

Ofsted's inspection of Cafcass: A17

Cafcass A17 service area provides services to children and families in Kent and Medway.

Published: 15 April 2013

Reference no: A17 - 001

The Office for Standards in Education, Children's Services and Skills (Ofsted) regulates and inspects to achieve excellence in the care of children and young people, and in education and skills for learners of all ages. It regulates and inspects childcare and children's social care, and inspects the Children and Family Court Advisory and Support Service (Cafcass), schools, colleges, initial teacher training, work-based learning and skills training, adult and community learning, and education and training in prisons and other secure establishments. It assesses council children's services, and inspects services for looked after children, safeguarding and child protection.

If you would like a copy of this document in a different format, such as large print or Braille, please telephone 0300 123 1231, or email enquiries@ofsted.gov.uk.

You may reuse this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence/, write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

This publication is available at www.ofsted.gov.uk/cafcass/kent-and-medway.

To receive regular email alerts about new publications, including survey reports and school inspection reports, please visit our website and go to 'Subscribe'.

Piccadilly Gate Store Street Manchester M1 2WD

T: 0300 123 1231

Textphone: 0161 618 8524 E: enquiries@ofsted.gov.uk W: www.ofsted.gov.uk

No. A17-001

© Crown copyright 2013



Contents

Introduction	4
Overall effectiveness	5
Capacity for improvement	6
Areas for improvement	6
Within three months	6
Within six months	6
Meeting the needs of service users	7
Ambition and prioritisation	7
Performance management	8
Workforce development	9
Partnerships	10
Value for money	11
Safeguarding Evaluation	11
	12
Quality of provision	14
Service responsiveness	14
Case planning and recording	14
Assessment, intervention and direct work with children	15
Reporting and recommendations to the court	16
Definitions	18
Inspection grades	18
'No order principle'	18
Principle of 'no delay'	18
Private and public law Welfare checklist	18 19
Record of main findings	20



Introduction

- 1. Ofsted carried out the inspection of service provision by the Children and Family Court Advisory and Support Service (Cafcass) in the A17 service area in the week commencing 11 March 2013.
- 2. Cafcass is a national organisation delivering services to children, families and the courts from 17 service areas across England. The Head of Service is the senior manager in each service area and is accountable to the National Service Director. The National Service Director is directly accountable to the Cafcass Chief Executive.
- 3. The Cafcass A17 service area (CSA) provides services to children and families across the local authority areas of Kent and Medway. The National Service Director has been in post since April 2011 and has had responsibility for the Cafcass Service Area (CSA) since January 2012. The Head of Service, who has recently also taken on responsibility for the area of A6 Hampshire and the Isle of Wight, has been in post since December 2011.
- 4. Most of the Family Court Advisors (FCAs) who provide the social work service to children and families subject to private law proceedings are based in Chatham, while most of those working within public law proceedings are based in Canterbury. Two operational service managers manage service delivery, supported by four enhanced practitioners, 35 full-time FCAs, four part-time FCAs, eight administrators and a business manager who also has responsibility for an adjacent CSA.
- 5. During the fieldwork, inspectors examined an extensive range of documentation. Interviews were held with senior members of the judiciary, Her Majesty's Court and Tribunal Service (HMCTS), representatives of local authorities, the National Service Director, Head of Service and groups of managers and staff in both offices. Inspectors evaluated services at court, schedule 2 letters, private and public law reports and case files. The views of Cafcass adult and child service users were surveyed at a time before the inspection. The inspectors observed Cafcass practice with service users, including children and young people and adults.



Overall effectiveness

- 6. The overall effectiveness of the Cafcass A17 Kent service area is good. Robust action has been taken over the last two years to address a number of entrenched performance issues within the area. Decisive strategic action at a national level to improve performance has resulted in ensuring that the quality of both public law work and safeguarding practice is good. The appointment of a highly effective management team has moved the focus for improvement to private law, which is now timely and the majority is of an adequate standard. These improvements have been supported by an effective recruitment and development strategy which has resulted in an increasingly skilled, stable and motivated workforce who provide a responsive service to families and the courts. Performance management is robust and quality assurance arrangements are comprehensive and well-embedded. Partnerships with key stakeholders, particularly with the judiciary and court services, are good and the CSA works hard to engage partners in improving performance, particularly focusing on the duration of some care proceedings. Finances and resources are managed well and the unit costs for services are amongst the lowest in the country. Attention to the equality and diversity needs of children, young people and their families is variable with some strong practice in public law; this is less consistent in private law, particularly in considering its impact at Work to First Hearing (WTFH).
- 7. The area recognises that there is still work to do to improve the consistency of private law work, particularly in ensuring that the voice of the child is properly heard in assessments and recommendations. Case plans, particularly in private law, are not sufficiently detailed.



Capacity for improvement

Grade 2 (good)

- 8. Capacity to improve is good. From a very low base, the CSA has made significant achievements. Managers continue to have high aspirations and have a clear vision to sustain and improve the services. A strong and stable management team promotes the ambition of the area both within the organisation and with key stakeholders. Business planning processes are well-established and respond effectively to the specific needs of the area. As a result, there is a sustained trend of good performance against national key performance indicators (KPIs). Where there are deficits in performance, these are properly analysed and targeted actions are put in place to deal with them, for example, in reducing the high number of private law cases that require closure. Value for money and budget planning is strong.
- 9. Through a turbulent period, change has been managed well and a stable and increasingly experienced staff team offer a timely service to families and the courts. The quality of public law activity is mostly good and improvement work is now focused appropriately on improving further the quality of private law assessments and reports. The Head of Service, in his role as chair of the Kent Family Justice Board, has worked well with partners to begin to address deficits in performance in the targets that are shared with partners in the Family Justice System. Quality assurance systems are well-established with all Schedule 2 letters and reports receiving management oversight before filing. The newly appointed enhanced practitioners offer increased day to day supervision and oversight.
- 10. Although young people are sometimes involved in planning services, this is not sufficiently integrated into the work of the CSA.

Areas for improvement

11. In order to improve the quality of provision and services for children and young people in Cafcass A17, the service area should take the following action.

Within three months

- Ensure that the voice of the child is properly considered in all assessments and reflected in the reports to the court
- Improve the quality of case planning so that the individual needs of children and young people are properly considered in the planning processes

Within six months

■ Investigate and implement systems to ensure that the views of service users are used to improve services within the area



- Ensure that the 'no order principle' and relevant elements of the welfare checklist are properly considered as part of recommendations made to the court
- Ensure that parties who attend First Hearing Dispute Resolution Appointments (FHDRA) are offered a knowledgeable and responsive service by Cafcass staff, in accordance with the Private Law Partnership directions (12B)
- Improve consistency in quality assurance between local managers and the National Improvement Service (NIS)

Meeting the needs of service users

Ambition and prioritisation

- 12. Ambition and prioritisation are good. A comprehensive business plan is in place which identifies the key objectives for the area and the business risks to the organisation. Progress is evaluated regularly by the management team through management meetings and review days to ensure that objectives are met. The management team provides clear and effective leadership; staff are aware of current performance and where improvements are required. Change has been managed effectively, including the relocation of the Canterbury office. Practitioners who spoke to inspectors confirmed that they understood the vision and direction of the organisation as a result of open communication and presentations by managers; managers are regarded as knowledgeable and accessible and morale is high.
- 13. Significant improvements to performance and to the quality of work have been made since a two-day Ofsted inspection in February 2011 which found that the service area was making inadequate progress in a number of areas. These improvements have been consolidated through the arrival of a new Head of Service in December 2011 and the restructuring of management arrangements. Public law work seen by inspectors is mostly of a good standard, and private law work has improved considerably in the last six months and is mostly adequate.
- 14. Managers and practitioners demonstrate a good awareness of safeguarding, which is evident in case discussion and in case files. Equality and diversity issues are considered as part of the assessment of safeguarding. While inspectors saw good examples of equality and diversity issues being taken into account, this is not yet consistently strong; managers recognise that further work is required in the consideration of diversity in relation to the impact and relevance to the child.



15. Resources are being used effectively to support service delivery. Partnership work with the courts has enabled more efficient listing of cases and an information sharing protocol has been implemented with Kent County Council, enabling timely receipt for local authority checks as part of the Work To First Hearing (WTFH). Local managers meet regularly with managers of commissioned services, and new contracts have been negotiated as from April 2013.

Performance management

- 16. Performance management is good. The service area is performing well on the four national key performance indicators, and this has been sustained over the last year. Performance management and evaluation are well established and have led to good improvements in performance, in both public and private law. Timely allocation of cases and prompt filing of reports has reduced delay.
- 17. The area is aware of its important role in improving performance in the family justice partnership. All public law cases receive effective scrutiny by managers to ensure that Cafcass does not contribute to unnecessary delay in the conclusion of cases. The recently introduced 'fast track' project is having a positive impact on reducing delay in new proceedings. Good work is undertaken with HMCTS to plan court sittings to ensure the timely completion of FHDRA hearings.
- 18. Thematic audits and health checks, both on a national and local level, are used well to monitor and improve the work of the CSA. A series of audits of WTFH over the past year has shown a considerable improvement in the quality of Schedule 2 letters. Bench-marking exercises undertaken between the two service areas managed by the Head of Service have resulted in effective peer challenge and improvement in the quality of reports.
- 19. Almost all schedule 2 letters are filed on time and most are sent to parties at least three days before the court hearing, ensuring that parties are well informed before they arrive at court. Practitioners in the early intervention team receive weekly management information regarding due dates for letters, to ensure that dates are not missed. While the percentage of extensions to the timing of filing of reports is still above the national average, effective action has been taken to ensure that requests for extensions are screened and approved by enhanced practitioners. This contributes to reducing delay in securing outcomes for children and young people.
- 20. Quality assurance is embedded within the service area, with all reports and schedule 2 letters being quality assured before filing. Case files seen by inspectors demonstrate that this has had a positive impact on the quality of



their work. Practitioners receive regular supervision, which they value, and any identified deficits in practice are addressed, for example through team training on report writing, or through the use of individual targeted improvement plans.

- 21. The budget is well managed and has been on target throughout the year. Self-employed contractors are used more effectively and this has resulted in considerable budget savings.
- 22. The findings from complaints are analysed and then considered at monthly management team meetings. No consistent themes from complaints have been identified by managers in recent months, but specific issues are raised with individual practitioners when necessary.

Workforce development

- 23. Workforce development is good. A series of effective recruitment campaigns over the last 12 months has led to an increasingly permanent and suitably qualified workforce. The use of agency staff is very limited and the quality of the work of the small number of self-employed contractors used by the service is monitored to ensure it is of a high standard. Although some workloads are high in comparison with national averages, practitioners report that these are decreasing, particularly in public law, and that they are well-supported in undertaking their work effectively. Sickness absence levels are low and are monitored appropriately by managers.
- 24. Staff at all levels report high levels of confidence in the management and leadership of the area. The recent appointment of enhanced practitioners is a positive addition in offering further day-to-day support and guidance for staff.
- 25. Induction for newly appointed staff helps them to understand their distinct role in the family justice system. They receive good, targeted training from the National Improvement Service (NIS) and this is augmented by local mentoring and coaching. All FCAs have access to a range of appropriate training and development opportunities which are planned well through Personal and Learning Review (PLR) and 'Myskills' on-line training account. Development days are held for staff to focus on local issues within the service and a recently commissioned training course to promote better report writing skills has resulted in more succinct reports. Where deficits in performance are highlighted, these are managed in a proportionate manner through action plans that support improvement.
- 26. Multi-agency training is undertaken; for example, FCAs have undertaken workshops with the judiciary to improve their communication within the court



arena. Some staff have received 'training for trainers' training from the local safeguarding children board so that they can provide multi-agency safeguarding training. In response to concerns about services to families from Eastern European communities, the CSA has developed a workshop to enable staff to have sufficient knowledge and understanding of cultural issues and that these are taken into account in practice.

Partnerships

- 27. Arrangements for working with key stakeholders, relevant agencies, community groups and commissioned services are good.
- 28. Working relationships with the judiciary and Her Majesty's Court and Tribunal Service (HMCTS) have improved significantly over the last two years and are now outstanding. Through effective dialogue at both strategic and operational levels, significant improvements have been made to reduce delays within the family justice system. For example, HMCTS has implemented a check-list for their staff to ensure that all relevant information is gained at the time of the initial application (C100), to ensure that Cafcass safeguarding checks can be speedily undertaken. Effective work has been undertaken with members of the Family Proceedings Bench so that they are properly engaged in reducing delay and ordering reports that are appropriate to the role of Cafcass.
- 29. The Head of Service, as chair of the local Family Justice Board, has been pivotal in working with stakeholders to address shortfalls in performance across the partnership. For example, Cafcass has commissioned and facilitated workshops with local authorities and the judiciary to consider problems in slow completion in some public law proceedings. Although this work has yet to show a significant impact in reducing delay, the partnership now has a clearer understanding of the problems and some innovations have been introduced to prevent further delays, for example, the fast tracking of new public law cases.
- 30. Relationships with local authorities, at a strategic level are effective. However, their full potential has not been realised due to turnover of senior staff in key roles within the authorities. Working at an operational level between the agencies is generally sound and information-sharing processes are effective. Cafcass regularly attend and contribute well to Local Safeguarding Children Boards, including through single agency targets within the plans of Medway Safeguarding Children Board and the annual submission of s11 safeguarding audits.
- 31. Links with community groups have historically been limited so that their views are not properly represented in service planning. However, the area intends to address this through ensuring that the enhanced practitioners have link roles with key groups to ensure these relationships are made and sustained. Some efforts have been made to engage with children and young people through



comments boxes in each office, the commissioning of a mystery shopper exercise undertaken by young people and the involvement of 'Young Inspectors' in the planning of the new Canterbury office. However, this is not sufficiently established to allow them to make a full contribution to the development of the service.

Value for money

Grade 2 (good)

- 32. Value for money is good. Performance against key indicators is strong and sustained. The Head of Service has taken zealous action to improve the financial management of the area and, as a result, it now has a balanced budget after a history of significant deficit. An effective review of the needs of the area resulted in a more targeted use of the flexible workforce and the reorganising of management by the appointment of enhanced practitioners. Unit costs are low in comparison with other areas.
- 33. The area has effectively absorbed a significant increase in workload without impacting on the timeliness of their work. All work is allocated promptly and almost all reports are filed on time. Public law work consistently adds value to the assessment of the local authority. Knowledgeable FCAs who undertake court duty at FHDRA appropriately advise courts to avoid unnecessary delay and almost all private law cases seen by inspectors had clear safeguarding or welfare issues.
- 34. The use of commissioned services is good. The use of Separated Parents Information Programmes is considerably above the national average and contact activities are used efficiently in supporting children to have safe contact with their families.

Safeguarding

- 35. The contribution of the service area to safeguarding children and young people is good. A culture of safeguarding is well-embedded throughout the service area and as a result, the welfare and protection needs of children and young people are robustly prioritised and responded to effectively.
- 36. Safeguarding checks are consistently undertaken on new cases and timely referrals are made to children's social care services in all cases when required. The service area has effective systems in place to monitor and track the outcomes of referrals to local authorities if it is believed that children are at



- risk of significant harm. The established escalation process has recently been reviewed and there is evidence of improved outcomes for these children.
- 37. Managers and staff interviewed conveyed a comprehensive understanding of child protection issues, including the potential impact of domestic abuse. Managers take action to address any shortfalls in practice in this area. This is evident in comments made in case plans and in supervision records. As a result, the assessment of risk within reports is generally good and outlines the key factors in the case that impact on the safety of the child or young person. The judiciary report that these assessments are accurate and assist them in making orders that have safe outcomes. Inspectors saw many examples of child-centred practice in public law cases with good outcomes for these children. However, in some Schedule 2 letters, particularly where there was evidence of recent local authority involvement, the screening undertaken lacked sufficient independent rigor to advise the courts about the salient risk factors in those cases.
- 38. The area works effectively with the Local Authority Designated Officer making referrals where necessary. Appropriate referrals are made to Multi Agency Risk Assessment conference (MARAC) and permission is properly sought from the court to disclose relevant information.
- 39. There is evidence of significant and positive change in engagement with the Local Safeguarding Children Board (LSCB). The Head of Service is actively involved at a strategic level and attends the board meetings regularly. Local authority children's specialist services have reported to the LSCB that relationships between Cafcass and front line social work teams have improved.
- 40. Premises available to interview children and their families are welcoming and child friendly. Staff ensure that matters of confidentiality, safety and accessibility are always considered. They are flexible and will endeavour to seek the wishes of children and their parents on appropriate venues.

Evaluation

Grade 2 (good)

41. Evaluation is good. Evaluation of performance is comprehensive, thorough and well documented. Local managers are well-informed of the strengths and areas for improvement in the service area through business planning, regular performance monitoring and comprehensive audits. The findings of audits are used to identify priorities for action, and subsequent audits demonstrate that action is being targeted effectively, such as in the improvements to the quality of the schedule 2 letters. Evaluation of the work of practitioners is regular and thorough, enabling practitioners to be clear about their strengths and areas for development.



42. Effective evaluation has being taken to understand the higher than average number of private law applications that became orders for reports. The analysis showed that about a third of orders did not have clear welfare or safeguarding issues. As a result of this, the Head of Service worked with the judiciary to tackle this issue, through workshops and briefings to clarify the role of Cafcass in the courts and through the direct involvement of the Designated Family Judge.



Quality of provision

Service responsiveness

Grade 2 (good)

- 43. Service responsiveness is good. Managers and practitioners are committed to ensure timely delivery of services and, as a result, robust systems are in place to ensure than there is no -avoidable delay.
- 44. Improvements in the early intervention team results in all Schedule 2 letters being completed by the FHDRA date. Information is gained from the police in a timely manner and appropriate enhanced checks are commissioned when necessary. Long-standing issues in obtaining timely safeguarding information from Kent County Council have been effectively resolved through a new information-sharing process. Despite timely allocation, parents in private law proceedings are not always contacted promptly so that in a small number of cases their views are not known when the schedule 2 letter is completed
- 45. All reports are allocated promptly and self-employed contractors are used appropriately to support short term increases in demand for reports. Private law cases are filed in a timely manner and the area performance is better than the national average. The use of extensions, although slightly higher than the national average, is decreasing and requests are authorised by managers to ensure that requests are appropriate. In almost all cases, requests for extensions do not result in unnecessary delays in the conclusion of the case.
- 46. The timing of public law cases from application to completion, although reducing, is still high. Managers have effectively reviewed long-standing public law cases to ensure that they do not contribute to delays. The service used its influence with partners, at both strategic and operational levels effectively to promote more timely conclusions of these cases.
- 47. Cases are being systematically and safely monitored and practitioners report that caseloads have reduced significantly which provides additional capacity to carry out direct work with children.

Case planning and recording

Grade 3 (adequate)

48. Case planning and recording are adequate. All cases have a written case plan which acts as a basis to understand the work necessary in the case. These are monitored by managers who regularly review plans at closure. A few good examples of planning were seen in public law, particularly in one case supported by a recently introduced planning document. However, in most



cases, plans were not sufficiently comprehensive and did not include the detail of how work would be undertaken, for example, how the wishes and feelings of a child with learning difficulties would be sought or whether siblings would be interviewed together. In some private law cases, important information, about the planning of the case, was included in the case log rather than the plan so it was difficult to understand decision-making, for example, the reasons for interviewing a child at school rather than at home.

49. Although there is a high level of management oversight and scrutiny within the service, this is not always recorded on the file and therefore the management accountability is not always apparent. The quality of case recording in the contact logs has improved significantly; in most cases the quality of recording enables a clear understanding of the case. However, in a few cases there were some deficits in recording; for example, case recording does not consistently include whether risk assessment tools were used and the outcomes of these assessments. The inconsistency of case recording is recognised by managers as an area for development.

Assessment, intervention and direct work with children Grade 3 (adequate)

- 50. Assessment, intervention and direct work with children are adequate. Within public law the majority of assessments seen by inspectors were good. They clearly identified the key issues and were proportionate; the analysis of complex information was clear and robust. In nearly all cases children and young people's wishes and feelings are well represented in assessments. Assessments are child-centred and contain sufficient information that is effectively analysed and the best interests of the child were well-considered. Assessment and intervention is regularly reviewed to ensure that it reflects the child's current circumstances and it is proportionate. Appropriate consideration is given to the venues used to interview children and their families
- 51. The work of Cafcass consistently added significant value to the local authority assessment and care planning for children. The care planning of the local authority is effectively assessed and there is evidence of effective and appropriate challenge. Appropriate and proportionate commissioning of experts was seen in cases. Good examples were seen in public law cases of equality and diversity being well-considered in assessments. For example, the recognition of the impact of the marginalisation of an individual during proceedings due to cultural reasons, as well as an effective challenge to an assessment with regard to the impact of mental health issues on parenting capacity. However, this is not yet consistent as in another case there was no consideration of the child's ethnicity and culture.



- 52. Screening assessments undertaken as part of the preparation of Schedule 2 letters mostly includes relevant information and an adequate assessment of risk that leads to appropriate advice to the court. However, the quality of this work is not consistent and a variety of deficits were seen by inspectors, partly due to the lack of consistency in the quality assurance between work reviewed by local managers and that reviewed by the National Improvement Service. Examples of deficits in separate cases included an inadequate risk assessment which led to inappropriate advice to court, relevant information not shared with with children's social care and information being inappropriately included about children who were outside the remit of the case.
- 53. Although assessments in private law are improving, they are still of variable quality. In most cases, information is obtained from an appropriate range of sources and through contact with children and young people and their families, although this information is not always systematically analysed. As part of the assessment process for the completion of s7 reports, the views of children and young people are effectively gathered and heard. However, they are not always sufficiently represented and given weight within the court report and in some cases seen by inspectors, the reasons for not following the child's wishes were not clear.
- 54. Appropriate engagement and sensitive direct work with children and parents was observed by inspectors. However, work with parties undertaken at court is not always sufficiently sensitive or well-considered in preparing them for the court hearing. In another case an inspector observed sensitive information being shared inappropriately with a parent.
- 55. Some good examples were seen of proportionality and the impact of intervention on children. In private law, for example, a decision was made not to meet with the subject children as there were a large number of professionals already working directly with these children as part of the child protection process.

Reporting and recommendations to the court

Grade 2 (good)

56. Reporting and recommendations to the court are good. Significant evidence was seen by inspectors of improvements in court reports and recommendations and advice to court. The majority of reports are succinct and the recommendations flow from the analysis of the information available and local good quality assurance processes result in high standards of presentation. In the majority of cases, reports and Schedule 2 letters are shared appropriately with parties prior to court, but in one case, a Schedule 2 letter was not shared with parents due to their learning difficulties which is not an acceptable reason.



- 57. In nearly all public law cases seen by inspectors, appropriate recommendations are made based on robust and child-centred assessments. All public law reports seen by inspectors focussed on the impact of potential risks to children. A good understanding of domestic abuse was demonstrated through assessment and recommendations to the court. Good examples of reports were seen by inspectors, which considered the risks to the child and whether immediate intervention was required, and whether there was sufficient information available including the wishes and feelings of the child. These considerations were well-evidenced in the recommendations which in some cases challenged the local authority's current care plan. The 'no order principle' was well-considered within the public law cases.
- 58. The majority of the private law cases seen by inspectors provided relevant information and analysis to support a sustainable recommendation about the future care of the child or young person. However, in a number of cases, there was insufficient consideration of the range of options available to the court, in accordance with the welfare checklist, or whether the 'no order principle' was an appropriate outcome in the case.



Definitions

Inspection grades

Grade 1 Outstanding

Grade 2 Good

Grade 3 Adequate

Grade 4 Inadequate

'No order principle'

Children Act 1989 section 1(5) is known as the 'no order principle'. It states: 'Where a court is considering whether or not to make one or more orders under this Act with respect to a child, it shall not make the order or any of the orders unless it considers that doing so would be better for the child than making no order at all.' The 'no order principle' 'is consistent with two of the philosophies underlying the Children Act 1989: that there should be minimum state intervention in family life and that parents should exercise and be encouraged to exercise responsibility for their children'.²

Principle of 'no delay'

Section 1(2) of the Children Act 1989 sets out the general principle that any delay in determining the question about a child's upbringing 'is likely to prejudice the welfare of the child'. This means that any unnecessary delay should be avoided.

Private and public law

Family law is that area of the law which regulates and deals with family and domestic relations, including, but not limited to, marriage, civil and domestic partnerships and the welfare of children. Where these matters are dealt with by courts, they are known as family proceedings. The person or body that brings the issue to court is known as the applicant and the person or body opposing the application is known as the respondent. In general terms applicants and respondents are known as parties to the proceedings.

Private law is that part of the family law where the state does not normally need to be involved. Private law proceedings involving Cafcass are usually about situations where parents have separated and they cannot agree where a child should live or with whom they should have contact. The law that established Cafcass states that it should only become involved in family proceedings where the welfare of the child is, or may be, in question.

¹ www.opsi.gov.uk/Acts/acts1989/ukpga_19890041_en_2#pt1-l1g1

² See footnote 1.



Private law cases are dealt with through what is known as The Private Law Programme. This is designed to provide a framework for the consistent national approach to the resolution of issues in private law proceedings. It is designed to assist parties to reach safe agreements where possible, to provide a forum in which to find the best way to resolve issues in each individual case and to promote outcomes that are sustainable, that are in the best interests of children and that take account of their perspectives.

Public law is that part of the family law which deals with relationships between parents, or those with a parental role, where the state does need to be involved to ensure that a child does not suffer significant harm. Court proceedings are usually initiated by a local authority applying for a care or supervision order. This may result in the child being looked after by the local authority under a care order. Adoption-related applications are also normally public law proceedings.

Public law cases are dealt with through the Public Law Outline. This is a system aimed to control delay in family court public law proceedings. It was introduced across England and Wales in April 2009, with new Statutory Guidance for Local Authorities.

Welfare checklist

The Children Act 1989 section 1(3) sets out what is known as the welfare checklist. It comprises seven features that should be balanced equally when courts consider whether an order should be made. The welfare checklist considers: children's wishes and feelings; their physical, emotional and educational needs; the likely effect of any change in circumstances; characteristics that make up their identity; any harm suffered or at risk of suffering; parental capability; and the court's powers. The Adoption and Children Act 2002 section 120 extends the definition of harm within the meaning of the Children Act 1989 section 31, 'including, for example, impairment suffered from seeing or hearing the ill-treatment of another'. Under court rules, Cafcass practitioners are under a duty to have regard to 'the matters set out in section 1(3)'. Note: Requirements in regulations and court rules are not 'statutory' in that they are not set out in a statute and are therefore secondary legislation.

Schedule 2 letter

A schedule 2 letter is provided to courts by Cafcass for first directions hearings in private law proceedings. The letter informs the court about whether there are any risk factors to children known at that stage in proceedings which the court should consider before deciding next steps. The duty on Cafcass to make risk assessments is set out in section 16A of the Children Act 1989.

-

³ www.opsi.gov.uk/acts/actSchedule 2002/ukpga_20020038_en_9#pt2-l1g120



Record of main findings

Cafcass service area (A17):		
Overall effectiveness	Good	
Capacity for improvement	Good	
Meeting the needs of service users		
Ambition and prioritisation	Good	
Performance management	Good	
Workforce development	Good	
Partnerships	Good	
Value for money	Good	
Safeguarding	Good	
Evaluation	Good	
Quality of provision		
Service responsiveness	Good	
Case planning and recording	Adequate	
Assessment, intervention and direct work with children	Adequate	
Reporting and recommendations to the court	Good	