

# Cafcass Safeguarding Framework (2009)

PHOTO REDACTED DUE TO THIRD PARTY RIGHTS OR OTHER LEGAL ISSUES



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# Terminology

The following terms are used throughout the Safeguarding Framework:

**'Children'** is used to denote children and young people up to their 18<sup>th</sup> birthday.

**'Practitioner'** is used as a generic term to denote all those who work with children and families on behalf of Cafcass irrespective of their employment status.

**'Children's Services'** is used to denote local authority children's social care services; some authorities refer to this as 'Children's Social Services', others use 'Children and Young People's Service' etc.

**'Safeguarding'** is used as a shorthand for safeguarding and promoting the welfare of children, defined (*Working Together 1.18*) as:

- protecting children from maltreatment
- preventing impairment of children's health or development
- ensuring children are growing up in circumstances consistent with the provision of safe and effective care and
- undertaking that role so as to enable those children to have optimum life chances and to enter adulthood successfully.

**'Child protection'** is used to denote the activity undertaken to protect children who are suffering or at risk of suffering significant harm.

For a definition of significant harm follow this link to *Working Together* (2006) and go to sections 1.25 to 1.26 on page 36:

<http://www.dcsf.gov.uk/everychildmatters/resources-and-practice/IG00060/>

A full glossary of terms is available on the ECM website by following this link. N.B. Whilst this glossary is comprehensive, some terms are out-of-date:

<http://www.dcsf.gov.uk/everychildmatters/glossary/>

# Cafcass Safeguarding Framework

## Section A: Policy Statement

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## Policy Statement

### 1. The Cafcass Commitment to Safeguarding

- 1.1 Cafcass is committed to safeguarding children and to working in partnership with children, their families and other safeguarding agencies. Safeguarding is everyone's responsibility within Cafcass.
- 1.2 This Safeguarding Framework is based on the Government guidance: *Working Together to Safeguard Children* (2006).
- 1.3 The purpose of the Safeguarding Framework is to set out policy, procedure and guidance. **It must be complied with by everyone who is working for Cafcass, unless specific circumstances in an individual case indicate exceptional reasons which justify a variation.** In those situations where the policy is not complied with, the circumstances which justify variation must be recorded on the relevant case file.

## 2. Cafcass' Statutory Duties

2.1 Safeguarding is a key function of Cafcass, set out in the founding legislation. Section 12.1 of the Criminal Justice and Court Services Act 2000 states

In respect of family proceedings in which the welfare of children is or may be in question it is a function of the Service to –

- (1) **safeguard and promote the welfare of the children**
- (2) give advice to any court about any application made to it in such proceedings
- (3) make provision for the children to be represented in such proceedings
- (4) provide information, advice and other support for the children and their families.

2.2 Cafcass works within the functions set out in the Criminal Justice and Court Services Act 2000 and according to the principles laid out in the Children Act, the Adoption and Children Act and the Family Proceedings Rules: that the child's welfare is paramount.

2.3 Cafcass is subject to a statutory duty to undertake risk assessments. Section 16A of the Children Act 1989 states:

Section 16A The Children Act 1989

**(2) If ... an officer of the Service ... is given cause to suspect that the child concerned is at risk of harm, he must a) make a risk assessment in relation to that child and b) provide the risk assessment to the court.**

**(3) A risk assessment, in relation to a child who is at risk of suffering harm of a particular sort, is an assessment of the risk of that harm being suffered by the child**

### 3. Every Child Matters

3.1 The Government Green Paper *Every Child Matters* (2003), and the subsequent Children Act 2004, together signalled a change in the approach for public services in responding to the needs of children. Central to Every Child Matters (ECM) were five outcome areas:

- Be healthy
- Stay safe
- Enjoy and achieve
- Make a positive contribution
- Achieve economic well-being

3.2 Cafcass is committed to addressing the ECM outcome areas as a matter of good practice, as they are consistent with our statutory function of safeguarding and promoting the welfare of children in family court proceedings. This needs to be done proportionately. For example, work done before the First Hearing in private law will address 'staying safe' whereas casework following the First Hearing will need to consider all the areas, although not necessarily in equivalent detail, for all five outcomes. It is Cafcass' policy that written reports provided to the courts will, as relevant, make specific reference to the ECM outcome areas. There is no requirement for practitioners to set out each outcome for each child in all court reports. The outcomes should be integrated into the analysis and only reported to the court as specifically relevant.

#### 4. A Rights-based Approach

- 4.1 All users of our service have rights that are enshrined within the Convention for the Protection of Human Rights and Fundamental Freedoms 1950 (incorporated into UK domestic legislation by the Human Rights Act 1998) these include:
- The right to life (article 2)
  - The right to freedom from torture, inhuman & degrading treatment (article 3)
  - The right to a fair hearing (article 6)
  - The right to respect for private and family life (article 8)
  - The right to freedom from discrimination (article 14)
- 4.2 Of the above, the right to life and the prohibition of torture and inhuman and degrading treatment are absolute. The others are qualified, meaning that the rights are not guaranteed unconditionally.
- 4.3 In all work undertaken on behalf of Cafcass, either by employees, self employed contractors or a contracted agency, care must be taken not inappropriately to restrict the human rights of the children and adults with whom we work. In all actions the following questions need to be satisfied:
- is the action lawful?
  - is it necessary?
  - is it proportionate?
- 4.4 As described in the [Children's Rights policy](#) and the [Children's Rights in Practice](#), Cafcass aims actively to promote the rights of all children it encounters; to provide the highest possible quality of services to children and their families; to ensure that our services are inclusive and respectful of our users' individual needs; and to be a child centred organisation.
- 4.5 The promotion of children's rights is key to safeguarding and promoting the welfare of children, and safeguarding cannot be fully effective unless there is consideration of the child's perspective and unless children are provided with appropriate opportunities to participate in the processes which relate to them.

## **5. Promoting Equality and Diversity**

- 5.1 Cafcass is committed to building an inclusive organisation that promotes equality in its services and working environment. This commitment is core to meeting Cafcass' aim of safeguarding all the children with whom we work. Safeguarding cannot be fully effective unless issues of equality and diversity are actively addressed. Cafcass commitment is that no service user should have a different experience in their receipt of a service, because of their race, culture, language, disability, sexuality, religion, immigration status or any other diversity issue.
- 5.2 Cafcass has in place equality and diversity policies for staff and service users, in addition to the diversity monitoring strategy. These documents emphasise the importance for Cafcass of valuing the rich diversity of children and their families. A body of good practice guidance relating to diversity issues is to found on the Diversity section of the Intranet ([equality and diversity handbook](#) and the [diversity resource pack](#)).

# Cafcass Safeguarding Framework

## Section B: Policy Procedures

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# Policy Procedures which apply across all of Cafcass' work

## 1. Accountability for safeguarding children within Cafcass

***The single most important change...must be the drawing of a clear line of accountability, from top to bottom, without any ambiguity, about who is responsible at every level for the well-being of vulnerable children***

Victoria Climbié Inquiry Report 2003 (paras. 1.27 & 5.184)

- 1.1 Ultimate accountability for safeguarding practice within Cafcass is to the Cafcass Board.
- 1.2 The Cafcass Accountability Review 2008 led to the adoption by Cafcass of the following definitions:
  - Staff are *accountable* to those people or bodies (Cafcass and GSCC) who are authorised to hold them to account and who do so on a day-to-day basis.
  - Staff are *responsible* for providing the highest quality of service to children, their families and the family court system and the wider inter-agency system for safeguarding children.
- 1.3 Employed staff are accountable through line management. Self-employed contractors are accountable to their contract manager (usually a Service Manager) through the terms of their contract, which requires compliance with Cafcass policies.
- 1.4 When a situation arises which means that contact with the line manager is needed, but the individual's manager is not available, contact should always be made with the nominated cover manager, or with the relevant Senior Manager. It is the responsibility of the manager (or senior manager where the manager's absence is unexpected) both to put the cover arrangements in place and to ensure that all relevant staff are notified of them.
- 1.5 It is also Cafcass' policy that the requirement to address the safeguarding needs of children is to be included in all commissioning arrangements and external contracts.

## 2. Direct Work with Children

2.1 Cafcass adopts the following principles identified in *Working Together* (2006). Our work will:

- be child centred
- be rooted in child development
- be focused on outcomes for children
- be holistic in approach
- ensure equality of opportunity
- involve children and families
- build on strengths as well as identifying difficulties
- be multi/inter-agency in approach
- be a continuing process not an event
- be informed by evidence and facilitate the provision and review of services (*in accordance with our role and responsibilities*).

Working Together to Safeguard Children 2006 5.3 – 5.4

2.2 Some aspects of Cafcass' work do not entail a pro-active engagement with children e.g. WTFH in private law. Other than in these circumstances the practitioner should engage with all children and seek to establish the needs, wishes and feelings of the child along with the child's own views about the matters being considered by the Court. It is a minimum expectation that children of school age (and above) will be seen at least once without adult family members present. Every contact with a child should have a clearly defined purpose.

***Consistent failure to communicate with Victoria was partly responsible for concealing her situation***

Victoria Climbié Inquiry Report 2003 (para. 5.184)

2.3 Subject to the child's age and level of understanding, the practitioner should:

- ensure that children are given the opportunity to work directly with their own solicitor when one has been appointed.
- ensure that children are given the opportunity to comment about whether the court should appoint medical or other experts to conduct assessments about them.
- explain to the child the limits on confidentiality.
- be realistic about the court process and possible outcomes ("never promise what you cannot deliver and always deliver what you promise").
- seek to ascertain the child's views through a variety of verbal and non-verbal means.

**Guidance – Engaging with all children irrespective of age etc.**

*The practitioner should seek to ascertain information from the child through, for example, play; observation of interactions with siblings, parent or other care givers; comparison of the child's development and attachments against what would be considered the norm; reference to the literature/research (for instance on the impact on a young child of being raised in the context of substance use).*

*Establishing the needs, wishes and feelings of some children can prove challenging. Examples include disabled children, children for whom English is not their first language, pre-verbal children, children who have suffered emotional trauma, and children whose immigration or citizenship status is uncertain. It is essential that we provide an effective service, which ensures that these children are not doubly-disadvantaged through our intervention. Practitioners should therefore find ways to overcome any communication barriers.*

*Resources to help the practitioner do this include the [Working with children: practitioner resource pack](#)*

**Guidance – Working with a child in distress**

*Cafcass works with children and families at times of crisis, vulnerability, change and loss. The content of our work can cause distress for children. It is the responsibility of the individual worker to respond to this appropriately – sometimes taking the decision to end a meeting or to cancel a proposed contact.*

*At others times, a worker may need to encourage a child to do something that causes initial anxiety – for example in meeting up with a non-resident parent after a period of no contact. There is a fine distinction to be made, between professional support and encouragement for a child to overcome a difficult hurdle and the allegation, which is sometimes made by the resident parent in the form of a complaint, that the worker applied too much pressure. The case record will need to demonstrate the planning to support the child e.g. use of an independent supportive adult.*

*For older children, the [peer mentoring service](#) can provide an important source of independent support.*

2.4 The *Working with children: practitioner resource pack* contains a number of tools to use with children (along with guidance for the practitioner):

- *A needs, wishes and feelings pack* (NWF) for younger and older children
- *How it looks to me* (to help vulnerable children describe how any harm that they have experienced has affected them). Care needs to be taken when using this resource, to ensure that no work done by Cafcass inappropriately impacts upon a

possible child protection investigation. See the detailed guidance notes for the resource.

- *A family court record* (to enable a child to keep a record of their case)
- *A letter to the judge (contained in the NWF pack)* (the practitioner should always consider how to help the child communicate directly with those who make decisions about them. This letter is to assist with this work)
- Emotions and activities sheets.

2.5 All Cafcass staff should be alert to the needs of all children with whom they come into contact. This includes other children in the family or who are living or visiting the household, who are not subject to the current court application. These children can be particularly vulnerable to harm during this stressful period.

### **Working safely with children**

2.6 To work safely with children practitioners should adhere to the following.

Do:

- Consult with the child and carer about future venues following the first meeting.
- Inform the carer of arrangements (where, how long) if the child is seen away from home.
- Enable the child to have a familiar person available when interviewing him/her for the first time.
- Notify the child's solicitor (where appointed) of interviews with the child.
- Notify the social worker of interviews where the local authority holds parental responsibility through a Care Order or Interim Care Order.
- Arrange if possible for carer/ social worker to transport the child to the venue; if a Cafcass practitioner is transporting by car s/he should adhere to the [Transporting passengers whilst on Cafcass business guidance](#).

Do Not:

- Take the child to the practitioner's own home.
- See children at their home when the practitioner is the only adult in the house.
- Interview the child in his/her bedroom (a brief visit to a bedroom at a child's invitation is permissible).
- Interview the child in the practitioner's car.

### 3. Cafcass' Assessment of Risk

- 3.1 Safeguarding children is enhanced by the exercise of rigorous risk assessment and sound professional judgment. The twin concepts of 'respectful uncertainty' and 'defensible decision-making' should inform all of Cafcass' work in this area.

#### ***Guidance – Respectful uncertainty; defensible decision making***

##### ***Respectful uncertainty.***

This concept was introduced by Lord Laming following his inquiry to the death of Victoria Climbié. It is an attitude which prompts professionals to evaluate critically all information they are given.

##### ***Defensible decision making.***

This concept was first developed by Helen Kemshall for use within the Probation Service for work with dangerous offenders. It comprises:

- *staying within agency policies and procedures*
- *taking all reasonable steps to safeguard the child*
- *taking an evidence-based approach*
- *ensuring direct participation of the child*
- *using reliable assessment methods*
- *collecting and thoroughly evaluating relevant information*
- *recording and accounting for the decision making*
- *communicating with relevant others, seeking information you do not have*
- *not working in isolation or taking the most critical decisions on your own*
- *appropriate use of managers and resources provided by the organisation and its partners.*

#### **Risk factors**

- 3.2 All information about risk must be taken seriously. The identification of one or more risk factors does not of itself determine that a child is suffering or is likely to suffer significant harm. It does indicate the need for further assessment.
- 3.3 Cafcass has identified the following set of risk factors. For more detailed guidance about the various elements of harm to children see Working Together (*Chapter 1, paras 1.26 – 1.33*) and the Cafcass outline of [emerging issues in child protection](#).

**Cafcass Risk Factors**

<p><b>1. Past, present, and/or likely future harm to child</b>            1a Physical abuse            1b Emotional abuse            1c Sexual abuse            1d Neglect</p>
<p><b>2. Vulnerability factors of the child, which may increase risk</b>            (e.g. disability; not being a child of the family; behavioural difficulties; uncertain immigration status; family breakdown associated with high conflict where the child is ‘unseen’, ‘unheard’ or caught up in the adult battle)</p>
<p><b>3. The child putting self and/or others at risk</b>            (e.g. substance abuse; sexually harmful behaviour; past/present and /or likely future suicide threats/attempts; self-harm)</p>
<p><b>4. Children in specific circumstances</b>            (e.g. sexual exploitation; child trafficking; faith-based concerns e.g. child possession; ‘honour-based’ violence; forced marriage (of the child)</p>
<p><b>5. Hazardous environment</b>            (e.g. unsupervised access to dangerous dogs, drugs, busy road)</p>
<p><b>6. Domestic violence</b>            6a child witnessing the violence            6b with other partners (either in the past or currently)            6c pre-separation            6d post –separation            6e linked to contact            6f escalation            6g forced marriage (of the parents)            6h threats / fears of child abduction.</p>
<p><b>7. Vulnerability factors relating to the adults</b>            7a Previous/ current mental health problems            7b Adult learning difficulties            7c Drug/alcohol abuse            7d Past, current and/or likely future suicide attempts/ threats / self-harm.</p>
<p><b>8. Other social exclusion factors</b>            (e.g. poverty, racism, homelessness, sudden change e.g. redundancy, bankruptcy)</p>
<p><b>9. Presence of a person within the family/household/immediate network who represents a risk to children.</b></p>
<p><b>10. Other – specify.</b></p>

### **Guidance – Static and Dynamic factors**

*(taken from Cafcass' Good Practice in Risk Assessment course)*

*Risk factors can be divided into two groups:*

- **Static factors** – those which are based in the individual's past history and background demographics, and so are not amenable to change.
- **Dynamic factors** – those which are amenable to change through treatment, interventions or the passage of time. These include information about the person's current attitudes and beliefs gained from interview.

**Static factors** provide the backbone of any credible risk assessment. There is a danger of overrating impressions gained from the service user in interview and underrating information about the person's past history and behaviour. Abusers may:

- Fare well in psychological testing, often better than their victims.
- Convince others that they have 'learned their lesson' or 'put their past behind them', overstating the deterrence value of future punishment or other consequences.
- Be mild mannered and appear reasonable despite severe risk, or be noisy and intimidating with professionals despite presenting only moderate risk to their partner or child.

*In contrast, victims may appear angry with services, emotionally dis-regulated and difficult to work with.*

*Past behaviour is the best predictor of future behaviour – especially if we take into account:*

- **Timing** - the more recent an event or incident of harm to others, the higher the current risk. An assault by a parent upon a child this week indicates a higher risk for the present than the same incident 5 years ago.
- **Severity** - the more severe an event or incident the higher the current risk. In terms of violence the following is a helpful guide:
  - **Minimal** – results in no detectable injury (equivalent to common assault)
  - **Moderate** – results in bruising or abrasions or minor lacerations (equivalent to ABH)
  - **Serious** – results in major injuries including large lacerations, fractures, loss of consciousness and injuries requiring medical attention (equivalent to GBH).
- **Frequency** - the more frequent the events or incidents or harm to others, the higher the current risk. Persistent and repeated assaults on others are strong indicators.
- **Pattern** - is there a recurrent pattern to the type of incident or the context in which it occurs?
- **Escalation** – are the events or incidents increasing in frequency or severity?

*The advice from research therefore is:*

- First form a judgement of risk based on **static factors**.
- Then use **dynamic factors** to make modest adjustments to this estimate.

### **A three-stage process for assessing risk**

3.4 Cafcass assesses risk via a 3-stage process for identifying the presence of risk factors, and for responding to those factors: *screening*; *risk identification*; and *safety assessment*. The detailed processes relating to public law, private law and adoption are outlined in section C of this Framework.

### **Screening**

3.5 *Screening* is the process of requesting, receiving and initially assessing relevant information in relation to all children and relevant adults with whom Cafcass works. It is the important first stage of the risk assessment process but is insufficient on its own. Screening information should be recorded in the contact log.

3.6 The processes for screening are very different within private law, public law and adoption. These are set out in Section C.

### **Initial risk identification and assessment**

3.7 Initial risk identification and assessment is the process of establishing early in the life of each case whether risk factors are present and assessing the degree of risk they pose to the child. Its function is to:

- Identify any risk factors which are present
- Enable an initial 'snapshot' assessment of the likelihood of harm and what needs to happen to reduce the risk.

3.8 The detailed procedures for public and private law are laid out in section C.

3.9 There are different ways of recording risk identification and assessment for private and public law.

### **More detailed assessment about risk and safety issues**

3.11 The identification of risks should prompt a more detailed assessment. The process to be followed in private law is described in section E.

3.12 In some private law situations, there will be a need for an expert assessment. The funding of specialist assessment is complex. Advice should be sought from Cafcass Legal and / or from Cafcass' specialist partnership and commissioning service. In these cases the Cafcass' duty is complied with through:

- identifying the issues
- assessing the level of complexity
- clarifying the relevance of these issues to the matter before the court.

- 3.13 In public law, it is more usual for the practitioner to work alongside the other parties where appropriate, to agree the nature of any detailed assessment rather than undertaking this work directly.
- 3.14 The identification of risks should also prompt a consideration of the need for an immediate referral of a child protection nature. The procedure for doing this is prescribed in the following section.

## 4. Referrals for Services to Children

4.1 The purpose of this section is to outline the circumstances under which the practitioner should refer the child to other agencies / services. This relates to all children with whom practitioners (or other Cafcass staff) come into contact through their work, not just those who are subject to court proceedings.

### Three types of referrals

4.2 Cafcass practitioners should make referrals:

- to Children's Services if a child appears to be suffering or likely to suffer significant harm<sup>1</sup> (s47 child protection referrals – referred to as **type a** in the section below)
- to Children's Services if a child appears to be in need (i.e. whose health and development will be significantly impaired without the provision of services – referred to as **type b** in the section below)
- to any other agency in order to promote the welfare of a child, usually through use of the Common Assessment Framework (CAF – referred to as **type c** in the section below).

4.3 Local Authority Children's Services have a duty to:

- **Make enquiries where they have reasonable cause to suspect that a child who lives, or is found, in their area is suffering, or is likely to suffer, significant harm (s47(1) Children Act 1989)**
- **To safeguard and promote the welfare of children within their area who are in need; and so far as is consistent with that duty, to promote the upbringing of such children by their families, by providing a range and level of services appropriate to those children's needs.(s17 Children Act 1989).**

4.4 Whilst it is not generally lawful to disclose information from family court proceedings, it is lawful to make referrals of the three types listed above because they are to professionals acting 'in the furtherance of child protection'.<sup>2</sup> The court should always be informed of actions taken.

4.5 Consent for referrals is necessary as follows<sup>3</sup>:

- Type (a) s47 child protection: consent is not required from the child or parent/s, but the child and parent/s should be kept informed unless there are specific reasons not to do so.

<sup>1</sup> See *Working Together*, Para 1.25 – 1.26 for a definition of 'significant harm'.

<sup>2</sup> Family Court amendment rules, updated April 2009

<sup>3</sup> See also section 5.13 for more information about information disclosure

- Type (b) child in need: prior consent of the child (if of sufficient age and understanding) and parents should be obtained. Refusal to give consent may in some cases place the child at risk of significant harm and therefore trigger a type (a) referral.
- Type (c) promoting welfare: prior consent of the child (if of sufficient age and understanding) and parents should be obtained.

4.6 Government guidance *Information sharing: guidance for practitioners and managers (2008)* states that consent should not be sought, nor information provided about a referral, where to do so would:

- Place any child at increased risk of significant harm or an adult at increased risk of serious harm.
- Prejudice the prevention, detection or prosecution of a serious crime.
- Lead to an unjustified delay in making enquiries about allegations of significant harm (child) or serious harm (adult).

4.7 The practitioner should attach a covering letter to the referral form, which will clarify the type of referral being made and whether or not the child /parents are aware of the referral. Three standard templates – one for each type of referral - are provided in the resources section. The practitioner should contact the agency in receipt of the referral again if they have not acknowledged receipt of the written referral within one working day.

### **Deciding whether to make a s47 child protection referral**

4.8 There are three types of concern, which should prompt the practitioner, in all cases, to consider whether a s47 referral may need to be made:

- *New* – a concern relating to current or recent events that has not previously been known about.
- *Unreported* – a concern relating to events in the more distant past, but that was not reported to Children's Services at the time and which still poses a risk of significant harm to a child / children – either those involved in the court case or other children.
- *Unresolved* – a concern that has already been referred to Children's Services but where the child remains at risk of significant harm (because of e.g. poor practice or disputes between agencies). More detailed guidance is provided in dealing with unresolved concerns below (4.29-32).

4.9 In each instance of a new/unreported/unresolved concern, the key decision to be made is whether a child protection referral is required. Identifying the threshold for a referral is a process that relies on skilled professional judgement, together with a discussion with the Service Manager, with whom the practitioner should consult except in emergency situations.

4.10 Factors to be considered in the discussion between the practitioner and the Service Manager, and in the decision whether to make a child protection referral should include:

- the nature of the current and previous concerns: their severity; impact on the child and the perceived degree of risk to this child and other children.
- whether the child has been seen and spoken to by the practitioner.
- what the child and parent/s have been told about the concern and what information should be shared with them, by whom and when.
- what should happen next.

### **Unreported concerns about risks to children**

- 4.11 This section replaces the previous provision for 'Section 120 notifications'<sup>4</sup>. This section applies to all types of risk of harm for children including the possible harm arising from witnessing harm to another person.
- 4.12 The nature of Cafcass' work leads us to receive information about past incidents which may have caused significant harm to a child. In such circumstances the practitioner should:
- Establish whether it was reported to Children's Services at the time.
  - If it was not (i.e. it is an unreported concern) establish the severity, impact on the child, and validity.
  - In discussion with service manager make a judgement as to whether the information should be shared with Children's Services.
- 4.13 Where the past incident suggests current or future risk of significant harm, then a s47 child protection referral should be made (see above). Where the concern does not meet the threshold for a s47 referral, the information may still be relevant to the child's current and future welfare. Any information sharing with Children's Services, in any of the following situations, needs to be with consent unless:
- There are over-riding concerns about safety. See 4.7 above for an outline of when consent is not appropriate or
  - A court direction has been obtained.

The following circumstances may apply:

- The family is currently receiving a service from Children's Services. In this situation, all relevant information should be shared. Children's services should also be notified when Cafcass work in the case ends.
- No current Children's Services involvement but immediate services are needed. In this situation, a referral for services (s17) or for any other Children's Services function (e.g. summer play scheme) should be considered.
- No current Children's Services involvement but there remains a possibility (i.e. not reaching the threshold of foreseeable likelihood for a s47 referral, but remaining as a possibility) that the information will be of importance in the future. A letter containing the relevant information should be sent. Children's Services should also be notified when Cafcass work in the case ends.

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<sup>3</sup> Cafcass Safeguarding Framework 2007

- 4.14 Further to this work with Children's Services, the Cafcass practitioner will need to consider the historical information within the context of the current court proceedings. Part of the assessment of the adults involved in the current case will be about whether there was a failure to respond appropriately at the time to the past concerns.
- 4.15 The practitioner should also consider whether the historical information suggests a risk of future harm, should the court proceedings result in a decision which changes the current status quo: for example, if an application for contact is being considered, where there is currently no contact with a parent who previously harmed the child. In these circumstances, the report to court should outline the concern and make the appropriate recommendation. If relevant, the court should also be informed in the report that re-establishing contact could mean that the threshold for a s47 child protection referral would be reached and that Cafcass would make that referral. The court could then be invited to consider ordering a s37 report from the local authority in advance of reaching such decisions.

### **Making a s47 child protection referral to Children's Services**

- 4.16 The role of the practitioner is to ensure that their concerns are referred to Children's Services, not to conduct an investigation themselves. In some circumstances it may be appropriate to ask questions of the child and/or parents to establish whether the threshold for a child protection referral appears to have been met. Once it appears that this threshold has been met the practitioner should not ask further questions which might compromise an investigation.
- 4.17 It is the duty of allocated practitioner who should as a general rule make the referral to Children's Services. There may be exceptional circumstances where the Service Manager should do this e.g. sickness absence, or the concern being raised by a member of business support staff.
- 4.18 *Working Together* (2006: 5.32) states that the referral mechanism for all types of referral is an initial telephone call followed within 2 working days by a written referral. For s47 child protection referrals, many LSCBs prescribe a separate format in which the written referrals are to be made, in which case their prescription should be followed. Printed copies of the relevant LSCB procedures should be available in all Cafcass offices and all practitioners and managers should be familiar with the local procedure/s for making referrals. Where no format is prescribed by the LSCB, a Cafcass referral should be made via completion of the Cafcass letter *Referral for child protection services under s47* to convey the nature of the concern together with relevant sections of the CAF.
- 4.19 As part of the referral, the practitioner should always identify the existence of family court proceedings and the stage they have reached. (It is legally permissible to send the court papers to the local authority for child protection purposes without prior leave of the court.)
- 4.20 After making the initial referral the practitioner should:
- make a written record of the telephone referral, including any decisions made (e.g. what information will be given to the child and parents, by whom and when)

and any information provided by Children's Services (e.g. a child being subject of a child protection plan;)

- place this record in the risk and safety section of the case file along with a copy of the written referral.
- inform the court of the referral and outcome at the earliest opportunity.
- contact Children's Services again if they have not acknowledged receipt of the referral within one working day, to avoid the matter falling into limbo between the two agencies.

4.21 Where a concern is raised by an adult involved in the case, which reaches the threshold of suspected or actual significant harm, the practitioner should encourage that person to speak to Children's Services directly. Regardless of whether the adult makes a referral, the practitioner should still adhere to the procedure outlined above and should not delay before contacting Children's Services.

### **What to do when more than one authority is involved**

4.22 Sometimes the authority in which the child is currently located is different from the authority in which the significant harm took place. An example is of a child suffering harm whilst on a contact visit to authority A but who is now back at home in authority B. Periodically this has proved problematic to practitioners where Children's Services have been unable to agree on which one is responsible for the investigation.

4.23 Section 47 of the Children Act 1989 states that it is the responsibility of the authority where the child '*lives or is found*'. Cafcass takes this to mean that the determining factor is where the child is now. The practitioner should ensure that children do not 'fall between the cracks' by:

Referring to the Children's Services where the child is now, by telephone and in writing.

Copy, for information, the subsequent written referral to any other relevant Children's Services.

### **Taking urgent action to protect a child**

4.24 If a practitioner in the course of his or her work encounters a child in a situation where the child is in *imminent* danger, s/he should act to secure the safety of the child.

4.25 If a child is at imminent risk, the practitioner should seek the assistance of the police and then make a referral to Children's Services following the above procedure including notifying the Cafcass Service Manager as soon as possible.

4.26 If a child needs emergency medical attention, this should be sought immediately and directly from the emergency services. Parents, if available, should be kept fully informed.

4.27 If a child has been left alone, the practitioner should act to protect the child via the police and/or Children's Services.

### **Participating in a strategy discussion**

4.28 The practitioner who has made a referral to Children's Services should be invited to participate in any subsequent strategy discussion, where one takes place. This invitation should be followed up by Cafcass as part of the telephone call to follow up the written referral. The practitioner's role in the discussion is to ensure that the referral information is fully understood and that the court is informed as soon as possible about plans relating to what happens next. The practitioner's role does not extend to participating in decision-making or any subsequent s47 inquiry. (See also – Cafcass role at the Child Protection Conference, below.)

### **Dealing with unresolved concerns**

Unresolved within Children's Services and the wider network

4.29 An unresolved concern relating to a child protection referral is one that has already been referred to Children's Services but where the practitioner believes the child remains at risk because the response has failed to safeguard the child.

4.30 An unresolved concern can arise from, for example:

- an assessment being incomplete.
- a child protection plan being discontinued prematurely.
- there being conflict between agencies around the management of the concern.

4.31 In any of these circumstances the practitioner should first consult with the Service Manager with a view to taking one or more of the following steps as appropriate:

- Requesting a child protection conference – see 4.32
- Requesting an inter-agency meeting (of those at a sufficiently senior level to resolve a dispute) often by making use of the LSCB escalation (or dispute resolution) procedure
- Asking the court to direct the local authority to undertake a section 37 investigation of the child's circumstances.

4.32 If the practitioner's judgement is that a child protection conference is required to safeguard a child, Cafcass should exercise the right of any agency involved with the child and family, as described in Working Together 5.78, to request Children's Services to convene such a conference. Working Together further states that such a request should normally be agreed if supported by a senior manager; it may be appropriate therefore for the request to be made by the service manager or head of service. All LSCBs should have in place a protocol for resolving differences of opinion and reference should be made to this if the request is not accepted.

**Guidance – use of a s37 investigation for children not subject of proceedings.**

*In Care Order applications, a children’s guardian will sometimes find that siblings or other children in the same household have not been made subject of the application. There have been a number of cases where these children have been found to be at equal or even greater risk than the subject child. The facility to request the Court to order a s37 investigation is crucially important for such cases. The request can be made even where the child is not currently the subject of proceedings.*

Unresolved through the Court process

- 4.33 In private law cases, the Cafcass practitioner does not usually attend all hearings. In those cases where there is concern that, should the recommendation not be followed, the child could be at risk of suffering significant harm, then the practitioner should attend where possible. In addition s/he should always include in the report the following request – printed in *bold* type:

**“This report provides the outcome of the Cafcass assessment, that there may be risks of significant harm to [X child] as a result of [...]. If the court is minded not to follow the recommendation, I request permission to give, in person, the reasons for my recommendation before the court reaches any decision about an alternative disposal, including a disposal reached by agreement.**

**Attached is a schedule of my availability to attend any further hearing.**

- 4.34 Cafcass’ duty to safeguard children does not end with the provision of a report to the court, or when a case is comes to an end without there being a final hearing. When Cafcass is made aware of any outcome which, in the assessment of the Cafcass practitioner or manager, leaves outstanding child protection concerns unaddressed, then a s 47 child protection referral to Children's Services should be made in accordance with this procedure.
- 4.35 In the same way, should the nature of the disposal of the court case mean that further services will be needed by the child or his/her parent, then in co-operation with the parent, a referral for services should be made as outlined earlier.

**Notifying agencies of Cafcass case closure**

- 4.36 In any case in which Cafcass has made a child protection referral the practitioner should notify Children's Services of the subsequent case closure. Consideration should be given to notifying any other agency to which Cafcass has made a referral (non-child protection) or with whom there has been a close working arrangement, of the subsequent case closure.

### **Attendance at child protection conferences or other case-related multi-agency meetings**

- 4.37 The purpose of the Child Protection Conference (CPC) is outlined in *Working Together* (2006) as being to:
- Bring together and analyse information.
  - Decide whether the child is at continuing risk of significant harm.
  - Decide what future action is required to safeguard the child.
- 4.38 Where Cafcass is currently working with a family, the practitioner and/or manager should be invited to any CPC, (including pre-birth child protection conferences where Cafcass is already currently involved through work with other children of the family). The Cafcass practitioner should attend wherever possible. It is important that the CPC is informed of the nature of the practitioner's participation on each occasion. For example:
- The practitioner has made the child protection referral which has led to the CPC. The practitioner would be expected to provide information in a written format, as required by local LSCB procedures, but should not participate in assessment / decision-making.
  - The practitioner is working with a child, under the remit of current proceedings in either public, private law or adoption, for which a CPC has been convened. The practitioner would be expected to attend the conference and provide any relevant factual information but not participate in assessment / decision-making.
  - The practitioner is the supervisor of a Family Assistance Order following the end of the court process. The practitioner would be expected to attend the conference, provide any relevant factual information and participate in assessment / decision-making.
  - Cases closed to Cafcass. In these cases, the Service Manager will need to consider what contribution may be appropriate. This would normally be limited to information sharing by letter to the conference. Service Managers should seek assistance from the Cafcass Legal Helpline if they require advice about what can be disclosed.
- 4.39 Where, during the lifetime of an open case, a with whom Cafcass is working becomes subject of a child protection plan, then the Cafcass practitioner should inform the Service Manager as soon as possible. This applies to both public and private law cases.
- 4.40 When it is necessary for the responsibility of safeguarding the child in family court proceedings, Cafcass practitioners should attend other multi-agency meetings, for example core group meetings, looked after reviews and also adoption panel meetings. The practitioner should consider in each case the value of attending any of these meetings. This includes consultation with the child wherever possible.

## 5. The Recording, Retaining and Sharing of Information

### Legislative context

- 5.1 The making and retaining of records by public bodies is governed by the Data Protection Act 1998; the Freedom of Information Act 2000 and the Human Rights Act .1998
- 5.2 In addition, information shared within the Family Court is covered by the court rules and by section 12 of the Administration of Justice Act 1960; and the prohibition on publishing information identifying the child, or the address of the child's school, is covered by section 97(2) of the Children Act 1989. Once proceedings have concluded, the prohibition in section 97(2) ceases to apply unless the court directs otherwise.
- 5.3 Cafcass is therefore required to record, to use, and to retain safely, information about the children and families with whom we work. The mechanisms for doing so are set out in the Case Recording policy, which also sets out the responsibilities of the different roles within Cafcass.

#### **Guidance – Data protection for electronic and paper case records**

*The legislation applies equally to recording that is held electronically and that which is recorded on paper. There has at times been confusion between what can legally be recorded on the Case Monitoring System (CMS) database as opposed to on the paper record. There is no such distinction. It is important that all factual details (e.g. the names of all relevant adults, not just adult parties) be recorded onto CMS since this is the way that information can be shared nationally.*

*In a recent serious case review, the learning for Cafcass was about the importance of the CMS record when a dangerous man had moved between 4 families in different geographical areas. Cafcass had been involved in 3 of these cases but the connections were only made with hindsight, because the cases pre-dated the national CMS system and so details about the mother's boyfriend / partner were not available between areas.*

### Information sharing

- 5.4 Information sharing between agencies is key to safeguarding children.
- 5.5 Government guidance [Information sharing: guidance for practitioners and managers \(2008\)](#) states the following seven 'golden rules' with which practitioners should be familiar and to which they should adhere:

- **Remember that the Data Protection Act is not a barrier to sharing information** but provides a framework to ensure that personal information about living persons is shared appropriately.
- **Be open and honest** with the person (and/or their family where appropriate) from the outset about why, what, how and with whom information will, or could be shared, and seek their agreement, unless it is safe or inappropriate to do so.
- **Seek advice** if you are in any doubt, without disclosing the identity of the person where possible.
- **Share with consent where appropriate** and, where possible, respect the wishes of those who do not consent to share confidential information. You may still share information without consent if, in your judgment, that lack of consent can be overridden in the public interest. You will need to base your judgment on the facts of the case.
- **Consider safety and well-being:** Base your information sharing decisions on considerations of the safety and well-being of the person and others who may be affected by their actions.
- **Necessary, proportionate, relevant, accurate, timely and secure:** Ensure that the information you share is necessary for the purpose for which you are sharing it, is shared only with those people who need to have it, is accurate and up-to-date, is shared in a timely fashion, and is shared securely.
- **Keep a record** of your decision and the reasons for it – whether it is to share information or not. If you decide to share, then record what you have shared, with whom and for what purpose.

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### **Providing information to the court**

- 5.6 The rules of court have been amended to allow information relating to proceedings to be disclosed by the parties or their legal advisers for various purposes connected with the proceedings. So for instance such information can be communicated to any other person if needed, to enable a party to obtain support, advice or assistance within the proceedings. More detailed information is available in the amendment to Family Proceedings Rules 1991/11.4
- 5.7 The practitioner must not reveal details of the address or authority in which any party is resident where these are being kept confidential for safety reasons.
- 5.8 Other than in WTFH in private law, a practitioner who believes information should be disclosed to the court but withheld from one or more parties should discuss with the Service Manager and seek advice from the child's solicitor or, if the child is not a party, from Cafcass Legal. Information cannot be withheld in this way unless the court gives permission. Applications for permission like this should only be made in exceptional circumstances.

### **Obtaining Information**

- 5.9 The processes for obtaining information as part of the initial screening process in private law, and undertaking additional checks, is located in Section C.
- 5.10 Under section 42 of the Children Act 1989, a children's guardian in public law has the right to see the local authority's files and to make a copy of these. In other roles the practitioner does not have the right to inspect the files but can make a request, to which the local authority generally accedes. This does not require consent of the parties.
- 5.11 In all roles, if the Cafcass practitioner wishes to read or make copies from the records of any agency other than Children's Services, a request should be made to the agency. It is possible to ask the Court to give directions requesting the agency to disclose information but this would be unusual. Practitioners should consult with Cafcass Legal before making any such application.
- 5.12 Before giving such a direction, the court would need to be convinced that there was a need for the order and would allow the agency to make representations. It is generally far preferable for information sharing to be undertaken in accordance with Government guidance and by agreement rather than by Court order.

### **Disclosing information**

- 5.13 In compliance with *Information sharing: guidance for practitioners and managers (2008)* practitioners should be open and honest with the child and parents from the outset about the fact that information is recorded and how information will be shared. This information is included in the Welcome Pack letters and information leaflets but should also be shared directly. Practitioners should be aware that, because the involvement of Cafcass will be recorded on the ContactPoint database, it is likely that we will receive many more requests for the sharing of information from other agencies working with the family. Decisions about whether and what to share should always be based on the guidance (above) and recorded in the case file.
- 5.14 ContactPoint aims to make information sharing easier between professionals. In every case, managers, duty and allocated practitioners need to be alert to the possible need to apply for an individual record to be [shielded](#).

## 6. Working with Domestic Violence

6.1 Policy in respect of domestic violence is set out within this section of the Safeguarding Framework. It is complemented by the domestic violence toolkit, the purpose of which is to provide guidance.

### **The legislative context**

6.2 The following legislation is of relevance:

- The Adoption and Children Act (2002) has clarified the definition of harm in the Children Act 1989 to include harm suffered from seeing or hearing the ill-treatment of another, so it includes harm caused by witnessing domestic violence.
- Orders offering protection from domestic violence can be made under the Family Law Act (1996) (“the 1996 Act”) and if a person affected by domestic violence is unable to use the 1996 Act, orders are also available under the Protection from Harassment Act 1997 (“the 1997 Act”). It is important to note that the court can make a non molestation order under the 1996 Act of its own motion – sometimes this is done on the recommendation of a Cafcass practitioner. In cases where an injunction has previously been granted in separate proceedings, practitioners should ask the court to ensure that they have access to any evidence and judgements in those injunction proceedings. In a case where an injunction has been granted, the court has already found that the grounds for an injunction exist. In other words, the applicant’s allegations have been upheld.
- The Forced Marriage (Civil Protection) Act 2007: the High Court has upheld the principle that forced marriage is a form of domestic violence<sup>5</sup>, and the 2007 Act gives the courts power to make orders to protect persons from forced marriage, both before and after a marriage ceremony has taken place.

6.3 [The Practice Direction \(President of the Family Division, January 2009\)](#) is also of relevance, setting out directions for the court where there is reason to suppose that the child or a party has experienced domestic violence perpetrated by another party, or that there is risk of such violence. It stipulates that courts shall, for example:

- Upon receipt of an application for a residence or contact order, send a copy of the application and accompanying documents to Cafcass, to enable Cafcass to undertake screening.
- Put in place arrangements to ensure that information obtained by Cafcass is placed before the court.
- Make special arrangements, if advised by Cafcass or otherwise, to secure the safety of any party or child attending a hearing.
- Determine as soon as possible whether it is necessary to conduct a fact-finding hearing.

6.4 The practitioner should be alert to the possibility of domestic violence in all proceedings, even when it has not been alleged.

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<sup>5</sup> See Re: SK (Proposed Plaintiff) (An Adult by Way of Litigation Friend) (2004) EWHC 3202 Fam

- 6.5 The practitioner should safeguard children who are at risk from domestic violence, including harm from seeing or hearing the ill-treatment of another, in the same way as for all other forms of potential harm by adherence to the Safeguarding Framework.
- 6.6 The practitioner should also consider the needs of the victim of domestic violence as a vulnerable adult (see section 7). This may include a referral to a Multi-Agency Risk Assessment Conference (MARAC) – see section 8.
- 6.7 Where potential harm to a child from domestic violence has been identified the detailed assessment should always include use of the [CAADA-DASH risk identification checklist](#).

## 7. Safeguarding Vulnerable Adults

### **Definitions**

7.1 Cafcass adopts the following definition: a vulnerable adult is a person aged 18 or over who appears unlikely to be able to protect him/herself from abuse or harm. To illustrate by example, this might include the following although this is not an exhaustive list:

- domestic violence
- trafficking
- sexual exploitation (including prostitution)
- a learning disabled adult alleging abuse
- forced marriage

7.2 The definition focuses primarily on situations where an adult is or may be harmed by another person. However, it also encompasses adults who may be put at risk of harm by either:

- acute mental illness
- alcohol /drug misuse or
- suicide risks.

### **What to do if you have a concern**

7.3 A practitioner who is concerned about a vulnerable adult should discuss the concern with their Service Manager at the earliest opportunity, to:

- Establish whether, to whom and how Cafcass should make a referral to enable the vulnerable adult to receive services and/or immediate protection and
- Consider the implications for the case plan and the reporting to court.

7.4 This discussion should address the following:

- Are there safeguarding issues in relation to children, which require a referral for services? Consider the severity, impact and likely future risk of the harm.
- Has the vulnerable adult given consent to a referral? Best practice dictates that consent should be obtained wherever possible. However, consent can be overridden in some circumstances e.g.
  - Where a serious crime has been committed.
  - Where the vulnerable adult is at immediate risk.
  - Where the vulnerable adult lacks the mental capacity to give consent (see below).

7.5 The practitioner should confirm referral information in writing and make a record on the case file of actions s/he has taken

### **Lacking mental capacity**

- 7.6 The Mental Capacity Act 2005 provides a statutory framework to protect people aged 16 and over who may lack the capacity to make some decisions for him/herself, by virtue of, for example dementia, a learning disability, mental health problems, a stroke or head injuries.
- 7.7 A person is deemed to be unable to make a decision for him/herself if s/he is unable to:
- Understand and retain relevant information about the decision
  - Use or weigh that information as part of the process of decision-making or
  - Communicate that decision.
- 7.8 This is relevant to Cafcass' work where the practitioner believes that a parent lacks the capacity to make a decision within the context of court proceedings. It can also be relevant in proceedings where the subject child is over 16 e.g. secure accommodation applications.
- 7.9 If a practitioner believes that a party aged 16 or over who is not the subject child lacks capacity, s/he should notify the local authority (if one is involved in the case) the court and the party's solicitor, so that a referral to the Official Solicitor can be considered.

#### ***Guidance – Protecting vulnerable adults before a Care Order application is made***

*In Care Order applications made under the Public Law Outline, a very important stage of work occurs pre-proceedings. The Official Solicitor could not represent a parent who lacks capacity before an application under the Children Act is issued, since there are no current court proceedings. The responsibility therefore rests with Children's Services to secure appropriate support for the parent. The possible need to involve the Official Solicitor should be identified in the application.*

## 8. Safeguarding in Partnership with Other Agencies

### **Multi-agency working**

- 8.1 Cafcass is one of a wide range of organisations whose functions include the safeguarding of children. The way these agencies work together is crucial, if individual children are to be protected from harm and to flourish throughout their childhood. Inter-agency co-operation is essential nationally, for the creation of policy and the allocation of resources, and locally to deliver services to children, young people and their families. The framework for this co-operation is found in *Working Together* (2006).
- 8.2 For Cafcass, engagement as part of the wider group of safeguarding agencies is most commonly exercised through our involvement at local and national levels with:
- Local Safeguarding Children Boards
  - Family Justice Councils

### **ContactPoint**

- 8.3 [ContactPoint](#) is a new national database containing basic information about all children resident in England. Its aim is to facilitate communication between professionals and the co-ordination of services to children in need as well as children at risk of significant harm.
- 8.4 ContactPoint will hold the following information:
- Name, address, gender, date of birth and unique identifying number.
  - Name and contact details of parent or carer (see number below)
  - Contact details of school, GP and other services as appropriate (including Cafcass).
  - An indicator of whether a practitioner is lead professional and whether a CAF has been completed.
- 8.5 ContactPoint will not hold any assessment or case information, details such as birth weight or medical records, or subjective information. Information about sensitive services e.g. mental health or sexual health will only be included if informed consent has been given and Contact Point will only record that an unspecified service has been received.
- 8.6 ContactPoint is available only to staff across all Children's Services who have been authorised and trained to use it.
- 8.7 *What this means for Cafcass:* The regulations establish Cafcass as a national partner of ContactPoint and permit Cafcass to:
- Participate in the operation of ContactPoint
  - Supply relevant data to ContactPoint
  - Ensure the completeness and accuracy of records for children involved in cases.

- Give its users access to ContactPoint.

8.8 A specific requirement relates to the [shielding of information](#). Local authorities must ensure that the records of the most vulnerable children are shielded to prevent the inadvertent identification of the whereabouts of child and/or parent in e.g. high risk domestic violence cases or 'clean break' adoptions. Cafcass practitioners and managers must ensure that any cases which fall into this very high risk category are notified to the local authority.

### **The Common Assessment Framework (CAF), and the role of lead professional**

8.9 The CAF is a standardised approach to conducting an assessment of a child's additional needs e.g. those arising from being bullied, anti-social behaviour or substance misuse. It has been designed to help practitioners assess need at an early stage and work with families and other professionals to meet them. eCAF is an electronic version of the CAF, currently in development (due early 2010).

8.10 Where the CAF (or other assessment processes) result in the provision of a range of services, a lead professional may be designated by the group of professionals working with the child. The lead professional is not a job, but a function i.e. to act as a single point of contact for the family and co-ordinate service provision.

8.11 Government guidance on the CAF is available at: <http://www.dcsf.gov.uk/everychildmatters/resources-and-practice/IG00063/> and on the lead professional at <http://www.dcsf.gov.uk/everychildmatters/resources-and-practice/IG00064/>. The CAF is provided within this Framework in the resources pack.

8.12 *What this means for Cafcass:* In *private law* cases the CAF is one way the practitioner can refer children, with a view to enabling their needs to be met. The Cafcass Assessment in private law is based on the CAF. It is not appropriate for the Cafcass practitioner to take the role of lead professional. The only exception to this would be when the practitioner is working with a child and family under the terms of a Family Assistance Order. In *public law* cases the form will usually have been completed at an earlier stage by a referring agency. The practitioner should review any form as part of the analysis in the case but it is not expected that the practitioner will complete a CAF within *public law* proceedings.

### **Multi Agency Risk Assessment Conference (MARAC)**

8.13 A Multi-Agency Risk Assessment Conference (MARAC) is a meeting of local agencies whose purpose is to identify the highest-risk victims of domestic violence, and to produce a safety plan to reduce the risks to victims, their children and any other vulnerable person in the household.

8.14 MARAC meetings are held regularly. Cafcass is not one of the core MARAC agencies in all areas but local managers should ensure that they receive the MARAC agenda to enable attendance to discuss specific cases.

- 8.15 The disclosure of information is a sensitive area within MARACs as, for example, the perpetrator may be unaware of the safety plan (as this might increase risk) and the victim may have withheld consent. The practitioner should adhere to sections B5.6 to 5.8 of this framework.
- 8.16 The Service Manager should make contact with the chair of the local MARAC to agree in principle how information shared at the MARAC should be disclosed by Cafcass within the court process.
- 8.17 Coordinated Action Against Domestic Abuse (CAADA) is a charity which provides support, resource packs, information and training around MARACs. In addition, they collect MARAC data nationally. CAADA has devised with the police a [risk identification form](#) to help any professional to evaluate the level of risk and decide whether to make a referral to a MARAC.

### **Multi-Agency Public Protection Arrangements (MAPPA)/ Potentially Dangerous Persons (PDPs)**

- 8.18 MAPPA are the statutory arrangements for managing sexual and violent offenders. MAPPA is not a statutory body in itself but is the mechanism through which agencies can discharge their responsibilities. The responsible authority (RA) comprises the police, prison and probation services which are charged with ensuring the establishment of a MAPPA and for the assessment and management of all identified MAPPA offenders.
- 8.19 There are three categories of offender who fall within the MAPPA:
- Registered Sex Offenders (RSOs), that is those sexual offenders required to register under the terms of the Sex Offenders Act (1997) and its amendments;
  - violent offenders and those sexual offenders who are not required to register; and
  - any other offender who, because of the offences committed by them (wherever they have been committed) is considered to pose a risk of serious harm to the public.
- 8.20 A potentially dangerous person (PDP) is a person who has not been convicted of, or cautioned for, any offence placing them in one of the 3 MAPPA categories but whose behaviour gives reasonable grounds for believing there is a present likelihood of them committing an offence or offences that will cause serious harm.
- 8.21 Where the practitioner identifies a PDP and there is an identified risk to a specific child the Cafcass practitioner should make a child protection referral.
- 8.22 Where the practitioner identifies a PDP but the risk is to children in general (rather than to a specific child) the Cafcass practitioner should ask the local police/ Children's Services to convene a multi-agency planning meeting to determine a plan & manage the risk of harm.

- 8.23 What this means for Cafcass: Cafcass is not one of the core MAPPA member agencies, but has a duty to co-operate in some individual cases. The MAPPA co-ordinator in each area must be given the contact details for the local Cafcass manager. Where a risk is identified through Cafcass' work, then a referral should always be considered by the practitioner following consultation with the Service Manager. This requirement relates to PDP as well as the three categories of offenders.

### **Local Safeguarding Children's Boards**

- 8.24 Each local authority is required by the Children Act (2004) to establish a LSCB. The LSCB is the key statutory mechanism for agreeing how relevant organisations will cooperate to safeguard children. Its core objectives are to:
- Coordinate what is done by each person or body for the purposes of safeguarding children.
  - Ensure the effectiveness of what is done by each person or body for that purpose.
- 8.25 Cafcass is a core member of all LSCBs and has a key role in linking safeguarding and family justice systems.

## 9. Serious Incident/Death Procedures

9.1 This section sets out the procedures to be followed in the event of a serious incident/death. A serious incident/ death may result in one of the following multi-agency reviews being undertaken. Of these reviews, the Serious Case Review (SCR) is the one to which Cafcass contributes most frequently. A detailed Resource Pack is provided to accompany this chapter.

- A Serious Case Review
- A Child Death Review
- A Domestic Homicide Review
- A Cafcass Management Review.
- Another agency (e.g. health) internal Management Review

### **Notification**

9.2 In order that Cafcass can be prepared for and best contribute to any ensuing review, all members of staff must immediately inform their manager if they become aware of:

- i. The death of a child known to Cafcass, currently or in the past, regardless of the circumstances.
- ii. A serious incident involving a child known to Cafcass, currently or in the past. There is no precise definition of a serious incident but it might involve, for example:
  - Serious abuse of a child.
  - A suicide attempt.
  - A child committing a serious offence.
  - A child putting him/herself at significant risk.
  - A looked after child being coerced into prostitution.
  - A child going missing.
  - Abduction of the child
- iii. The death of an adult known to Cafcass currently or in the past, through suicide or where domestic violence may be implicated in the death.
- iv. An LSCB convening a SCR on a child not known to Cafcass (as Cafcass will need to respond to any 'all agency' recommendations).

9.3 Using the serious incident/death notification form ([Appendix VIII](#)) the manager must immediately inform the Head of Service and Head of Safeguarding of the incident/death.

9.4 Cafcass can, like any professional/agency, refer a case to the LSCB as one which needs to be considered as a potential SCR. The decision about referral will be taken by the Head of Safeguarding in discussion with the operational Head of Service. Once the decision is taken, the Cafcass representative on the relevant LSCB will refer this to the LSCB Chair.

- 9.5 The steps Cafcass needs to take subsequently will be determined by what type of review is conducted. Each of these is described in turn.

### **Serious Case Reviews (SCRs)**

A summary of information in *Working Together*

- 9.6 Chapter 8 of *Working Together* (2006) outlines the procedures to be followed by LSCBs in the convening and conduct of a SCR. All LSCBs have now produced SCR procedures, based on *Working Together* (2006). Any manager who contributes to a SCR as an individual management review (IMR) author or member of the review panel should ensure that they are familiar with and adhere to both *Working Together* Chapter 8 and the local LSCB procedures.
- 9.7 The purpose of a SCR is defined in *Working Together* (2006) as being to:
- Establish whether there are lessons to be learned from the case about the way in which local professionals and organisations work together to safeguard and promote the welfare of children;
  - Identify clearly what those lessons are, how they will be acted on, and what is expected to change as a result; and
  - As a consequence improve inter-agency working and better safeguard and promote the welfare of children.
- 9.8 A LSCB should always undertake a SCR when a child dies (including by suicide) and abuse or neglect is known or suspected to be a factor in the death. It can decide to undertake a SCR in other circumstances e.g. where the child has sustained a life-threatening injury through abuse or neglect and the case gives rise to concerns about the way agencies work together. A panel<sup>6</sup> makes a recommendation to the LSCB Chair, who makes the final decision.

### **Actions to be taken once a SCR is convened**

- 9.9 When it is decided to undertake a SCR the SCR panel (or LSCB sub group) will set the terms of reference (TOR). These will identify which agencies had involvement and are therefore required to submit an IMR. This has a number of implications for Cafcass. The following are not to be followed in chronological order:
- i. Establishing Cafcass involvement
  - ii. Securing of the file
  - iii. Informing the court of the SCR.
  - iv. Notifying the practitioner/manager
  - v. Notifying the Head of Safeguarding

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<sup>6</sup> This is the term used in *Working Together* but it can be confusing. In many LSCBs there is both a standing LSCB sub-group (or similar) which makes this recommendation and a time-limited panel which reviews a specific case.

- vi. Appointing an IMR author
- vii. Appointing a representative to sit on the panel
- viii. Link with any other HR processes (SCRs are not a part of any disciplinary inquiry but information emerging from the review may indicate that disciplinary action should be taken).

Further details of the actions to be taken and by whom can be found in the SCR Resource Pack.

### **Authoring the IMR**

- 9.10 The aim of the IMR is to look openly and critically at Cafcass' practice, to address the questions set in the TOR and to ascertain the implications of the case for practice, locally and nationally. The IMR should not comment on the practice of other agencies other than where this has a direct bearing on Cafcass' work.
- 9.11 Authoring the IMR is a demanding and time-consuming task. The time-frame is set by the SCR panel but there are also internal Cafcass requirements of quality assurance and sign-off (see below). To conduct a quality IMR within a short timeframe is challenging and requires careful planning, which specifies the tasks to be undertaken and the dates by which they will be completed.
- 9.12 **Resource Pack 3** sets out the tasks for IMR authors to help them plan and undertake their role.
- 9.13 An IMR exemplar is available to help authors to prepare their report (**Resource Pack 10**).

### **Support/Quality Assurance**

- 9.14 Two sources of support are available to the manager who is authoring the IMR:
- From the line manager, within supervision.
  - From the Head of Safeguarding.
- 9.15 Staff whose work is scrutinised as part of the SCR are entitled to nominate a supporter to be, for example, present during the IMR interview. The supporter must be a Cafcass member of staff and must keep all information confidential. The staff member must notify the IMR author in advance of anyone who is to act as supporter.<sup>7</sup>
- 9.16 The Head of Safeguarding co-signs the IMR on behalf of Cafcass, is responsible for its quality and has the 'final say' regarding content. The first draft report must be submitted to the Head of Safeguarding 10 working days before submission date to the SCR panel.
- 9.17 Following initial approval by the Head of Safeguarding, a near-final draft will be sent to interviewees (relevant sections only), the Head of Service and the Operational Director.

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<sup>7</sup> Cafcass is piloting a 'buddy scheme' to provide staff with additional support. If this is implemented nationally it will be included in the next version of this procedure.

This is to enable comment on accuracy and fairness. The senior managers will also be asked to indicate acceptance of the recommendations at this stage. Once this feedback is received, the final report is co-signed by the author and the Head of Safeguarding and sent to the SCR panel.

- 9.18 Once the IMR is provided, the Cafcass representative on the Panel is responsible for ensuring that the overview report fairly represents the analysis about Cafcass from the IMR and that the final recommendations are reasonable. This should be done in consultation with the Head of Safeguarding.

### **Action Plan**

- 9.19 All IMRs will generate an action plan (other than when the IMR produces no recommendations). The action plan is the means by which Cafcass demonstrates to the LSCB how it will implement the recommendations. As the actions are carried out the action plan is updated and this is subsequently the means by which Cafcass demonstrates it has implemented the recommendations. The Head of Service is responsible for this.
- 9.20 The overview report may also require the action plan to be amended if it makes a specific recommendation for Cafcass (which it is entitled to do in respect of any agency) and/or all-agency recommendations. The Cafcass member of the LSCB should be present at the LSCB meeting at which the SCR report is ratified to ensure that 'all agency' recommendations are incorporated into the Cafcass action plan.

### **Feedback to staff / dissemination**

- 9.21 Staff who were involved in the case under review need to be kept informed of progress of the SCR and to receive feedback on final completion of the IMR. Usually this feedback will be undertaken by the IMR author working with the line manager. Staff should also be provided with a copy of the executive summary once this is available – this task should be undertaken by the LSCB representative who will know when this report is published.
- 9.22 In most cases there will be learning for teams once the SCR overview report is ratified by the LSCB. The Head of Service and Cafcass representative on the panel should decide how best to disseminate learning to local teams.
- 9.23 The Head of Safeguarding provides a regular report of all learning points to the national Learning Action Panel (LAP), which is chaired by the Head of Customer Services. The role of the LAP is to:
- Collate all learning points from SCRs (and from Customer Services work) and link these to existing work streams.
  - Recommend further actions and negotiate these with proposed owners.
  - Review the impact of these actions upon practice.
- 9.24 The Cafcass LSCB member should receive a copy of the Ofsted evaluation, which will include (where Cafcass has submitted an IMR) feedback on the quality of this and a grade.

The Ofsted evaluation should be forwarded to the Head of Safeguarding who is responsible for sharing its contents with the IMR author.

### **Child Death Reviews**

- 9.25 Chapter 7 of *Working Together* outlines the procedures to be followed by LSCBs in respect of child death reviews.
- 9.26 Where the death was unexpected (not anticipated as a significant possibility 24 hours before the death) a team of professionals is convened to enquire into and evaluate the child's death. The police will undertake an investigation on behalf of the coroner. A case discussion will take place once information has been collected. If abuse or neglect is implicated in the death, it will be referred to the LSCB as a possible SCR (and to the police and Children's Services to inform their inquiries).
- 9.27 Where the death is expected, the case is more likely to be reviewed by the Child Death Overview Panel which reviews all deaths as a paper exercise. This panel is also, however, charged with referring a case as a possible SCR if it believes the criteria are met.
- 9.28 What this means for Cafcass: Where the child is known to Cafcass it is possible that an approach will be made as part of the information-gathering exercise. Otherwise, it is unlikely that Cafcass will play a role in child death reviews.

### **Domestic Homicide Reviews**

- 9.29 The Home Office consulted on domestic homicide reviews in 2006. The [consultation document](#) is available.
- 9.30 As yet, no decision has been reached on precisely how these reviews will be conducted, which agency will lead etc. The consultation document proposed that the aims would be the same as for SCRs and the processes broadly similar.
- 9.31 What this means for Cafcass: If domestic homicide reviews are established we anticipate that government guidance will be issued. These procedures will be amended at this point.

### **Cafcass Management Reviews**

- 9.32 A Cafcass management review is a single-agency report. Its purpose is to identify lessons to be learned in a case which is not subject to a SCR but which may lead to significant improvements in practice and/or policy.
- 9.33 Any manager who believes that a case would be suitable for a management review should refer this (using the notification form) to the Head of Safeguarding and Head of Service who will jointly decide whether to conduct a review.

9.34 The process to be followed in the event of a management review is broadly similar to (but simpler than) that of an IMR, as follows:

1. The Head of Safeguarding:
  - Identifies a review author and writes a commissioning letter to him/her, setting out terms of reference and a timeframe.
  - Writes to the Head of Service asking for the file to be secured (as for an IMR).
2. The Head of Service:
  - Secures the file
  - Ensures involved staff are informed and supported throughout the process.
3. The author:
  - Conducts the reviews and drafts a report as specified in the commissioning letter.
  - Produces a final report in response to feedback from involved staff regarding accuracy and fairness and sends this to the Head of Safeguarding and senior area management.
4. The Head of Service:
  - Creates an action plan against recommendations.
  - Ensures feedback is given to involved staff.
  - Disseminates learning points locally.
5. The Head of Safeguarding:
  - Disseminates learning points nationally via the learning action panel.

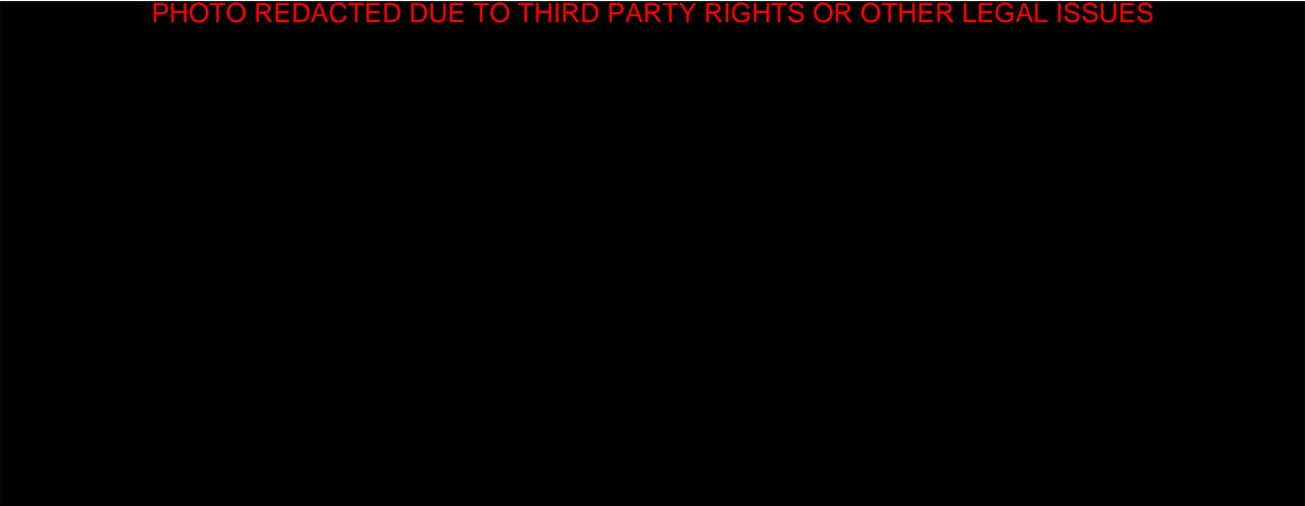
#### **Another agency (e.g. health) internal Management Review**

9.35 Cafcass is sometimes asked to contribute to the internal management review of another agency. The operational Head of Service and the Head of Safeguarding should always be informed. Decisions about whether to be involved and the scope of any involvement will be made on a case-by-case basis.

## Cafcass Safeguarding Framework

### **Section C: Safeguarding Issues According to Case Type**

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# Safeguarding Issues According to Case Type

Note: This section should be read in conjunction with Section B since any procedure that applies to all cases is located in Section B and therefore is not repeated here.

## 1. Typology of Cafcass Work

1.1 The full range of applications in which Cafcass acts is listed below.

Public Law	Adoption / Other	Private law
	<b>Adoption</b>	
Care Order (CA s31)	Adoption non-agency (Reporting officer) (r69 AR)	Residence (CA s8)
Supervision (CA s31)	Adoption agency (Reporting officer) (r69)	Contact (CA s8)
SO Extension (CA s31)	Placing child with parental consent (ACA s19)	Specific Issue (CA s8)
Discharge or Variation of CO or SO (CA s39)	Advance consent to adoption (ACA s20)	Prohibited Steps (CA s8)
Direction to LA (CA s37)	Adoption non-agency (Children & Family Reporter) (r73 AR)	Direction to LA (CA s37)
Contact (CA s34)	Placement (Reporting officer) (r69 AR)	Change of Surname (CA s13(1)(a))
Terminate Contact (CA s34(4))	Placement (Children's Guardian) (r59 AR)	Parental Responsibility (CA s4)
EPO (CA s44)	Adoption - non-agency (Children's Guardian) (r59 AR)	Removal from Jurisdiction (CA s13(1)(b))
EPO Extension (CA s45)	Adoption - agency (Children & Family Reporter) (r73 AR)	Family Assistance Order (CA s16)
Child Assessment (CA s43)	Adoption - agency (Children's Guardian) (r59 AR)	Joining Child as Party (rule 9.5 FPR)
Direction for Assessment (CA s38 (6))	Adoption inter-country (out) (ACA s84)	Enquiry from Foreign Court
Secure Accommodation (CA s25)	Revocation of Placement (ACA s24)	Contact Activities (CA s11E)
Education SO (CA s36)	Revocation of Freeing Order (Adoption Act 1976 s20)	Contact Monitoring (CA s11H)
Recovery Order (CA s50)		Contact Enforcement (CA s11L)
Change of Surname (CA s33(7)(a))		Return order (Hague Convention) CACA Schedule 2
Removal from Jurisdiction under Care Order (CA s33(7)(b))	<b>Other</b>	Enquiry from court (MCA s41)
IRO Referral (CA s26 (2A)(c))	Appeal (r4.22 FPR)	Non-Molestation orders (FLA s42)
<i>Inherent Jurisdiction (including Ward of Court) (where the applicant is a public body)</i>	Leave to disclose and miscellaneous directions (r4.14 FPR)	Occupation orders (FLA s33)
<b>Key to Legislation references:</b>		Recovery Order (FLA 1986 s34)

<ul style="list-style-type: none"> <li>• ACA - Adoption &amp; Children Act 2002</li> <li>• CA - Children Act 1989</li> <li>• CACA - Child Abduction &amp; Custody Act 1985</li> <li>• FLA - Family Law Act 1996</li> <li>• FLA 1986 – Family Law Act 1986</li> <li>• FPR - Family Proceedings Rules 1991</li> <li>• Hague Convention – Convention on the Civil Aspects of International Child Abduction</li> <li>• HFEA - Human Fertilisation &amp; Embryology Act 1990</li> <li>• HFEA 2008 – Human Fertilisation and Embryology Act 2008</li> <li>• MCA - Matrimonial Causes Act 1973</li> <li>• AR - Family Procedure (Adoption) Rules 2005</li> </ul>	Declaration of Parentage (FLA 1986 s55A)
	Special Guardianship (CA s14A)
	Discharge/Variation Special Guardianship (CA s14D)
	Parental Order (s30 HFEA/s54 HFEA 2008)
	Forced Marriage Protection Orders (s63A FLA)
	Inherent Jurisdiction (including Ward of Court) ( <i>where the applicant is a private individual</i> )

## **2. Cafcass' Statutory Duties**

### **2.1 Section 31 process**

2.1.1 The majority of public law cases are s31 Care & Supervision Order applications. The Public Law Outline sets out the process for these applications to be dealt with by the court. [http://www.judiciary.gov.uk/docs/public\\_law\\_outline.pdf](http://www.judiciary.gov.uk/docs/public_law_outline.pdf)

### **2.2 Cafcass' roles and responsibilities in public law proceedings**

2.2.1 In public law applications the responsibilities of the Children's Guardian is set out below. For further detail in s31 applications, see the ['funnel'](#) document created in partnership with the judiciary during 2007/08.

2.2.2 The roles and responsibilities of the Children's Guardian are as follows:

- Represent the child/ren's best interests through analysis of their needs wishes and feelings. This work should have a twin focus – both what needs to happen now (for example interim decisions about placement; contact; education) and what needs to be happening to work towards future needs (for example, twin track planning if the child may need permanent alternative placement).
- Promote the participation of the child/ren, to ensure that they have a voice in the decision-making process.
- Appointment of the Children's Solicitor, when not already done by the court. Work alongside the Children's Solicitor to ensure that the child's party status works effectively within the proceedings and in particular, that planning is focused on the child's own needs and timetable.
- Identify what information needs to be available for the court to make decisions about the applications before it.
- Identify which adults from the child's network of family and friends may need to be involved in the court proceedings and who may need to be given party status.
- Provide the court with appraisals of the work of the Local Authority – in the past; currently; and in the care planning for the future. The practitioner has the right to read and take copies (for use within the proceedings) from any Local Authority documentation relating to the child. Appraisals should address the quality of the work as well as whether statutory requirements for deadlines etc have been met.
- Advise the court of any specific issues which may arise when more than one application is before the court (especially when there are care and related adoption processes)
- Advise the court of any specific issues arising for this child and family from any diversity factors and how these should be addressed to ensure equality of access in the case.
- Advise the court of any specific risks for this child or family, arising from access of the media to family court proceedings.
- Ensure that the court has all necessary information and analysis of risk issues and, in particular, what needs to happen for the child to be safe in future.
- Report at regular stages to the court using the initial, interim and final Analysis and Recommendations templates.

- At any stage, consider whether decisions made by the court need to be appealed by the practitioner, acting for the child.

## **2.3 Initial Work**

- 2.3.1 The practitioner should be appointed within 2 working days of the notification to Cafcass by the court of a public law application (see later section for process when there are delays in allocation).
- 2.3.2 The first hearing usually takes place within a week of the application being lodged at court. This leaves very little time to initiate work. It is important that the practitioner prioritises work in these first days in order to gain an understanding, independently of the other parties to the case, of the background to the immediate decisions that will be facing the court.
- 2.3.3 The practitioner should make an introductory visit to the child in his or her current home and record on the case plan the detailed proposals for future work with the child. Where the child has a sufficient level of understanding to contribute to the issues being considered at the first hearing, the visit should take place before that hearing.

The practitioner who is to have contact with the parents before First Hearing should send out an introductory letter to all adult parties. This should include a letter for the child (once the child can read) in 'Z-card' format, which should also be used by the practitioner directly with children (older than babies / toddlers) on the first meeting. The adult letters should be taken from the Cafcass Welcome Pack but practitioners can add/remove material as required by individual circumstances. They should all provide information about the 'MyCafcass' password and username (click [here](#) to access Welcome Pack guidance). Resources for children on the MyCafcass site are designed for children above the age of 5. It is recommended that only the z cards are sent to children at the start of a case and that the additional children's leaflets are handed out at the first meeting with the children.

Sending the letters is the responsibility of the allocated practitioner or duty worker, though business support colleagues should assist with the administration. Copies of all correspondence should be kept on the case file.

- 2.3.4 A decision should be made about whether to meet first with the parents or the social worker. In the absence of practical or other clear reasons, the parents should be seen first to avoid perceptions of bias towards the Local Authority.
- 2.3.5 The practitioner should provide an initial analysis (oral or written) for the Court at the first hearing. This will usually be oral unless the practitioner knows the case well from previous involvement and is able to take the opportunity to inform the court from this prior knowledge. In all cases, the practitioner should be prepared to comment on the 'pre-proceedings checklist' for the Local Authority, and any questions that need immediate attention – for example, contact arrangements, medical appointments or school attendance. See [guidance for the Analysis & Recommendations](#).

## **2.4 Risk Assessment and Management**

### **Screening – public law**

- 2.4.1 All applications should be checked on receipt by business support staff on Cafcass CMS, to ascertain if there has been previous involvement with the family.
- 2.4.2 In care order applications, there are always significant risk factors as that is the basis for the local authority application. The practitioner should ensure that the Court has all relevant information about risk factors within the case. The practitioner should ensure that Children's Services have obtained full information from the police, as part of their assessments to this point or (in emergency applications) in the initial stage of the court case and that any placement has been properly regulated.
- 2.4.3 The practitioner should also ascertain whether s/he assesses the risks to this child as sufficiently high to warrant the child's record being shielded on ContactPoint. If so, the [shielding process](#) should be followed.
- 2.4.4 The practitioner should not initiate a police check directly as to do so would breach the [ACPO/CAFCASS Cymru/Cafcass Protocol](#). Similarly, the practitioner should not initiate checks with Children's Services – either the one making the current application, or authorities from previous addresses. If concerned that any of the police or children's services information is incomplete, the practitioner should seek a direction from the court for the Local Authority to obtain the full information.
- 2.4.5 The Children's Solicitor will sometimes decide, separately from the Cafcass Children's Guardian, that s/he requires a disclosure from the police. This process is covered by the separate [ACPO Police / Family Disclosure protocol \(2007\)](#).

### **Initial safeguarding analysis – public law**

- 2.4.6 Cafcass practitioners in public law need to ascertain not only that Children's Services have addressed the most significant elements of risk in their work to date and in their proposed plans for the child, but that all factors have been considered. The initial safeguarding analysis aims to ensure that the practitioner has:
- considered any immediate risks for the child. Just because children are subject to public law applications, this does not necessarily mean that they are safe.
  - considered the longer term picture of risks to the child once the interim protection of the court process is past. What needs to be put in place now to ensure that risk factors are fully addressed before the end of the proceedings?
  - considered potential risks to other children e.g. siblings, children living in the same household, who are not currently subject of proceedings.

### **Detailed risk assessment – public law**

- 2.4.7 In public law, a core assessment will usually have been undertaken by Children's Services. Cafcass' duty to provide a risk assessment is met:
- by the screening and safeguarding analysis outlined above; and

- working alongside the other relevant professionals to ensure that the final information available to the court addresses all of the matters raised through the process of risk identification.

## **2.5 Delays in Appointing a Children's Guardian**

2.5.1 Cafcass aims to have allocated a practitioner before the First Hearing in every s31 Care and Supervision Order application. The Service Manager should manage a priority allocation system (see below). The manager should keep all cases, which are either unallocated or allocated to a duty worker for advice, under regular review. The cases should be reviewed against the priority system at least weekly.

2.5.2 Cases should receive a relatively higher priority for prompt allocation based on current vulnerability for example where the child is:

- a young baby – particularly newborn up to the age of 6 months.
- separated from siblings
- in the care of parents/relatives/friends (unless the relatives / friends are already approved foster carers)
- or where the child's current circumstances are not in accordance with the proposed Local Authority plan e.g. no interim care order; unsupervised contact.

2.5.3 In all cases where there is delay in appointing the Children's Guardian for the case, the Service Manager should ensure that the fact of the delay and its expected duration is notified in writing to:

- the court;
- the parent/s and any other adult party;
- older children who are parties to the proceedings;
- children's services; and
- the child's solicitor.

2.5.4 The letter to the child's solicitor should specifically request the solicitor to:

- provide copies of any documentation to the Service Manager, so that s/he can a) begin to compile the case file and b) use the information to assist in the prioritisation of allocation
- inform the Service Manager of any court hearings in advance, and of the outcome following the hearing
- inform the Service Manager immediately, if the child/ren are not placed in accordance with the local authority proposed care plan. It is important that the child's solicitor should not be left in any doubt that s/he is the key conduit for that information to reach Cafcass.

## **2.6 Independent Reviewing Officer (IRO)**

2.6.1 A Practice Note entitled "[Cafcass and the Work of Independent Reviewing Officers](#)" is available on the Intranet. This sets out two separate ways in which Cafcass has contact with IROs:

- in those cases where the child is a 'looked after child', the Cafcass practitioner should liaise with the IRO during proceedings as the latter is responsible for overseeing the implementation of the care plan (including placements and contact). The practitioner should also liaise with the IRO following the final hearing to share insights gained during the court proceedings. Consideration should be given to involving the child in this meeting wherever possible. This meeting should be seen as a key process in the closing of the case rather than a prelude to ongoing involvement.
- s26 of the Children Act 1989<sup>8</sup> makes provision for an IRO to refer a case to Cafcass to take legal action as a last resort, where it appears that a local authority has failed to fulfil its statutory functions in relation to a looked after child resulting perhaps in the child's human rights being breached. IRO referrals are made to Cafcass Legal. When a referral is received the case is allocated to a practitioner to work alongside a Cafcass lawyer in investigating and reporting so that Cafcass can decide whether to institute judicial review or other proceedings against the authority.

## **2.7 Looked After Children Regulations**

- 2.7.1 There are regulations to safeguard the welfare of children who are looked after in public care. Practitioners should seek advice as appropriate from the Children's Solicitor or Cafcass Legal. Practitioners should also ask the IRO whether s/he has concerns about adherence to the regulations.
- 2.7.2 Where there are concerns that a particular element in the regulations is not being implemented properly (for example delays in assessing family placements under the Foster Placement regulations) this should be raised directly with Children's Services. Where concerns continue, the practitioner should seek a direction from the court.

## **2.8 Secure Accommodation Orders (SAO)**

- 2.8.1 There are very serious safeguarding issues for children whose liberty is restricted through a s25 SAO. The court is faced with difficult decisions, balancing the degree of risk to which the child is exposed in the community (and/or which they themselves pose to others) with the risks of harm through the experience of secure accommodation.
- 2.8.2 Any SAO is for a time limited period. The practitioner is appointed by the court as for other public law applications. Unless there are concurrent s31 Care or Supervision Order proceedings, the appointment is only for the duration of the court proceedings, not the duration of the order. This means that the practitioner cannot attend meetings, which occur after the full order is made (e.g. the statutory Secure Accommodation review held by Children's Services) in spite of the importance of these meetings. There will need to be a fresh appointment in the event of a further application. It is important for the practitioner to explain to the children why s/he has such a time-limited and sometimes 'on-off' involvement.
- 2.8.3 There are only a small number of SAO applications (Children Act 1989, s.25). When allocating such a case, particular care should be taken by the manager and the practitioner to ensure that the practitioner is competent to work with secure accommodation applications.

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<sup>8</sup> As amended by s118 The Adoption & Children Act 2002

## **2.9 Emergency Protection Orders (EPO)**

- 2.9.1 An EPO can be made for up to 8 days, with the potential for a single extension on application for a further 7 days.
- 2.9.2 The role and responsibilities of the Children's Guardian are the same as in care proceedings. The main difference lies in the very tight timescale. When it is possible to appoint a Children's Guardian in these applications, the practitioner needs to focus on concerns of immediate risk to the child and do whatever is possible within the time constraints to assist with this analysis.
- 2.9.3 As with the SAO (above) the Children's Guardian is only appointed for the duration of the proceedings. When an EPO is granted, unless there is an application for another order, the proceedings have concluded. When a s31 Care or Supervision Order application is made during the life of the EPO, the practitioner should be appointed separately for the care application. The EPO appointment cannot 'run on' into the care proceedings.

### **3. Adoption**

#### **3.1 Welfare Checklist for Adoption**

- 3.1.1 There is a specific version of the [Welfare Checklist](#) for adoption and related proceedings – the [fuller version](#) must always be used in these cases.

#### **3.2 Adoption & Related Processes**

- 3.2.1 The following processes operate in adoption:

- Adoption Order application (final order, virtually irrevocable) - Children's Guardian appointed.
- Placement Order application (when the adult/s with PR do not agree to the plan for adoption) - Children's Guardian appointed.
- Application for post-adoption contact (application made in advance of final adoption order - Children's Guardian appointed.
- Pre-proceedings consent (for children who are to be relinquished for adoption, before any application is made) Cafcass is requested to witness consent.
- Consent to adoption (in the context of an adoption / placement application) Reporting officer appointment

#### **3.3 Cafcass' Roles and Responsibilities in Adoption & Related Proceedings**

- 3.3.1 For Children's Guardian appointments in adoption proceedings, the functions are as set out for public law (C2.2.2).

- 3.3.2 It is possible, though rare, for the court to appoint a Cafcass practitioner as a Children & Family Reporter rather than a Children's Guardian, if the court is requesting information on a limited, specific welfare issue. In these cases, the functions are to:

- Provide information to the court on the specific welfare issue
- Notify the court if there are any reasons why an appointment as Children's Guardian is required, to assist the court in providing a more detailed assessment

- 3.3.3 The responsibility of the FCA when witnessing consent to placement or advance consent to adoption is to ensure that the consent is given unconditionally and with full understanding of what is involved. Where the FCA is not confident of this they should refer the matter back to the local authority.

- 3.3.4 The responsibilities of Reporting Officers are to:

- witness the signature of the child's parent or guardian giving consent to a placement or adoption order, or to an order under section 84 Adoption & Children Act 2002 giving parental responsibility to a person who intends to adopt the child abroad.
- Ensure that the parent or guardian gives the consent unconditionally and with full understanding of what is involved.
- Investigate all the circumstances relevant to the parent or guardian's consent.

- Draw the court's attention to any matters which may assist the court and seek any directions which may be needed. For instance, it may be necessary to notify the court if there are any reasons why the child should be made a party. This would lead to an appointment of a Children's Guardian, who would assist the court in providing more detailed assessment. In practice, this means reading through the documentation to identify whether there have been any gaps or difficulties in the process, which need resolving before progress can be made.
- Inform the court if it appears that the parent or guardian is unwilling to give consent.
- Attend all directions hearings unless the court directs otherwise.

3.3.5 In all cases, the practitioner should check whether it is necessary for the ContactPoint entry to be shielded and if so, whether this has been undertaken. If not, then the [shielding process](#) should be followed.

### **3.4 Initial Work**

3.4.1 The practitioner should always write to the people whom s/he will meet in the course of adoption work. This letter should be sent even if the practitioner is already in direct contact – for example the parent/s in a care order application, where the practitioner has just been appointed in the follow-up placement application. This is to ensure that as far as possible they understand the extended role and the new issues, which will be discussed. Copies of all correspondence should be kept in the case file. The letter/s should set out the following:

- the nature of the practitioner's appointment
- what the practitioner will be doing
- the arrangements for when the practitioner would like to meet them
- contact details
- information about the 'MyCafcass' password and username (click [here](#) to access Welcome Pack guidance) and enclose a Cafcass information leaflet for them to read.

### **3.5 Risk Assessment**

3.5.1 The duty to undertake a risk assessment where necessary, applies to Cafcass work in those applications in the "Adoption / Other" column of the table showing Typology of Cafcass Work (section 3.1) as well as in private and public law applications. The different context means that a different approach is required.

3.5.2 All requests for Cafcass to undertake a piece of work in adoption / other cases should be checked on Cafcass CMS on receipt, to ascertain what previous involvement (if any) there has been with the family.

3.5.3 It is not necessary to undertake checks with the police or children's services routinely but there may be unusual circumstances which make it necessary. Practitioners should make a professional judgement about this in each case. If there are current linked public law proceedings, Children's Services should be asked to obtain the information. In other cases, the matter should be raised with the court with a view to identifying which agency should contact the police or children's services.

3.5.4 When appointed to the case, the practitioner should check the documentation to ensure that Children's Services or the Adoption Agency have provided all necessary information about background risks. Where there are gaps, or the information provided causes the practitioner concern, this should be raised with the court.

### **3.6 Issues that Arise from the Link with Other Processes**

3.6.1 Most Placement Order applications are made during care proceedings. Almost always, the same Children's Guardian is appointed but this is a separate judicial act and must be recorded as such.

3.6.2 Where placement proceedings run concurrently with other proceedings, courts sometimes prefer practitioners to file two separate reports, whereas some prefer one, combined report. Whichever practice is followed, two important requirements must be adhered to:

- If writing a combined report, the practitioner must work with the extended welfare checklist to ensure that the 'adoption' elements are properly covered
- A combined report format cannot be used if there are parties in the care proceedings who should not be given access to the information about the placement proceedings. In those circumstances, two separate reports are required.

3.6.3 It can be challenging to fit placement applications into the PLO. Case law will clarify the discrepancies between the various processes but for now practitioners should be sure to ascertain the timescales for the adoption process within the Local Authority. For example:

- has the child been referred for the adoption medical and how actively is the social worker following up any delays in that appointment?
- how will any delays impact on the court timetable?
- when is the Adoption Panel?
- does the Panel meet too infrequently to enable all the cases to move forward properly? If so, this may need to be reported back to the Service Manager to be raised separately with the Local Authority or the court at the Family Justice Council. In terms of progress for this individual case, it is important to ensure that the relative timing of the PLO hearings and the Panel are known to both sides, and that necessary adjustments are made in advance if at all possible.

3.6.4 There can be confusion between special guardianship (which is a private law order) and adoption. The more detailed [adoption guidance](#) clarifies the various processes and their inter-relationships. Practitioners should have a thorough understanding of adoption and special guardianship, before being appointed to work in either type of case. This is the responsibility of both the Service Manager and the practitioner.

## 4. Private Law

### 4.1 Cafcass' Roles and Responsibilities in Private Law Proceedings

4.1.1 In private law, Cafcass practitioners can be appointed to work following the end of the court proceedings as well as in the more traditional role during the court process. In all situations, the responsibility is to safeguard children who are subject of the proceedings. This can involve some or all of the following:

- working directly with the child to ascertain his/her own views, wishes and feelings.
- where the child is a party (FPR Rule 9.5) to represent the child's interests
- identifying where there are risks of harm to the child and / or to one of the parents (in domestic violence situations) and working to increase the safety of the child and parent.
- working with those families where there are no safety concerns, to enable the adults to increase their focus on the child's needs and on shared parenting.
- providing information and social work advice to the court to assist it in dealing with the applications before it. This could include advising whether the media's attendance at court poses any specific risks for the child or family.

4.1.2 The following requirements should be met within any local arrangements for private law working:

- Screening and initiating relevant safeguarding checks in respect of all applications on receipt from the court
- Reporting the outcome/progress of this work to the court in advance of the First Hearing
- Initial risk identification undertaken following direct contact with the parties (this can be via the telephone discussion in the new model) and receipt of all safeguarding checks. This may be in advance of First Hearing, orally at court by the duty officer; or following the First Hearing.
- Seeking a 'fixed date' further hearing, in accordance with the [President's Interim Guidance](#) (paragraphs 16 & 17) when pre-First Hearing work cannot be completed in time for the First Hearing.
- Where risk/harm concerns are identified, to advise the court that a s16A risk assessment needs to be undertaken and provided to the court (para 9 (d) 18 (d) of the [President's Interim Guidance](#)).
- Following the First Hearing, Cafcass will undertake other types of further work with children and their families as requested by the court, as set out in the [President's Interim Guidance](#).<sup>9</sup> Risk assessment forms part of this work.

### 4.2 Initial Work

See also the accompanying 'Work To First Hearing ' Resources Pack

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<sup>9</sup> The local Service Manager should maintain close communication with the local judiciary to ensure that any difficulties are shared and resolutions hopefully identified - for example, difficulties around allocation, or queries about the nature of requests from the court.

- 4.2.1 Business support staff in the local office will open the mail, identify all requests for new work and enter this information on CMS.
- 4.2.2 All papers received from the court must be scrutinised by a manager or duty practitioner within 1 working day of receipt. These twin processes (CMS entry and professional scrutiny) mean that business support and duty workers must work closely together over the initial period of the case.
- 4.2.3 On receipt of the application from the court, the allocated practitioner or duty worker will write to the parties providing an explanation for the process for the next few weeks. The letter will contain information for the child as well, although contact will not be made directly with the child until after First Hearing. The letter to the child is in 'Z-card' format. This is a standard format and should be suitable in most circumstances. Practitioners should still review in case any specific concern arises, and note on the case file the reason for using any alternative correspondence. The adult letters should be taken from the Cafcass Welcome Pack but customised as appropriate so that they do not feel like an 'off the shelf' routine. They should all provide information about the 'MyCafcass' password and username (click [here](#) to access Welcome Pack guidance). Sending the letters is the responsibility of the allocated practitioner or duty worker although business support colleagues should assist with the administration. Copies of all correspondence should be kept on the case file.

### **Case transfers**

- 4.2.4 On receipt of the application, Business Support should identify those cases where the one or more parties' address(es) is outside the local area for that team.
- 4.2.5 This information should be passed to the Duty FCA to establish by telephone call to the court whether the court has misdirected the post in which case the case should be transferred immediately to the local office. In these situations there should be consultation between the duty workers from the two offices (i.e. the office that received the application in error and the office that should have received it because it routinely deals with the work of that court), with agreement being reached about who should undertake the police and local authority checks. On transfer of the case papers, the transferring office is to make clear what checks or other work may have been done - and any further information must be forwarded immediately.
- 4.2.6 In all other cases where the application has been made to a court, which is not in the locality of the child/ren's address/es, responsibility for the case should usually be retained by the first office at least until the first hearing.
- 4.2.7 In such circumstances the responsibility for initiating checks lies with the first office, taking full responsibility for screening, initial risk identification and analysis, and writing to the court. This is because it is only after this work has been completed that Cafcass will be in a position to:
- identify the reasons for the out-of-area application;
  - confirm any initial information about where the children are actually living;
  - decide whether it is safe to transfer the case to a more local office.
- 4.2.8 There are some situations in which it may be inappropriate to transfer the case

even where the children live primarily outside the court / Cafcass office's area, for example where there are considerations of safety. These cases require the duty officer or service manager from each relevant office to reach a joint decision and record it on the case file.

4.2.8 In all cases where cases are transferred:

- The court should be notified.
- Receipt of the file should be notified by the receiving office to the first.

4.2.9 Casework post-first hearing should normally be the responsibility of the office covering the location of the child/ren's primary address. As a professional courtesy between the teams, no transfer should be made without prior agreement between the two offices.

### **4.3 Risk Assessment and Management**

4.3.1 In private law cases the family court sends Cafcass copies of all applications at the time at which they are issued. Cafcass' policy is that all private law applications are to be screened for risk and harm concerns within one working day of receipt of the application form. These initial screening checks are made for child protection purposes, and the advance consent of the parties is not sought. All parties are made aware of this process through information provided by the court in addition to the Cafcass 'welcome pack' materials.

4.3.2 It is desirable to verify information contained in the police check with the person concerned, subject to practical constraints and constraints around sensitive data. It is also permitted and often necessary to discuss any information **relevant to the welfare of the child** subject to the same constraints in line with [ACPO/CAFCASS Cymru/Cafcass Protocol](#).

4.3.3 The screening of private law cases is based on scrutiny of the application form and other court-related materials and on the results of safeguarding checks undertaken with external agencies, in particular Children's Services and the police. It may be necessary to repeat the process at a later stage if new information comes to light e.g. that an adult has been known by additional names or where additional parties join a case.

4.3.4 In all private law applications there are six safeguarding checks to be undertaken:

- The court application forms and information provided by the court about any previous or current relevant court proceedings.
- Cafcass' previous knowledge of the child and family; CMS allows this information to be accessed across the country).
- Children's Services information – to include current/previous knowledge and whether the child is subject of a child protection plan.
- Police information (see exemptions below).
- [ContactPoint](#) - this will provide information about the involvement of any children's service, either currently or in the recent past
- Direct contact with the parties (telephone interview and/or face-to-face meetings).

4.3.5 In all section 8 residence and/or contact order applications, in relation to all adult parties a police check must be made using the ACPO Disclosure protocol letter (in Resources pack).

4.3.6 Where a parent is or has been a member of the armed forces within the past five years, when a police check is made this should be accompanied by a check with [SSAFFA](#) (some

criminal records e.g. offences committed in another country are kept by the armed forces rather than the police.)

4.3.7 A professional judgment should be made by the duty officer as to whether or not to make a check of police records in all other categories of application listed under 'private law' (see Typology of Cafcass work in section C1 above). That judgment must be made in the light of the facts of the case, and checks will be necessary if:

- the application raises issues indicating a risk of harm to the child, whether via the harm 'tick box' or any other information;
- any issue arises which suggests there is a potential risk of harm to a child, and the interests of the child concerned require the checks to be made. This judgment may be based on the following information:
  - the nature of any dispute
  - high-conflict relationship breakdown
  - indications of child's distress
  - any other risk factors.

4.3.8 The detailed process and documentation for undertaking police checks is covered by the [ACPO/CAFCASS Cymru/Cafcass Protocol](#). No police documentation, including information from the police national computer (PNC) can be filed at court without the specific written consent of the police. Instead, relevant information should be incorporated into the written or oral report to the court.

#### **Cases in which Children's Services are undertaking the report for court**

4.3.9 The Cafcass manager or duty officer should decide whether the case should be re-directed immediately to Children's Services. Protocols at local levels have identified good practice as being for Children's Services to undertake work in those cases, which are either open to them, or have been closed in the last three months following a period of substantive work. Where these cases are identified sufficiently early in the process, Cafcass should not do the police checks. Sometimes the information is not available from the outset and so the check will already have been done, in which case the response should be forwarded to Children's Services. In addition, the Cafcass manager or duty officer should provide Children's Services with all information held by Cafcass about the case.

#### **Wider, repeat and further checks**

4.3.10 Judgment should be made by the practitioner, once the case is allocated, as to whether to undertake wider checks i.e. of agencies other than those cited above. This might include probation, health, schools, voluntary organisations etc. The consent of the person(s) concerned should be obtained unless a court direction has been obtained.

4.3.11 A repeat police check should be made without consent where:

- The case has been closed for three months or longer and a fresh application is made
- A fresh application has been made and the case has been closed for less than three months but the application indicates that there has been police involvement in the intervening period.

- Information suggests the need to update police information
- A case has been open for 24 months (unless local agreement with the police stipulates that in these circumstances repeat checks are to be made sooner).

4.3.12 A further check of other people should be carried out if further 'relevant individuals' are identified. There is no precise definition of a 'relevant individual' and the question of whether an individual is "relevant" is a matter for professional judgment. Relevant individuals could include:

- Older siblings in the household
- Members of the same household as a party who is seeking residence or contact (staying or visiting).
- New partners of parties
- People spending significant amounts of time in the household.

4.3.13 The explicit written consent of the 'relevant individual' should be obtained prior to initiating the further police check. If this is refused, consideration should be given to seeking direction from the court, this being the mechanism by which consent can be overridden. If there are immediate concerns, a child protection referral should be considered.

#### **Initial risk identification – private law**

4.3.14 The practitioner should consider whether to make a [shielding request](#) to the local authority in respect of ContactPoint.

4.3.15 Where screening and/or risk identification information indicates a concern (but not of a level requiring immediate referral to Children's Services) the practitioner should advise the court of the need to implement a more detailed risk assessment before decisions relating to the child can be made safely.

#### **Detailed assessment about risk and safety**

4.3.18 In private law, the Cafcass assessment will sometimes be enhanced by additional risk assessment work undertaken by an external agency or independent expert. In these cases, as in public law, the practitioner's duty is met by conducting screening and risk identification, and then working alongside the other relevant professionals to ensure that the final risk assessment addresses all the matters raised by the Cafcass risk identification.

4.3.19 The detailed assessment about risk and safety will be an integral part of the work in the case using the Cafcass Assessment workbook and record of assessment.

4.3.20 Some elements should always be present in an assessment of risk and safety, as follows:

- Identification of key risks.
- A brief chronology of previous concerns.
- Identification of other agencies who are involved, along with their assessment of risk and what work they are committed to doing.
- The child's own views.

- Identification of the impact of race, culture, language and communication, or any other diversity factors.
- The views both of parents and of any other relevant adults.
- Identification of factors which make the situation worse as well as those which safeguard the child.
- A plan for improved management of risk in the future including any referrals.
- When the above plan is dependent upon an individual protective adult, the assessment should record that the practitioner has spoken directly to that adult and that a plan is in place for communication to a named professional, if the adult is no longer able to fulfil the protective role.

4.3.21 A range of resources is provided on the intranet to assist the practitioner in undertaking an assessment of risk and safety. The practitioner should select those resources most relevant for the individual piece of work. Where domestic violence is a feature, the [CAADA-DASH risk identification checklist](#) should always be used.

4.3.22 The practitioner should:

- Record the outcomes of the assessment of risk and safety within the Cafcass Assessment workbook and record of assessment. The implications for future work should be recorded in the case plan.
- Incorporate key elements of it into the court report.

#### **4.4 Interviewing by Telephone and/or Face-to-Face**

4.4.1 Most WTFH interviews with parties will be conducted by telephone. This should be sufficient where either:

- No risks have been identified by either party or by screening information, or
- A level of risk has been identified which suggests that further assessment will be needed by Cafcass following the first hearing (our s16A Risk Assessment duty).

4.4.2 A face-to-face interview (instead of, or in addition to, a telephone call) should be considered in the following circumstances:

1. The applicant is a child.
2. There are additional communication needs (e.g. hearing impairment, first language not being English; learning difficulties).
3. Immediate safety arrangements may need to be put in place, particularly for the first hearing.
4. There is a high level of distress or anxiety.
5. There are concerns that one or more people may be at risk of coercion.

This list is not exhaustive.

#### **4.5 Delays in Allocating Work Following the First Hearing in Private Law**

4.5.1 Private law work before First Hearing should be managed by the duty system in each office. The Service Manager should manage a priority allocation system for private law

work following the First Hearing. The manager should keep all cases which are either unallocated or allocated to a duty worker, under regular review.

4.5.2 Cases should receive particular priority for allocation based on current vulnerability. This will include cases referred to Cafcass for a welfare report but also work referred for a more focused piece of intervention e.g. a Wishes and Feelings report; monitoring of contact. Where the issues are not sufficiently clear to enable this prioritisation to be undertaken, then clarification from the court should be sought.

High priority should be given in cases of:

- risk factors identified in the work to First Hearing, along with the need for more detailed assessment
- child displaying disturbed behaviour
- substantial contact suddenly stopped
- recent change of residence – refusing to return child after contact
- application to remove child from jurisdiction
- one or both parents below the age of 18
- parents living in the same household

Medium priority should be given in cases of:

- allegations of unfit parenting (drugs/alcohol/mental health) but no current safeguarding concerns
- extended family member application for residence
- domestic violence allegations from the past but no current safeguarding concerns
- child split between carers
- application to remove child to another area

Low priority should be given in cases of:

- extended family applications for contact
- applications for parental responsibility
- applications for variation in contact where there is ongoing contact
- order for further work (e.g. addendum report) where the previous Cafcass report has identified no constructive role for Cafcass at this stage

## **4.6 Working in Court at First Hearings**

4.6.1 Court duty has been an important part of work for Cafcass in private law, although operated very differently around the country. It should always be undertaken by a Family Court Adviser.<sup>10</sup>

4.6.2 There are important safeguarding responsibilities when working as a court duty officer. The following elements from this Framework carry particular relevance:

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<sup>10</sup> Where Family Support Workers are involved, their role should be to provide assistance rather than to take responsibility for recommendations to the court.

- the Cafcass practitioner will notify the court of any situation which needs an adjournment, because screening information is not available and so the practitioner cannot work with the parties towards any agreement.<sup>11</sup>
- where the parties have not been met in advance of the hearing, the practitioner is required to meet the parties separately in the first instance.
- where any concerns arise about potential risk, either from screening information or on the day at court, it is inappropriate to hold any type of 'dispute resolution' interview. The practitioner should request more time from the court to undertake an assessment in accordance with the risk assessment duty.<sup>12</sup>
- where some or all of the screening information arrives at Cafcass after the First Hearing, the court should be notified of any concerns which may arise about risk for the child or adult parties<sup>13</sup>.

#### **4.7 Other Safeguarding Issues in Private Law**

##### **Supported Contact Centres**

- 4.7.1 Referrals should not be made to supported contact centres, nor should referrals by solicitors be supported, when the level of risk indicates the need for supervised provision (regardless of the limited availability of the latter). National Association of Child Contact Centres research has highlighted that this is a major safeguarding issue, not only for the children in the individual family but also for other families at the centre.

##### **S37 Direction**

- 4.7.2 Section 37 directions can be made by the court in private law applications where the court wishes the local authority to investigate the child's circumstances and report on whether it intends to apply for a care or supervision order for the child. The proceedings become 'specified' at this point if, when the court gives the direction, it either exercises its power to make an interim care order or is considering whether to do so. If the proceedings become specified, unless it is satisfied that it is unnecessary to do so the court will appoint a Children's Guardian. If a practitioner is currently working as a Children & Family Reporter in the case when the proceedings become specified, s/he should always ascertain from the court whether a separate appointment as Children's Guardian is necessary.

##### **Applications under the Human Fertilisation & Embryology Act 2008 (HFEA)**

- 4.7.3 Cafcass must be appointed in applications for parental orders under sec 54 HFEA2008. The proceedings are specified but not public law and the Parental Order Reporter (POR) will not have a solicitor unless the child is made a party. The duties are those of a children's guardian under Rule 4.11 and 4.11A and in addition the POR is expected to investigate the criteria set out in section 54 and advise the court on any other matter, which appears relevant. There is no local authority scrutiny of these applications and there should be screening of parental order applications as in any private law application. The POR will be the only professional assessing the application and can make a referral to the local authority if any safeguarding concerns are raised.

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<sup>11</sup> See President's Interim Guidance August 2009, paras 16 & 17

<sup>12</sup> s16A The Children Act 1989

<sup>13</sup> See President's Interim Guidance August 2009, paras 16 & 17.

# Cafcass Safeguarding Framework

## Section D: Safeguarding with Staff

PHOTO REDACTED DUE TO THIRD PARTY RIGHTS OR OTHER LEGAL ISSUES

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## Safeguarding with Staff

### 1. Cafcass Staff Care

1.1 Working with children and families at times of crisis, vulnerability, change and loss lies at the heart of Cafcass. Cafcass supports all of our staff in meeting these challenges, with a particular commitment to staff welfare through:

- Supervision and line management.
- Seeking to ensure staff safety through our Health and Safety policies ([Personal Safety \(the control of violence and aggression\)](#), [Lone working & Safety of Visitors](#)).
- The provision of a Confidential Care Adviceline (available 24 hours a day, 7 days a week, 365 days a year on 0800 917 8452)
- Supporting staff who are experiencing particular problems outside work e.g. staff care in situations of domestic violence (see later in this section)

## **2. Suitability to work with children and vulnerable adults**

Note: 'work with children' should be read to include 'work with vulnerable adults'.

### **2.1 Recruitment and selection**

**HR policies** should be followed at all times to ensure safe recruitment. Where any concerns arise at the recruitment stage about a candidate's suitability to work with children, then HR advice should be taken about what further action may be necessary.

### **2.2 Criminal Records Bureau**

All staff who may have contact with children or access to children's information via ContactPoint are subject to checks at recruitment and then on a three-yearly basis. No member of staff may have direct contact with children if the three-year period has lapsed without a further check, for whatever reason.

### **2.3 Independent Safeguarding Agency (ISA)**

When the ISA begins work (expected 2010) Cafcass will comply with this new system for safer recruitment. Any person recruited either externally or moving within Cafcass, to a position defined as 'Regulated Activity' under the ISA scheme after 1<sup>st</sup> November 2010 must be registered with the ISA. Guidance on this will be available nearer the time of implementation from HR.

### **2.4 General Social Care Council**

All recruits who are qualified social workers will be checked with the GSCC before appointment. Should the registration lapse for any reason, the practitioner or manager should have no direct contact with service users until the registration is re-instated.

### 3. Allegations against staff about unsuitability to work with children and / or vulnerable adults

Note: 'work with children' should be read to include 'work with vulnerable adults'.

- 3.1 All staff have a responsibility to notify their line manager (or another manager, if the concern relates to the line manager) of any concerns raised about suitability to work with children. This applies both to Cafcass staff and to adults encountered through Cafcass work – for example, other professionals, or service users who work with children. Working Together (2006) Appendix 5 should be adhered to in all such situations. Where the concern relates to a Cafcass colleague, staff are protected from repercussions through the [whistle blowing policy](#).

This will apply in situations where it is alleged that a person has:

- Behaved in a way that has harmed or may have harmed a child (this to include exposure of a child to harm as defined by section 120 Adoption & Children Act 2002).
- Possibly committed a criminal offence against a child.
- Behaved in a way that indicates s/he is unsuitable to work with children.

Complaints from users that a member of staff is unsuitable to work with children should be handled under this policy (not the complaints policy).

The manager who first receives the expression of concern must inform the following post-holders within Cafcass, in writing / email, of any allegation and of the eventual outcome:

- The line manager of the person against whom the allegation has been made (where this is a different person).
- The operational Head of Service.
- The Operational Director.
- The Corporate director with safeguarding responsibility (who acts as the lead officer for cases under Appendix 5 Working Together).
- The Chief Executive and Chair of the Board.

Working Together (2006) requires that the relevant Local Authority Designated Officer (LADO) should be informed of all allegations that meet the criteria outlined above. It is the responsibility of the LADO to determine whether an allegation has any substance. Where more than one area is involved (for example, a person works in one area but lives in another) then the LADO's guidance should be sought about who should be involved.

### Quote

It can be hard to understand why *all* allegations must get reported to the LADO rather than having any internal flexibility for allegations that appear to be very clearly without substance. This was a change of policy initiated by Working Together (2006). Appendix 5 states:

*Procedures need to be applied with common sense and judgement. Some allegations are so serious as to require immediate referral to social care and the police for investigation. Others are much less serious, and at first sight may not seem to warrant consideration of a police investigation or enquiries by children's social care. However, it is important to ensure that even apparently less serious allegations are seen to be followed up, and that they are examined objectively by someone independent of the organisation concerned. Consequently, the LA designated officer should be informed of all allegations that come to the employer's attention and appear to meet the criteria (Chapter 12, WT), so that s/he can consult police and social care colleagues as appropriate. The LA designated officer should also be informed of any allegations that are made directly to the police (which should be communicated via the police force's designated officer) or to children's social care.*

There are potentially three related, but independent, strands to this:

- A possible police investigation into alleged criminal acts
- An enquiry and assessment by Children's Services, and
- A consideration of disciplinary procedures.

All allegations against a Cafcass member of staff will be investigated fairly and with due regard for staff care. Cafcass-related decisions will be dealt with under the disciplinary procedures (employed staff) or the procedure for contract review (self-employed contractors).

Where staff are registered with the General Social Care Council (GSCC), the GSCC must be notified about any allegation where investigations are ongoing, and again when they are concluded.

#### 4. Quality for Children (Q4C)

4.1 Q4C is Cafcass' practice and performance framework. Q4C comprises:

- Evidence-based supervision to promote high quality work.
- Frameworks for assessment against which the standard of work is evaluated (into which safeguarding is integrated).
- Action plans for all members of staff to record steps to be taken to meet service objectives.
- Annual appraisal to collate all assessments of the quality of work and update the member of staff's action plan.

For more information see the [Q4C page on the Intranet](#).

Performance management with practitioners, who are self-employed contractors, is through review of the contract. The competencies remain the same.

## 5. Professional Behaviour for Safeguarding

5.1 The Q4C Framework sets out examples of professional behaviour for safeguarding. It is important that practitioner staff:

- Ensure that s/he is contactable when working by always following the local procedure for recording location of work e.g. addresses of home visits; working from home.
- When s/he is out of the office for more than a working day (other than when on annual or sick leave), take the following steps:
  - 'out of office' message on email, with either the practitioner's or the office/duty telephone number provided for urgent information
  - telephone the office at least once each day to pick up messages and check for post
  - Cafcass mobile phone voicemail facility turned on
  - Cafcass voicemail messages checked at least twice each day

## **6. Family Support Worker (FSW) role**

6.1 FSWs play an important part in the provision of services by Cafcass for children and their families. Where this Safeguarding Framework refers to 'practitioners', then the statement applies equally to the FCA and FSW roles, with the following proviso. As previously set out in the Case Recording policy, FSWs should not take lead responsibility for:

- Any stage of the risk assessment process
- Reporting to court
- Case closure

## **7. Staff care in situations of domestic violence**

- 7.1 Cafcass will always seek to support staff in the range of safeguarding situations which they may face outside of the work setting. The most common of these situations relates to domestic violence. Where the concerns relate to a member of staff possibly perpetrating domestic violence, this should be dealt with under Section D3. This section relates to people who either are, have been or may be suffering domestic violence.
- 7.2 Because of the nature of the work we do, some staff may feel less able to seek appropriate help from Cafcass than in some other sectors. Those who routinely work in the arena of domestic violence may be concerned about their credibility in the workplace if they acknowledge they are experiencing violence themselves. Cafcass seeks to:
- support Cafcass staff who experience domestic violence
  - create a framework of trust within which a positive culture can be developed that demonstrates an understanding of domestic violence and treats the issue seriously.
  - outline the support that Cafcass is able to give to staff experiencing domestic violence
  - assist all employees in knowing what is available and how to support affected colleagues.
  - establish the agreed standards to be adopted in relation to staff reporting domestic violence

### **Raising The Issue As An Employee**

- 7.3 If a staff member is experiencing domestic violence, Cafcass would encourage them to consider seeking help and support from the organisation through the line manager or HR Business Partner. The purpose of doing so might be to access a range of personal and practical measures that Cafcass can put in place. It may also be important for the member of staff and the line manager to consider if the abuse s/he is experiencing is impacting on their duties.

The member of staff may wish to talk informally to a colleague or friend in the workplace and this is of course a personal choice. It is important to be aware however that depending on the circumstances, there may be occasions when colleagues will find it difficult for legitimate reasons to maintain confidentiality and may need themselves to seek advice.

### **Raising the Issue as a Manager**

- 7.4 If a line manager is concerned about a member of staff experiencing domestic violence s/he has a responsibility to raise it with the employee, and to do so sensitively and privately.

### **Guidance**

Recognising the signs of domestic violence in employees and colleagues can be very difficult. Individuals experience domestic violence in many different ways and their reaction to the abuse will differ significantly. There are no 'definite' rules in knowing those who have experienced domestic violence but some of the following behaviours and physical signs may be of assistance in helping line managers to form a view:

- Unusual and unexplained changes to working patterns
- A member of staff may appear nervous, withdrawn and lack self-esteem.
- S/he may have injuries, and be dismissive of these injuries.
- The reasons for their injuries may not quite 'add up'

Managers may like to seek help from their HR Business Partner or their own line manager. In addition, Managers may seek advice from external agencies or specialists within Cafcass. Staff should be given the opportunity to choose to talk to a manager of an appropriate gender/ HR Business Partner if they so request.

### **Guidance**

When responding to issues of domestic violence presented by an employee the following should be borne in mind:

- Do not underestimate the danger or assume that the fear of violence is exaggerated.
- Remember that abusive relationships are very hard to leave.
- Listen, provide private space to talk and do not pressurise the employee.
- Give a positive message that domestic violence is a crime and no-one should have to live with it.
- Ensure that the needs of any relevant children are identified as part of the support offered to the employee.
- Ask the employee what they want to do and respect their decision.
- Give the employee advice about contacting other agencies.
- Do not offer to negotiate or 'peace make' between the employee and their abuser.
- Consider diversity issues, and whether another manager/ person may be an appropriate source of alternative or additional support.

### **Help Available From Cafcass**

Whilst each individual's situation is different and will require a unique response, there are a number of supportive measures that could be considered when seeking support. In all

instances the member of staff should have the maximum possible inputs into these decisions. The following list is therefore not intended to be exhaustive and not all measures will be appropriate in all situations.

**Safety at work.** Cafcass will undertake a risk assessment with the member of staff, to see what actions may be necessary to keep him / her safe in the workplace. The organisation will need to consider who needs to know what, and what needs to be done to keep the member of staff safe, for example by changes to work patterns, access to buildings, work locations and personal safety, and consider whether any legal measures may be necessary.

**Confidentiality.** Cafcass will take seriously the importance of keeping information safe, and of maintaining confidentiality wherever this is possible and appropriate.

**Flexible working arrangements.** If it would be helpful to temporarily alter working hours or working arrangements including base, a request should be made to the line manager or to HR and this should be treated promptly and sympathetically.

**Pay advances.** Cafcass may be able to arrange pay advances in crisis situations, for example if there is a need to move home. All requests for advances in pay will be dealt with promptly and treated sympathetically. The Line Manager will take responsibility for arranging a pay advance if it is agreed. If the method of payment of salary is problematic (e.g. to a joint bank account) then a different method of payment can be identified.

**Leave provisions.** The member of staff may wish to seek a period of either paid or unpaid leave to help manage the situation. Unpaid leave may be requested when the paid leave provision is exhausted. Line Managers can grant an additional three days paid leave in any one year in urgent situations relating to domestic violence. Further leave would be subject to the approval of the Head of Service. Leave will be logged as urgent domestic stress and will be kept confidential in a sealed envelope in the employee's file marked for the manager's attention only. Leave will not have any adverse effect on the member of staff's employment record.

**Access to counselling and advice services.** Cafcass has an Employee Assistance Programme and the Counsellors have been trained to have an awareness of domestic violence issues. Employees can self refer and receive free counselling in work time. Counsellors will also be able to inform the member of staff of other possible sources of help available. For further information contact HR, or telephone the Employee Assistance Programme direct on 0800 9178452

**Professional concerns.** Cafcass can provide support, to enable the member of staff to consider how his / her experiences may impact on professional issues, and to identify possible solutions.

**Key Worker Scheme.** Practitioners living and working in parts of the Southern, Eastern, South East and London regions who have to move home for reasons of domestic violence may be eligible for support with their housing costs. Further details of the key worker scheme and eligibility criteria are available from HR.

## Cafcass Safeguarding Framework

### Section E: Cafcass Assessment in Private Law Cases

PHOTO REDACTED DUE TO THIRD PARTY RIGHTS OR OTHER LEGAL ISSUES

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# Cafcass Assessment in Private Law Cases

## 1. Introduction

The purpose of this section is to provide guidance to staff in undertaking assessments in private law cases following the first hearing.

- 1.1 Assessment of children takes place in the context of the exercise of Cafcass' functions, as set out in Section A.
- 1.2 The *Assessment Workbook and Record of Assessment* is where the information gained by the practitioner is recorded together with his/her analysis, the plan for future work and comments by the child and parents. This workbook is self-explanatory and consequently this guidance is succinct. The workbook is also designed to avoid duplication i.e. extracts from the record of assessment should form the main content of the court report; cross-reference can be made to the case plan.

The workbook should be used when a full assessment is ordered by the court.<sup>14</sup> It should not be used when undertaking wishes and feelings or single issue reports or referrals to services.

Part 6 of this section contains a number of prompts for practitioner to help him/her to plan and conduct assessments within the context of private law applications.

Cafcass has created the workbook in response to recommendations from Ofsted (and its predecessor inspectorates). The model is based on *Assessment Framework*<sup>15</sup>, incorporating the three domains (the child's developmental needs, parenting capacity and the family and environmental factors), suitably adapted to reflect:

- The legal and familial context within which the assessment work takes place (that of conflict and change following parental separation) and integrated with Cafcass' approach to risk assessment.
- Every Child Matters outcomes
- The Welfare Checklist
- A greater emphasis on the child's own perspective.
- A focus on the needs of and risk to the child (rather than the dispute between the adults).

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<sup>14</sup> Items c and d in para 9 of the *President's Interim Guidance* (2009) – both of which are section 7 reports.

<sup>15</sup> *Framework for the Assessment of Children in Need and Their Families* (Department of Health (2000)

## 2. Principles Underpinning Assessments

2.1 All assessments should adhere to the ten principles of Working Together (see Section B, 2.1 of this Framework).

## 3. Undertaking the Assessment

3.1 The workbook should provide evidence (by cross-referencing as appropriate) that the practitioner has:

- Described the work to be undertaken by court request.
- Formed a plan (detailed in the case plan and agreed by the service manager) which describes the focus of the work and the timeframe<sup>16</sup>
- Understood the child's story (including ascertainable wishes and feelings)
- Addressed risk (building on work done before or at the first hearing)
- Addressed the three domains (see below)
- Undertaken an evidence-based analysis i.e. there is a clear link to information gained and recorded in the workbook.
- Made a plan to be presented to the court of what further work is required, by which agency and when. (Further Cafcass services should only be recommended where this is clearly justified by the needs of the child.)
- Worked collaboratively with parents – this to include but not be limited to seeking their comment on the assessment.

3.2 The practitioner is not expected to address or comment upon every dimension within the workbook. A balance needs to be struck between:

- 'Tailoring' the assessment to reflect the court's request, the risk to the child and his/her needs. This acknowledges the need to make optimum use of Cafcass resources and time available.
- Not excluding lines of enquiry too quickly as this risks important information being missed.

3.3 Undertaking the assessment should entail:

- Individual meetings with each child and adult party, building on work done up to and at the first hearing.
- Exploration of any identified risks.
- Identification of other agencies working with the family and gathering of information from them as appropriate.

Direct work with the child is an essential part of the assessment. There are five critical components to this: seeing, observing, engaging, talking and undertaking activities.

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<sup>16</sup> The President's Interim Guidance, July 2009, states this is eight weeks.

## 4. Assessment Tools

4.1 Practitioners should make use of the following assessment tools, as appropriate:

### 4.1.1 Generic tools:

- Chronologies
- Genograms
- Eco-maps
- Children's rights resources: the [Needs Wishes and Feelings](#) pack; [How It Looks To Me](#) (child impact) tool; [Children's Rights in Practice](#).
- [Observation of contact tools](#)
- [Assessment Framework](#) tools especially the Strengths and Difficulties questionnaire, and the Daily Hassles questionnaire.

### 4.1.2 Risk and Safety assessment tools:

- CAADA-DASH MARAC Domestic Violence risk identification checklist. This should always be used when domestic violence is an issue.
- Weighing information in contact applications where domestic violence is an issue – Cafcass tool based on the Sturge-Glaser report (Sturge-Glaser Proposed Contact Risk Assessment Tool)
- Questions to ask in assessing parenting capacity where drug abuse is an issue (NCB Assessment Framework Table from the National Children's Bureau pack)
- Questions to use in assessing drug and alcohol misuse (SCODA Risk Assessment with Parental Drug Use)
- Questions to ask in assessing mental health issues (DoH Assessment Framework Adult Wellbeing questionnaire or Edinburgh Postnatal Depression Scale included in risk assessment training)

## 5. Disclosure

5.1 The assessment should be a collaborative process with the child and adult parties from the outset. The outcomes of the assessment should be shared with them and their comments recorded in the workbook and copied into the court report.

5.2 Practitioners should also consider whether to share any of the detailed recording. This is good practice and is to be encouraged, but before doing so, the practitioner should be satisfied that no harm will arise for the individual concerned or for any 3<sup>rd</sup> party, by sharing this information.

5.3 When in doubt about how to proceed, advice should be obtained, from the Service manager, Cafcass Legal and the court, as appropriate within the circumstances of the case.

## 6. Prompts in Private Law Assessment

### 6.1 Dimensions of the Children’s Developmental Needs Domain

Extracts from the Framework for Assessment	Particular application to children in the Cafcass private law context, where adults are in dispute about future arrangements
<b>Health</b>	
<p>Includes growth and development as well as physical and mental wellbeing. The impact of genetic factors and of any impairment should be considered. It involves receiving appropriate health care when ill, an adequate and nutritious diet, exercise, immunisations where appropriate and developmental checks, dental and optical care and, for older children, appropriate advice and information on issues that have an impact on health, including sex education and substance misuse</p>	<ul style="list-style-type: none"> <li>• There is clear and consistent evidence that children’s long-term emotional and mental health can be put at risk through enduring family or parental conflict.</li> <li>• There should be particular analysis of mental health and emotional development issues which are greatly affected by parental conflict (see Emotional and Behavioural Development section)</li> <li>• The needs of children with disabilities and how continuity of care and support may be affected by moves and other changes should be particularly considered in any assessment</li> <li>• Consistency of parental approach is of great importance in caring effectively for any child with health problems</li> </ul>
<b>Education / Learning</b>	
<p>Covers all areas of a child’s cognitive development, which begins from birth. It includes opportunities: for play and interaction with other children; to have access to books; to acquire a range of skills and interests; to experience success and achievement. It involves one or more adults who are interested in educational activities, progress and achievements, who take account of the child’s starting point and any special educational needs.</p>	<ul style="list-style-type: none"> <li>• Parental disputes as to which school a child should attend are not uncommon in private law, with damaging adversarial proceedings taking place either around venue or type of school, or about involvement in school/parent liaison, parents’ evenings etc.</li> <li>• A child’s education may be particularly affected by changes and disruption at key developmental stages or close to major exam dates etc</li> <li>• Children’s views about a change of school/changes of after school activities should always be considered</li> </ul>

<b>Emotional, Social and Behavioural Development</b>	
<p>Concerns the appropriateness of response demonstrated in feelings and actions by a child, initially towards parents and caregivers and, as the child grows older, to others beyond the family. It includes the nature and quality of early attachments, characteristics of temperament, adaptation to change, response to stress and degree of appropriate self-control.</p>	<ul style="list-style-type: none"> <li>• <b>A thorough analysis of the child’s main attachments is key. How disruptive has the breakdown of the adult relationship been for the child?</b></li> <li>• A child can successfully have multiple attachments provided these are supported by parents/other significant adults e.g. can have close attachments to their birth parents and each parent’s new partner, but may be unable to form appropriate attachments (e.g. to half siblings) if these are the subject of disapproval from one of the parents</li> <li>• Consideration of the child’s coping mechanisms – what is important to help them negotiate the current difficulties?</li> <li>• Consideration of the child’s resilience, in terms of the child’s capacity to grow and develop autonomy in a changed family context</li> </ul>
<b>Identity and presentation</b>	
<p>Concerns the child's growing sense of self as a separate and valued person. It includes the child's view of self and abilities, self-image and self-esteem, and having a positive sense of individuality. Race, religion, age, gender, sexuality and disability may all contribute to this. Also included are feelings of belonging and acceptance by family, peer group and wider society, including other cultural groups.</p> <p>Concerns the child's growing understanding of the way in which appearance, behaviour, and any impairment are perceived by the outside world and the impression being created. It includes appropriateness of dress for age, gender, culture and religion; cleanliness and personal hygiene; and availability of advice from parents or caregivers about presentation in different settings</p>	<ul style="list-style-type: none"> <li>• Understanding the child’s identity is a key aspect of any assessment. This should include                         <ul style="list-style-type: none"> <li>➢ cultural and religious aspects</li> <li>➢ the child’s self image, in particular in terms of ethnicity</li> <li>➢ the child’s sense of having to belong and be accepted by both parents and their families or be pressurised to align more with one than the other</li> <li>➢ parents’ acceptance of child’s culture and identity</li> <li>➢ awareness of changing identity across generations, in particular following migration</li> </ul> </li> <li>• Identity issues can extend to paternity disputes</li> <li>• There are increasing numbers of disputes arising out of assisted conception and surrogacy arrangements which may impact on the child’s identity</li> <li>• Consider the impact of uncertain immigration status on the child’s identity</li> <li>• Social presentation issues are key signs as to a child’s well being, especially if there are pressures to present differently when with each parent</li> <li>• For teenagers who are trying out different ways to present to the world there may be inconsistent advice from parents, which adds to this as an area of conflict and stress e.g. parental disagreement about body piercing.</li> </ul>

<b>Family and Social Relationships</b>	
<p>Concerns the development of empathy and the capacity to place self in someone else's shoes. It includes a stable and affectionate relationship with parents or caregivers, good relationships with siblings, increasing importance of age appropriate friendships with peers and other significant persons in the child's life and response of family to these relationships.</p>	<ul style="list-style-type: none"> <li>• At times of change children often receive considerable support from their siblings. Given this, parental proposals to separate children need to be considered very carefully in terms of the likelihood of weakening the sibling relationship</li> <li>• Extended family such as grandparents can provide added security and stability at a time of great change or, alternatively, may instead add to the pressure on the child by joining in the parental conflict to support one parent against the other</li> <li>• Parents' new partners can be experienced very differently by children either as more positive adults interested in their well being or as threats to their relationship with the parent concerned</li> </ul>

<b>Self Care Skills</b>	
<p>Concerns the acquisition by a child of practical, emotional and communication competencies required for increasing independence. Includes early practical skills of dressing and feeding, opportunities to gain confidence and practical skills to undertake activities away from the family and independent living skills as older children. It includes encouragement to acquire social problem solving approaches. Special attention should be given to the impact of a child's impairment and other vulnerabilities, and on social circumstances affecting these in the development of self care skills.</p>	<ul style="list-style-type: none"> <li>• These may be indicative of a child's well being or stress</li> <li>• Development of such skills can be impaired or delayed if there are conflicting parental messages e.g. one parent encourages the child to feed him/herself and the other parent encourages more dependence and still retains control of the feeding process</li> </ul>

## 6.2 Dimensions of the Parenting Capacity Domain

Extracts from the Framework for Assessment	Particular application to children in the Cafcass private law context, where adults are in dispute about future arrangements.  Consider how far do any difficulties arise from the current dispute and how far do they reflect more entrenched concerns?
<b>Basic Care</b>	
<p>Providing for the child's physical needs, and appropriate medical and dental care. This includes provision of food, drink, warmth, shelter, clean and appropriate clothing and adequate personal hygiene</p>	<ul style="list-style-type: none"> <li>• Need to gain objective information from other professionals or children themselves as to how their care needs are met by each parent</li> <li>• Basic care can be shared provided there is good co-operation</li> <li>• Both fathers and mothers can be equally capable of providing basic care but there may be practical issues, in particular breastfeeding</li> <li>• The role of each parent needs individual assessment within the cultural context for this family</li> <li>• Impact on the provision of basis care arising from substance misuse, mental/physical illness or lack of capacity/ability</li> <li>• Where the ability to provide basic care is impaired establish whether this is temporary or enduring.</li> </ul>
<b>Ensuring Safety</b>	
<p>Ensuring the child is adequately protected from harm or danger. It includes protection from significant harm or danger, and from contact with unsafe adults/other children and from self-harm. It also involves the recognition of hazards and danger both in the home and elsewhere.</p>	<ul style="list-style-type: none"> <li>• Domestic violence and the harm caused to the child of witnessing this is clearly an important factor</li> <li>• Parental ability to ensure safety is clearly impaired if either parent has significant substance abuse or mental health problems; it is important to assess for example whether a parent drinking heavily is a temporary reaction to the couple relationship breaking down and what impact this has on ability to protect the child</li> <li>• Parents in conflict can also disagree as to the extent to which a child may need to be protected or allowed to be independent – this can apply particularly with children who are vulnerable e.g. due to a disability, being bullied etc</li> </ul> <p>Further safety issues may arise for children where new partners pose risks.</p> <p>Where risks have been identified, one section of the assessment should comprise the formal risk and safety assessment. This should address the following questions as relevant::</p> <ul style="list-style-type: none"> <li>• what is the nature of the risk (consider the list of risk factors)?</li> <li>• who poses the risk?</li> <li>• who is at risk (adult / child)</li> <li>• what is the likelihood of this risk occurring?</li> <li>• if it occurs, what is the likely impact?</li> <li>• in what ways can the risk be managed?</li> </ul>

	<ul style="list-style-type: none"> <li>• what safety plans need to be put in place?</li> <li>• who is available within the family to work with you?</li> <li>• what other professionals are available to work with you?</li> </ul>
<b>Emotional Warmth</b>	
<p>Ensuring the child's emotional needs are met and giving the child a sense of being specially valued and a positive sense of own racial and cultural identity. It includes ensuring the child's requirements for secure, stable and affectionate relationships with significant adults, with appropriate sensitivity and responsiveness to the child's needs. It also involves the provision of appropriate physical contact, comfort and cuddling sufficient to demonstrate warm regard, praise and encouragement.</p>	<ul style="list-style-type: none"> <li>• This is a key aspect of any Cafcass assessment and should carefully consider attachments; child's views of closeness with each parent; responsiveness of parents to the child's needs rather than imposing their own views and needs; the degree of parental empathy</li> <li>• How far do the parents consider and promote the child's identity</li> <li>• Schools can be a useful source of information as to the extent to which each parent praises, encourages and supports the child</li> </ul>
<b>Stability</b>	
<p>Providing a sufficiently stable family environment to enable a child to develop and maintain a secure attachment to the primary caregiver(s) in order to ensure optimal development. It includes ensuring secure attachments are not disrupted, providing consistency of emotional warmth over time and responding in a similar manner to the same behaviour. Parental responses change and develop according to child's developmental progress. In addition, it involves ensuring that children keep in contact with important family members and significant others in a way that is safe and beneficial.</p>	<ul style="list-style-type: none"> <li>• A child can experience increased stability when parents live separately if both work hard to provide this for the child, if other key relationships such as those with siblings, grandparents, and school friends are maintained and the changes in a child's life are minimised or well handled</li> <li>• Parents can complement each other in terms of what they offer and provide to the child but it is important that they value each other's contributions rather than compete</li> <li>• This dimension does not imply that changes will not take place, as children's needs change across time – the key issue here is each parent's adaptability to this process of change,</li> <li>• Divorce or separation can have a major impact on parental capacity – it will be particularly important to consider the extent to which each parent is still able to focus on the children's needs rather than be locked in their own anger or depression</li> <li>• New partners can also add or detract from stability for the child and their impact and the stability of their relationship with the parent concerned need to be assessed carefully</li> </ul>
<b>Guidance and Boundaries</b>	
<p>Enabling the child to regulate their own emotions and behaviour. The key parental tasks are demonstrating and modelling appropriate behaviour and control of emotions and interactions with others, and providing which involves setting boundaries, so that the child is able to develop an internal model</p>	<ul style="list-style-type: none"> <li>• How far does each parent respect and negotiate with the other about their differing approaches to family life. It is the absence of respect for differences, rather than the existence of difference, that is likely to be problematic for the child</li> <li>• How far do the parenting style of each parent and step-parent confirm or conflict with each other? Consider the typology of parenting styles</li> </ul>

<p>of moral values and conscience, and social behaviour appropriate for the society within which they will grow up. The aim is to enable the child to grow into an autonomous adult, holding their own values, and able to demonstrate appropriate behaviour with others rather than having to be dependent on rules outside themselves. This includes not over protecting children from exploratory and learning experiences. It also includes social problem solving, anger management, consideration for others, and effective discipline and shaping of behaviour.</p>	<ul style="list-style-type: none"> <li>• Authoritative / Authoritarian</li> <li>• Permissive / Neglectful<sup>17</sup></li> </ul> <p>Does a parent over use one style only?</p> <p>How appropriate is the style for the individual child</p> <ul style="list-style-type: none"> <li>• Issues of appropriate or over protection can be particularly relevant for children with disabilities</li> </ul>
<p><b>Housing, employment and financial considerations</b></p>	
<p>Does the accommodation in which the child currently lives or might in future live, whether for part or all of the time, have basic amenities and facilities appropriate to the age and development of the child and other household members, including in relation to any needs arising from disability.</p>	<ul style="list-style-type: none"> <li>• This aspect, while significant at the most basic level, should not become so significant as to automatically favour the parent with the better physical home to offer; it should be balanced with other key factors such as attachment and emotional warmth</li> <li>• When parents separate it is inevitable that two “homes” need to be found and there are financial pressures for many parents which may affect the standard of housing they can provide, especially in the short term. Where parents have yet to separate into different homes, pressures on the child can be very great</li> <li>• In addition some parents will initially have to stay in temporary accommodation which may lack space or child centred facilities – there should be careful analysis of whether this can improve and whether there are any alternative locations in which contact can take place e.g. relatives’ homes</li> </ul>
<p>Who is working in the household, their pattern of work and any recent or forthcoming changes? What impact does this have on the child? How is work or the absence of work viewed by family members? How does it affect their relationship with the child? This includes consideration of children's experience of work and its impact on them.</p>	<ul style="list-style-type: none"> <li>• The financial pressures of separation may mean that one parent needs to work more than previously or that another is wary of giving up a well paid job – these factors need to be taken into account alongside the primary care needs of the children</li> <li>• If a child has been used to both parents working and some alternative carers such as child minders, after schools clubs then continuation of this may have less of an impact than on a child who has always been cared for only by parents.</li> </ul>

<sup>17</sup> Hackett, S(2008) A Framework for Assessing Parental Capacity. In Calder. M. and Hackett S. *Assessment in Child Care- Using and Developing frameworks for practice* .London, Russell House, pp162-165

<p>Income available over a sustained period of time, taking into account past and prospective future changes. Is the family in receipt of all its benefit entitlements and are mutually satisfactory arrangements for providing financial support to the child been implemented by separated parents? Are there financial difficulties which affect the child?</p>	<ul style="list-style-type: none"><li>• See above, in relation to the impact of divorce or separation on housing and employment</li><li>• How does this impact on the child's experience?</li><li>• What support services can be offered e.g. referral to money advice service?</li></ul>
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<b>Stimulation</b>	
<p>Promoting child's learning and intellectual development through encouragement and cognitive stimulation and promoting social opportunities. It includes facilitating the child's cognitive development and potential through interaction, communication, talking and responding to the child's language and questions, encouraging and joining the child's play, and promoting educational opportunities. It also involves enabling the child to experience success and ensuring school attendance or equivalent opportunity. Facilitating child to meet challenges of life.</p>	<ul style="list-style-type: none"> <li>• As above, information from schools, direct observation and talking to the child him/herself are primary sources of information</li> <li>• How far does each parent support the child's extra-curricular activities?</li> <li>• How adaptable is each parent in promoting the child's interests?</li> <li>• What is each parent's capacity/commitment to ensure that the child can 'enjoy and achieve'?</li> </ul>

### 6.3 Dimensions of the Family and Environmental Factors Domain

Extracts from the Framework for Assessment	Particular application to children in the Cafcass private law context, where adults are in dispute about future arrangements
<b>Family History, Functioning and Well-being</b>	
<p>Family history includes both genetic and psychosocial factors.</p> <p>Family functioning is influenced by who is living in the household and how they are related to the child; significant changes in family/household composition; history of childhood experiences of parents; chronology of significant life events and their meaning to family members; nature of family functioning, including sibling relationships, and its impact on the child; parental strengths and difficulties and the relationship between separated parents</p>	<ul style="list-style-type: none"> <li>• Understanding of the family history will help assess whether any current problems represent long term deep seated difficulties or are more of a temporary reaction to the separation</li> </ul> <p>The relationship between separated parents is key to any assessment in terms of level of conflict; respect for the other’s parental ability; capacity to shelve personal differences in the child’s interests etc. These abilities may be linked to the level of emotional maturity and the capacity for empathy and self management/control by each parent</p>
<b>Wider Family</b>	
<p>It is important to understand who are considered to be members of the wider family by the child and by the parents. This may include related and non-related persons and those who are present in or currently absent from the child’s current family life.</p>	<p>Wider family can be a source of support and continuity or added pressure and conflict for the child depending on whether they are child centred or aligned to the needs and position of the parent to which they are related. This applies to relatives as well as parents’ new partners</p> <ul style="list-style-type: none"> <li>• Talking to a child or using drawings etc to gain a picture of who and who is not significant in their “family” is a key source of information which may yield adults who can add to the child’s support systems or friends who are very significant and who will be a loss if the child has to move away</li> <li>• Recognising the cultural context for each child and family, it is key to identify whether there are members of the community who play an important role in the life of this child</li> </ul>
<b>Family’s Social and Community Resources</b>	
<p>Exploration of the wider context of the local neighbourhoods and communities in which the child currently lives or might in future live. This includes consideration of the degree of the children’s and parents’ integration or isolation, their peer groups, friendship and social networks and the importance attached to them.</p> <p>Describes all facilities and services in the neighbourhood(s) in which the child does or might in future live, including universal services of primary health care, day care and schools, places of worship, transport, shops and leisure activities. This includes the availability, accessibility and standard of resources and impact on the family, including disabled members.</p>	<ul style="list-style-type: none"> <li>• Isolation and lack of support networks needs to be analysed in terms of the impact on parenting capacity or the child’s direct support. This may be particularly acute where children are living in refuges or with a parent in insecure accommodation</li> <li>• Equally when a parent is re-housed isolation may increase and some support networks lost</li> <li>• This may be particularly important if either parent faces other risk factors such as mental health problems</li> <li>• These resources should be fully explored as they may make a significant difference to parenting capacity</li> <li>• Cafcass staff should be aware of local resources and help families to access these either by signposting or direct referrals</li> </ul>

# Appendices

<b>Appendices</b>	
I	Skin Map
II	ACPO Protocol
III	Letter to Police for disclosure of information (safeguarding checks)
IV	Children's Services – Letter for information (safeguarding checks)
V	Consent to checks being made with agencies
VI	CAF Form
VII	a. CAF Referral Letter
	b. s17 Child Welfare Referral Letter
	c. s47 Child Welfare Referral Letter
VIII	Serious Case Review Notification Form
<b>IX</b>	<b>Work To First Hearing – Resource Pack</b>
	a. Contact Log Template
	b. Cafcass Letter to the Court
	c. Initial Safeguarding Letter to Parties
	d. Process Map
	e. Case Closure Form
<b>X</b>	<b>Work After First Hearing – Resource Pack</b>
	a. Private Law Case Plan
	b. Report to Court - A&R (Private Law)
	c. Workbook and Assessment Record
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<b>XI</b>	<b>Serious Case Review - Resource Pack</b>
	a. Key Responsibilities Table
	b. Head of Service Responsibilities
	c. IMR Author Tasks
	d. Letter to Head of Service
	e. Letter to IMR Author

	f. Letter from Head of Service to Designated Family Judge
	g. Letter from IMR Author to Interviewee
	h. Court Letter from Head of Safeguarding to Judge
	i. Exemplar IMR
	j. QA Feedback to IMR Author
	k. Ofsted Evaluation Descriptors