

Ofsted's inspection of Cafcass: Near South West service area

The Near South West service area provides services to children and families in Gloucestershire, Wiltshire and Avon.

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Reference: S1 – 001

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Definitions

Family assistance order

This is a short term order made by the courts for some families following separation or divorce. A family assistance order is designed to give specialist help where it is needed if it is in the child's interest and if the aims can be achieved.

Consent is required from everyone named in the order except any children.¹

'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'.¹

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 C Prest and S Wildblood, *Children law: an interdisciplinary handbook* (ISBN 0853089442) Jordans, 2005.

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.

Review reports

These are reports that update the court about progress made (or lack of) to arrangements agreed by parties in court orders.

Rule 9.5 cases

The proper conduct and disposal of proceedings concerning a child that are not specified within the meaning of section 41 of the Children Act 1989 (that is, many public law proceedings) may require the child to be made a party. Rule 9.5 of the Court Rules provides for this and for the appointment of a guardian ad litem for the child party. This will apply in private law proceedings, usually Children Act section 8 applications concerning residence, contact, specific issues or prohibited steps.

Arrangements for the use of Cafcass in such cases are governed by a Practice Direction issued by the President of the Family Division.

Section 37 enquiry

Section 37(1) of the Children Act 1989 sets out the following powers of the court: 'Where, in any family proceedings in which a question arises with respect to the welfare of any child, it appears to the court that it may be appropriate for a care or supervision order to be made with respect to him, the court may direct the appropriate authority to undertake an investigation of the child's circumstances.' The appropriate authority is the local area children's services.

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 statutory duty to have regard to 'the matters set out in section 1(3)'.

Inspection grades

Grade 1 Outstanding

The service provided is well above the minimum requirements, includes some innovative services and makes a demonstrable contribution to improving outcomes for children and young people.

Grade 2 Good

The service provided is consistently above the minimum requirements and contributes to improving outcomes for most children and young people.

Grade 3 Satisfactory

The service provided meets minimum requirements and contributes to improving outcomes for children and young people.

Grade 4 Inadequate

Minimum requirements are not met by the service and it makes little or no contribution to improved outcomes for children.

Introduction

Five Her Majesty's Inspectors (HMI) carried out the inspection of service provision by the Children and Family Court Advisory and Support Service (Cafcass) in the Near South West service area. The inspection took place on 1-5 December 2008.

In April 2008 Cafcass introduced a new structure to better deliver services to children and families involved in public and private law proceedings in the Family Court. This is the first inspection of Cafcass since that restructure.

Cafcass consists of a national office in London and three geographical sectors – north, central and south – which are each divided into service areas. The Head of Service is the senior manager in each service area and accountable to the sector's Operations Director. The Operations Directors are directly accountable to the Cafcass Chief Executive.

The Near South West service area is also called South 1. It provides services to children and families across the local authority areas of Gloucestershire, Wiltshire, Swindon, Bath and North East Somerset and Bristol. The Operations Director South and Head of Service had been in post for four months prior to the inspection fieldwork. The current Head of Service is an interim appointment which will continue for a further 12 months beyond this inspection.

The professional staff that provide the social work service to children and families subject to private and public law proceedings are organised in teams in Swindon, Gloucester, Bristol and a sub-office in Bath. Five service managers manage service delivery, customer service and staff development. Recently the complement of service managers has been enhanced temporarily by one to assist with specific projects, including the excessive delay in private law work.

During the fieldwork, inspectors examined an extensive range of documentation; held meetings with stakeholders – the judiciary and local authorities – and with interest groups - Women's Aid and Families Need Fathers- and held interviews with members of staff including the Cafcass Chief Executive, Operations Director South, Head of Service area, lead manager for quality improvement; Family Court Advisers, Family Support Workers and all the service managers. Inspectors scrutinised private law and public law reports; examined case files, complaints records, recruitment and human resources files; and carried out surveys of the views of Cafcass personnel, adult service users and children and young people. Inspectors directly observed Cafcass practice with service users, including children and young people; spoke to children and young people from public law work; and conducted telephone interviews with adults who had received a service from Cafcass in private law proceedings.

Overall effectiveness

Grade 3

The overall effectiveness of the service provided is satisfactory. Senior managers in the Near South West service area have made recent rapid progress to improve service delivery and resources are now focused well on meeting priority needs.

The service area meets adequately its statutory responsibilities to safeguard and represent children and young people; undertake risk assessments in private law cases; provide advice to the court; and inform, advise and support service users. In the main statutory responsibilities are met well in public law work. Where there is delay in providing a service in private law, the service area does not demonstrate that it can promote consistently the welfare of some children and young people.

There is a longstanding backlog of private law work. While there is a good process for assessing risk in the cases on the waiting list, inspectors were not satisfied that this system was being used consistently or that the decisions made were sufficiently robust. Although a long term strategy is needed to deal effectively with delay, managers have made a good start on tackling the backlog. Realistic plans to improve performance are now in place and managers acknowledge that the service area data is poor and needs priority attention.

Of the five Every Child Matters outcomes the service area makes a satisfactory contribution to health outcomes for children and young people. Cafcass staff focus appropriately on the effect of parental dispute, neglect or harm on children's emotional health. The contribution to helping children and young people stay safe is also satisfactory and most staff understand that safeguarding is their primary concern. However the service area does not assess consistently the effect of family disruption on children's educational achievement or their economic well-being. While Cafcass nationally has made significant progress in consulting with children and young people, the service area does not yet build on this to enable children and young people to contribute their views about their local service.

The service area provides a satisfactory service in many important areas, including working with key stakeholders, relevant agencies, community groups and commissioned services, value for money and work to promote equality and diversity. Inspectors found that the contribution of the service area to safeguarding children and young people is also satisfactory. Although the quality of provision is satisfactory overall and there is good evidence that assessment, intervention and direct work with children is improving, there is still much work to be done. This area, together with case planning and recording, remains inadequate.

There was little evidence of a consistent assessment model in use by staff to guide their practice. However, in relation to one of the service's core statutory functions, the majority of court reports read by inspectors were satisfactory or better and complaints handling is satisfactory overall.

Capacity for improvement

Grade 3

The area's capacity for improvement is satisfactory. The newly appointed senior management team is providing clear leadership that is strong and effective. The managers have brought about important changes to safeguard children and young people, remedy poor performance and improve service provision; they have started to tackle the long standing backlog in private law work. The area has secured sufficient long-term resources to recruit and retain staff, and to begin to make progress on the priorities identified in its recently strengthened business and improvement plans. The Practice, Performance and Improvement Board monitors appropriately progress against the priorities. Although there are some good examples of effective change, such as in performance management and better accountability, these improvements have yet to be fully embedded to demonstrate a trend of sustained improvement.

The area knows well its strengths and weaknesses and in the main its self-assessment provided an accurate evaluation. However, inspectors judged that it underestimated the progress made in improving safeguarding arrangements. The basis for improvement is now in place. There is evidence of good forward thinking in workforce plans and other planning, such as business, budgeting and practice development. The plans are thorough, accurate and realistic in the timescales set.

Areas for improvement

In order to improve the quality of provision and services for children and young people Near South West service area should:

Immediately

- Ensure that all service area data are up to date, accurate and used effectively to inform service delivery.
- Assure all risk assessments are robust. Priority attention should be given to the risk assessment of cases on the waiting list.

Within three months

- Eradicate the backlog in private law cases.
- Implement an effective strategy to ensure timely service delivery in the long term in public and private law work.

Within six months

- Establish arrangements to secure meaningful participation by children and families in improving local service delivery.
- Ensure that the impact of family disruption on educational attainment and economic wellbeing for children are considered fully in assessments and reports.

Meeting the needs of service users

Leadership, management and planning

Grade 3

Leadership and management of the service area are satisfactory overall.

The service area has new, strong senior management providing effective leadership. This team has provided early evidence of having a positive impact on achieving immediate improvement from a poor baseline in many aspects of service delivery. This includes prioritising appropriately resources to address key long-standing problems: notably the significant delay in starting work on private law cases.

The senior leadership team has set appropriate and unambiguous standards and objectives to frontline managers and staff, including the quality assurance of reports and files, risk assessment and mandatory attendance at team meetings. However, the effectiveness of frontline leadership is not of sufficiently consistent quality across the whole management team: this leads to unacceptably varied professional practice and service delivery across the three teams.

Senior managers have successfully increased resources to deliver a clear business plan that addresses national priorities and the key risks and weaknesses in service delivery, particularly in practice improvement.

Performance management and workforce development

Grade 3

Performance management and workforce development are satisfactory overall. Cafcass nationally has recently introduced good quality assurance systems and the service area's senior management team has achieved some success in implementing these.

While the service area currently meets some of its performance targets, the shortfalls against targets in the majority of indicators limit progress in some key areas of service delivery, particularly in private law. The quality of service data is poor, inaccurate and impedes both the effectiveness of service planning and the service's ability to demonstrate public accountability. However, the senior management team has identified these deficits and has implemented a good recovery strategy.

While its national standards are relatively new and yet to be embedded, Cafcass has some very good national policies and procedures in place. Most of the service area's workforce understands them and compliance is improving; for example, in completing case plans and risk identification forms. Systematic audit activity has identified effectively where the weaknesses are in service delivery and the performance improvement plans are appropriately focused on addressing these deficits. Where necessary, the senior management team has taken decisive action to address capability or disciplinary issues through the formal channels.

Knowledge, learning and development provision is likewise suitably focused on identified need. The service area has also used audit outcomes to identify staff training needs; it has provided learning opportunities to address these such as expert coaching sessions in record keeping. Managers monitor the recently introduced individual learning accounts and there is evidence of some imaginative use of these through pooling resources to commission appropriate training.

User engagement

Grade 4

Action taken by the service area to ensure the active involvement of service users in improving service provision is inadequate.

Although Cafcass nationally has developed some good initiatives to engage with service users, particularly children and young people, there are few opportunities for their views to contribute to service design and development locally. The service area has been slow to make use of national initiatives such as Hear Now cards. However, there is some recent evidence that the outcome of complaints from adult service users has been used to improve provision. The area has satisfactory plans in place to improve user engagement such as the development of service user focus groups.

Partnerships

Grade 3

Arrangements for working with key stakeholders, relevant agencies and community groups and commissioned services are satisfactory overall. There are some examples of good partnership working, such as with the local authority in Bristol, which have contributed to improved service delivery. Staff shortages and, until recently, the previous weaknesses in senior management have meant that effective participation in some partnership meetings such as court user forums has been variable across the service area.

There are some good examples of shared training arrangements with Cafcass staff contributing to training events for other agencies. Satisfactory arrangements are in place to ensure the quality of commissioned services

Value for money

Grade 3

Value for money in this service area is satisfactory overall. The area is adequately resourced to carry out its statutory functions and senior managers have taken appropriate action to secure additional short term funding to support service improvement.

Delays in recruiting to permanent posts have resulted in some unnecessary expenditure on more expensive self-employed and agency staff. Resources have been identified to develop early intervention services, including the very effective family group conferencing service, which are cost effective in avoiding where appropriate the need for formal court reports.

The service area is developing improved budget monitoring processes. Appropriate systems are in place to ensure tendering and contracting arrangements are providing value and effectiveness to improve service delivery.

Equality and diversity

Grade 3

The work of the service area to promote equality and diversity is satisfactory overall. There is very good compliance in the completion of diversity monitoring forms. However, the service area does not use systematically information derived from these forms to inform service development, or to ensure that the needs of different groups of service users are met appropriately.

Equality impact assessment is at an early stage of development and has yet to inform service planning and delivery and to meet fully the requirements of the Race Relations (Amendment) Act 2000. However, the assessment of Cafcass premises in the service area for compliance with the Disability Discrimination Act 2005 is now complete. Appropriate resources have been released for the work needed to bring premises up to the required standard.

In nearly all the cases examined inspectors concluded that service users had been treated fairly, in an even handed way and with respect. There was evidence that learning disability was handled with sensitivity as were cases involving mental ill health.

In relation to individual children and adults the relevance of the diversity information collected, such as religion and belief systems, was used infrequently in reports and files. There were few direct references to human rights issues. In one example, the Children's Guardian recommended support for the local authority plan to place a child under two with a member of her extended family on a special guardianship order. The human rights of the child were considered well, but insufficient attention

was given to this placement in the light of the family history and the adult's current lack of basic parenting skills.

All the offices visited displayed a diverse range of positive images of children and adults in posters, leaflets and notices. There was an appropriate range of toys and relevant equipment for children visiting Cafcass offices. Appropriate arrangements have been made in offices to ensure confidentiality for service users and files. The family group conference project makes extensive efforts to use culturally appropriate facilitators and advocates for children.

The workforce profile of the service area does not yet match that of the local communities, but the local workforce strategy has a clear timetable of actions to address this: there was evidence on recruitment files of efforts to recruit more staff from ethnically diverse backgrounds.

Safeguarding

Grade 3

The contribution of the service area to safeguarding children and young people is satisfactory. Interviews with a range of staff indicate that safeguarding is now their primary concern and is at the forefront of their thinking.

The service area has completed training of staff to support implementation of the Cafcass safeguarding framework – which is a good policy – and the new enhanced practitioner posts have a key role in the quality assurance of safeguarding arrangements. Staff demonstrate a good awareness of the relevance of *Working together to safeguard children* for private as well as public law work.

Some good work was seen in files and in reports where the history of poor parenting was fully explored, recommendations were appropriate and safeguarding measures were put in place for children and young people. Where safeguarding concerns in specific cases were discussed with Cafcass, inspectors were satisfied that appropriate steps had been taken to protect children and young people from harm.

However, despite some recent improvements to safeguarding, some practice remains inconsistent. Some files were seen where the risk assessment was absent, only partially completed or was completed retrospectively which is inadequate. In some cases tracked by inspectors where a history of domestic violence was noted, there was no systematic work to analyse the impact of violence on children and vulnerable adults in the past or its possible impact in the future especially in relation to contact arrangements. The impact on the child's emotional well-being of prolonged hostility between the parents was also not always sufficiently understood or taken into account. Some files were seen where the focus was on the behaviours, concerns and wishes of adults rather than a clear and consistent focus on the safety and welfare of children.

There is a good process for assessing the risk in cases on the waiting list. However, it is not applied consistently across the three offices and the quality of some risk assessments is insufficiently robust.

The family group conference project is providing excellent early intervention and resolution work with children and families in a significant number of private law cases. Safeguarding issues are clearly dealt with in the planning of conferences; the conference process and the delivery and monitoring of the Family Plan with 98% of conferences held have resulted in a safe and workable Family Plan. This indicates excellent safe work delivering good outcomes for children.

Cafcass is represented on all the Local Safeguarding Children Boards operating across the service area, but the minutes of meetings show limited impact or contribution to the work of these partnerships by Cafcass. There is however timely dissemination of lessons learned from serious case reviews. Family court advisers were able to confirm regular updates on lessons to be learnt and ready access to recent research and case law. The service area sets up arrangements for participation in multi-agency risk assessment conferences in relation to domestic violence where relevant on a case-by-case basis. There are robust national safeguarding policies and strategies available to the service area and some evidence that progress has been made towards implementing these consistently in the work of family court advisers.

The process of recruitment and selection of staff is good with safeguarding as the paramount consideration. Human resources policies and procedures are safe; staff files were of good quality with appropriate documentation and the criminal records bureau checking process was good. Procedures for dealing with allegations against staff and for dealing with poor or dangerous practice are embedded in the safeguarding policy.

Quality of provision

Grade 3

Service responsiveness

Grade 4

Service responsiveness is inadequate overall. There is an unacceptable backlog of private law work leading to delays in allocation of cases and in meeting filing times for court reports. There are a number of interlinking reasons for this, including a history of lack of clarity in strategic direction nationally and insufficient resource; poor productivity; inconsistent performance management; a lack of protocols with courts; serious shortages of family court advisers and failure to fill vacancies.

The service area does not deliver consistently its core business in private law cases. Inspectors saw cases that were still awaiting allocation some 12 weeks after they had been ordered by the court.

Senior managers have recognised the need to take urgent remedial action. Some effective action has already been taken, including external commissioning of cases to approved agencies; additional internal capacity and recruitment; better case management processes; and much improved performance management and management oversight of the work. While the backlog has reduced recently, service area data demonstrates that a much more comprehensive plan will be needed to eradicate delay in a timely manner.

There has been good improvement of performance in public law cases, dispute resolution work and the appointment of children's guardians in Rule 9.5 cases.

The stakeholder survey highlights difficulties caused by delays in allocating and producing private law reports, including the lack of cover where a family court adviser is ill or in the case of emergency applications.

Given the long standing problem of delay, courts are understandably very concerned about the children and families involved in these delayed cases. For example:

'The court cannot conduct a proper investigation in the paramount interest of the child when a report takes upwards of six months to be available.'

'The court should not have to make and cancel appointments for Cafcass staff.'

The Operational Director and Head of Service have now secured significant extra resources from national office for the service area. They have given a very clear lead and direction to the improvement work. This, in turn, has improved the morale and confidence of frontline staff and service managers who are themselves concerned at the extent of delay in service provision to children and families in private law proceedings. Appropriate work is also underway to keep stakeholders and service users informed about delay and to work with them to reduce the impact of delay where possible.

Case planning and recording

Grade 4

Case planning and recording is inadequate overall. While recent instruction by senior managers has demonstrably improved current compliance with requirements for case planning and recording on files, too few case plans and records comply fully with Cafcass policy. Inspectors did see some examples of good case planning, recording and file keeping. However, there were too few examples to demonstrate sufficiently high or consistent standards. The exercise to complete retrospectively case plans and other key case documents undertaken as part of the improvement programme

demonstrates that the fundamental social work discipline of planned assessment and intervention has yet to be embedded across the service area.

Case filing and case recording were of a variable quality with some good and satisfactory examples seen; however, a significant minority of case records were inadequate. Records too often simply described what had happened in a case. While an accurate up-to-date record is important, the service area needs to move practice beyond description and add value through evaluation, clear analysis and demonstrable assessment.

Assessment, intervention and direct work with children

Grade 4

Assessment, intervention and direct work with children are inadequate overall. However there is good evidence that this work is improving and it is appropriately a central focus of the service area's practice improvement agenda.

Assessments are not undertaken through an externally validated effective framework or use clear criteria which enable the process to be transparent. Families cannot therefore be involved effectively in decision making or know how recommendations made by Cafcass to courts are reached about their particular circumstances.

Cafcass nationally has been developing guidance to address this deficit which has been adopted by some practitioners in the service area. However, these are not yet embedded and there was no consistent use of a framework for assessment evident in the service area. Stakeholders such as local authorities and the judiciary confirmed that as a consequence practice is highly variable.

A large majority of the small number of children who responded to the Ofsted survey said that what they had said to the practitioner had made a difference to what happened. However, a minority of service users expressed dissatisfaction with the amount of time spent with them and their children and a failure of Cafcass officers to listen to and understand their point of view.

Some good assessment and intervention work was evident in a small number of cases and most direct work with children and young people, for example in ascertaining their wishes and feelings, was satisfactory. Strengths in assessment, intervention and direct work included: ease of contact with practitioners, information being easy to understand and clear communication. A focus on the child was maintained consistently in most cases and the needs of parents were proportionately addressed. However, inspectors observed some lost opportunities to signpost service users to appropriate agencies.

Reporting and recommendations to the court

Grade 3

Reporting and recommendations to the court is satisfactory overall. The majority of court reports are satisfactory or better. As this is a core area of Cafcass work, this finding has contributed significantly to the satisfactory judgement for the overall quality of provision.

Where reports were strong they were focused and concise, containing only information that was relevant to best outcomes for children. The voice of the child was evident in many reports and some practitioners represented well the diversity of views of children in the same family. Some practitioners handled complex and distressing material with skill and sensitively. Inspectors saw examples of good evaluations of the work of local authorities in public law and overall a balanced and fair approach to each parent. Some reports made clear the effects on the children of parental disagreement and hostility and the focus on the child was good in most cases.

Where reports were weaker they required improvement in assessment; understanding the relevance of the 'no order principle', linking recommendations to evidence, exploration of options available to the court, and maintaining a focus on core issues. There was often a lack of evidence that recommendations had been discussed with or shared in a timely manner with service users.

Risk assessment work evident in court reports was satisfactory in most cases, although some reports showed a lack of assessment of the impact of domestic violence on children.

Complaints

Grade 3

Complaints handling is satisfactory overall. Most complaints are responded to promptly however targets for problem solving in a timely manner are met in only a small majority of cases. Investigations into complaints are mostly effective but a failure to clarify and narrow the issues is a weakness as is an over-reliance on practitioner recollection rather than the use of more tangible sources of evidence, such as case files.

The service area receives few complaints and compliments, despite service user questionnaires indicating that many service users have strong opinions, both positive and negative about the service that they have received. This is consistent with the weaknesses found in the broader area of service user engagement.

Complaints data is collated for organisational learning and lessons from national and local complaints are appropriately disseminated within the services area.

Outcomes for children and young people

Being healthy

Grade 3

The service area is making a satisfactory contribution to health outcomes for those children and young people using the Cafcass service. In general, practitioners focus adequately on the effect of parental dispute, neglect or harm on children's emotional health.

Staying safe

Grade 3

Whilst there is a need to improve the Cafcass contribution to the work of Local Safeguarding Children's Boards the service area is making a satisfactory contribution to helping children and young people stay safe. The Cafcass Safeguarding Framework is a good policy and most staff understand that safeguarding is their primary concern. There is good awareness of the relevance of *Working together to safeguard children* for private as well as public law work.

Enjoying and achieving

Grade 4

The contribution made to this outcome is inadequate. While there are good opportunities to assess the effect of family disruption on children's school achievements these are not taken in this service area.

Making a positive contribution

Grade 4

The contribution made to this outcome is inadequate. While Cafcass nationally has made significant progress in consulting with children and young people the service area does not yet contribute consistently well in helping them to contribute their views about the local service provided.