits would be a positive addition, providing the whole-system feedback they need. Local authorities, which already receive focused visits, through a similar approach in the LACS framework, felt they would be helpful in providing a sample of Cafcass's practice in a local authority area. Parents felt that visits provided additional opportunities for inspectors to listen to children's views.

Figure 5. responses to proposal 4

Response	Number of responses	% of responses
Strongly agree	108	37
Agree	76	26
Neither agree nor disagree	37	13
Disagree	19	7
Strongly disagree	20	7
Don't know	34	12
Total	290	100

Our response

Focused visits have proved extremely effective in our inspections of local authorities. The challenge with Cafcass, as some respondents pointed out, is the scale and size of Cafcass. Focused visits, as with most inspection activity, will have to focus on a sample of Cafcass's practice. Our proposed approach will mean that we will visit a substantial increase in the number and a specific geographical area, compared with under the previous inspection framework.

Ultimately, it is the Ofsted's Chief Inspector's duty to determine the focused visit topic and to inform the Secretary of State for Education and the Ministry of Justice. The inspection framework sets out that focused visits will:

- have a clear line to Cafcass's statutory functions
- take account of previous inspection outcomes and Cafcass's current improvement plans
- take account of information and intelligence received from parents, children and other focused visit

The inspection framework will not limit us to one focused visit between full inspections. It allows us the flexibility to carry out additional visits where there are concerns about service practice.

Proposal 5: self-evaluation of practice

Summary of proposal

We proposed that Cafcass should share its self-evaluation with us annually to provide us with a useful contribution to our preparation for the inspection. We proposed the self evaluation would need to set out:

- what Cafcass knows about the quality of its social work practice in both private and public law
- how Cafcass knows this
- Cafcass's strengths and its priorities for improving social work practice
- who was involved in carrying out and agreeing the self-evaluation

What people told us

This proposal received the highest approval rating. Most respondents recognised its value. Local authority respondents said they appreciate the value of sharing their self-evaluation with us. Cafcass staff felt it would be helpful to us, and to Cafcass's staff, self-reflection learning. The family judges also felt positive about this proposal, although one judge feared Ofsted may be overly influenced by it.

Parents and grandparents raised the issue of objectivity and whether a self-assessment can be related or to be accurate and trusted.

An organisation representing Cafcass staff was concerned whether a week self-evaluation would be sufficient, and that it would be Step Ahead of Ofsted.

The Family Justice Young People's Board agreed with this proposal but was very clear that it would expect the self-evaluation to include feedback from children.

Figure 6. responses to proposal 5

Response	Number of responses	% of responses
Strongly agree	116	40
Agree	102	36
Neither agree nor disagree	34	12
Disagree	16	5
Strongly disagree	6	2
Don't know	9	1
Total	284	100

Our response

Respondents flagged the potential for a self-evaluation to lack objectivity. We will use our inspection of Cafcass's practice to ensure we understand the quality of its self-evaluation. Our Ofsted's Cafcass's accuracy of self-evaluation will be tested through inspections and focused visits.

We believe our inspection of Cafcass's self-evaluation will be reflected in the published inspection report and inspection findings. Weaknesses may also impact on the timing of the next inspection.

The framework will promote the need for accurate and objective self-evaluation by Cafcass to improve the quality and effectiveness of practice with children and families.

Additional information

Individual respondents, many parents and grandparents, those responding on behalf of organisations, made a wide range of other points. Many were critical of Cafcass's overall issues that – while important – are outside the scope of this consultation.

What people told us

Respondents raised concerns about a range of Cafcass's practice, including:

- the effectiveness of Cafcass's complaints processes
- responses to parental alienation
- responses to domestic abuse, including the impact of contact, a victim-blaming culture, and the lack of specialist domestic abuse practitioners. Some of these concerns, many expressed in the Ministry of Justice's Harm and Family Proceedings: Domestic abuse, child abuse and parental alienation
- whether fathers are appropriately considered as safe parents
- whether Cafcass practitioners speak sufficient time listening to children, particularly those who are non-verbal or very young
- practice around equality, diversity, disability, culture and religion
- allocation practice to local law firms in one geographical area

In addition, respondents raised a desire to see families having access to Cafcass's expertise before proceedings in a mediation.

It is not for us to comment on whether Cafcass's role in evaluating the impact of Cafcass's advice to the family court and the decision making of the family court. 12 months after the order was made.

Our response

We have written to Cafcass's Chief Executive, setting out respondents' views about Cafcass's practice without prejudice and without identifying any respondent.

In addition, we will keep our grade descriptors under review to ensure that they accurately reflect the issues that parents and other respondents have raised. We will also included, and will continue to take into account, an evaluation of the responses to complaints.

It is not for us to comment on enhancing Cafcass's statutory duties to include pre-proceedings mediation. But we are aware that reform across the family justice system, including the Ministry of Justice's Harm Family Court proceedings, is a priority for the National Family Justice Board.

In terms of the long-term impact of family court orders, this goes beyond our remit. We have a duty to inspect Cafcass's statutory functions, which limits inspections to children who are involved in family court proceedings. We do not inspect the family court about what it is the child's best interests. However, inspectors do take of the family court's decisions and how they have impacted on children and young people, including their life chances and opportunities. We are aware of a number of academics working in this important area.

Next steps

We propose to publish the new inspection framework alongside this consultation response.

We have, ahead of publication and with Cafcass's consent, already received its first self-evaluation and explored its efficacy at our first annual engagement meeting.

We are now considering what the next inspection activity will be and when it will happen, taking into account our assessment of the self-evaluation.

Equality, diversity and inclusion

As part of the consultation, we published a draft equality, diversity and inclusion (EDI) statement. Through the consultation process, we received feedback from people who raised the detail within the proposals. Just over 10% of responses explicitly commented on equalities issues.

Of the EDI respondents to the consultation, 28% were external to Ofsted and 6 were from Cafcass staff. Of the 28% external respondents, 12% were from Cafcass's Family Justice Young People's Board, 10% were people directly involved in Cafcass's family court and 17 directed them to Ofsted.

Those directed to Ofsted sought assurance that inspectors would focus on:

- Black and minority ethnic children, including exploring the quality and impact of anti-racist practice
- gender identity, and particular attention to transgender and non-binary children
- equality, diversity and discrimination
- Lesbian, Gay, Bisexual and Transgender (and Ofsted's EDI statement description)

that we met our public sector equality duty, in their opinion.

Comments directed to Cafcass were dominated by concerns about gender bias (43%) and wider equality, diversity and discrimination (41%) in practice. A smaller number of respondents cited concerns about most other protected characteristics.

We have carefully considered this feedback and reviewed every response and free-text comment for EDI concerns. We have published a revised EDI statement alongside this consultation outcome. We are committed to keeping our inspection framework, and particularly the grade descriptors, under review to satisfy ourselves that protected characteristics as defined in the Equality Act 2010 are fully and appropriately addressed. Inspectors will use the grade descriptors to inform their lines of enquiry during inspections/visits, the judgements we make and how we report on our findings.

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