

Ofsted's inspection of Cafcass: Cheshire and Merseyside service area

Cafcass Cheshire and Merseyside service area provides services to children and families in Cheshire, Cheshire East, Cheshire West and Chester, Halton, Knowsley, Liverpool, Sefton, St Helens, Warrington and Wirral.

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Introduction

Ofsted carried out the inspection of service provision by the Children and Family Court Advisory Support Service (Cafcass) in the Cheshire and Merseyside service area in the week commencing 15 March 2010.

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 is accountable to the sector's Operational Director. The operational directors are directly accountable to the Cafcass Chief Executive.

The Cafcass Cheshire and Merseyside service area provides services to children and families across the local authority areas of Cheshire, Cheshire East, Cheshire West and Chester, Halton, Knowsley, Liverpool, Sefton, St Helens, Warrington and Wirral. For operational reasons determined nationally, the service area transferred from the north to the central sector in June 2009. The Operational Director Central has been responsible for the senior management of Cheshire and Merseyside since then. The Head of Service has been in post since September 2009.

The professional staff who provide the social work service to children and families subject to private and public law proceedings are organised in teams in Liverpool, Sandbach, Southport and Warrington with a sub office in Chester. Seven operational service managers manage service delivery, supported by a specialist manager for quality improvement.

During the fieldwork, inspectors examined an extensive range of documentation and held meetings with stakeholders, the judiciary, local authorities and interest groups. Interviews were held with members of staff, the Cafcass Chief Executive, the Director of Operations Central, the Head of Service Central, the Service Manager for quality improvement, the senior Human Resources manager, family court advisers, family support workers and all the service managers. Inspectors evaluated private and public law reports, case files, complaints records and human resources files. They surveyed the views of Cafcass staff, adult service users, children and young people. They observed Cafcass practice with service users, including children and young people; they also spoke to children and young people looked after by the local authority and they conducted telephone interviews with adult service users.

Overall effectiveness

Grade 4

The overall effectiveness of the Cafcass Cheshire and Merseyside service area is inadequate.

Although managers have taken some steps to tackle delay, minimum standards are not met in the time taken to allocate and complete work. In the context of falling demand in private law and few practitioner vacancies, productivity remains low. As a result, despite recent improvements, children and families are still waiting too long

for their cases to be dealt with by Cafcass, particularly in private law proceedings. No established local systems for involving and engaging service users are in place. Rather than making use of good existing community resources, Cafcass in Cheshire and Merseyside is too inward looking in the provision of services to children and families. The service area has few effective links with important community resources including the support services for families involved in domestic violence cases or organisations which provide services for minority ethnic communities. The area has very little information about the views of children and young people. Consequently their opinions about the service they receive from Cafcass are not taken into account in service planning and development.

Performance management and quality improvement activity is weak. The management team skills are underdeveloped with one vacancy. Some management information is inaccurate and few performance targets are met. As equality impact assessments have only been completed recently, actions identified have not yet been implemented. Equality and diversity are inadequate.

Cheshire and Merseyside makes little effective use of self assessment and over-emphasises the impact of the very recent improvement made in service responsiveness. Although the area assesses accurately its weakness in performance management, user engagement and Every Child Matters outcomes, it overestimates the extent to which, when considered overall, performance is effective.

However, in the short time that Cheshire and Merseyside has been part of the Cafcass central sector, senior managers have taken very effective steps to improve key aspects of service delivery. In the main the service area meets the Cafcass statutory functions and most resources are deployed adequately. Most reports to court are satisfactory or better and case records are satisfactory. Although the oversight of cases on waiting lists is inconsistent and inadequate in some instances, safeguarding is satisfactory overall. Capacity to improve is satisfactory.

Direct work with children and young people is strong and in most cases there is evidence of effective advocacy for them in both public and private law cases. Work is appropriately child focused which is a further strength in the service area. While the majority of young service users surveyed say they are satisfied with the service they have received from Cafcass, most also said that their views made little difference to what happened in their case.

Capacity for improvement

Grade 3

Capacity to improve is satisfactory

Managers are now implementing strategic change effectively in key areas of service delivery to children and families in Cheshire and Merseyside. Improvements are being made in the challenging and recent context of changes to senior and local management in the service area, high levels of backlog and judicial criticism. Although managers have not been in post long enough to demonstrate a track

record of improvement, some significant changes have been made. These include the restoration of good working relationships with the judiciary, the introduction of new ways of working to tackle delay, the reorganisation of the workforce to improve service delivery and delivering greater efficiencies through new business systems. Good plans, backed by sufficient funds to deliver them, are in place to increase productivity, streamline service delivery and enhance the timeliness of safeguarding checks in new family proceedings. Services are not deteriorating and, although some reporting in private law proceedings remains slow and productivity is low, the backlog of cases has reduced significantly.

Although the draft workforce development plan is still at an early stage, good retention of staff means that there are enough full-time practitioners. Training is focused appropriately on ensuring that staff have the knowledge and core skills necessary to ensure that children and young people are safeguarded.

Although performance management is inadequate and some management data is poor, individual action planning has been targeted appropriately for managers and practitioners.

Strategic priorities which have been agreed with the judiciary and engagement with all courts across Cheshire and Merseyside are now working effectively. However, partnerships with most local authorities are underdeveloped at a strategic level. While partnership working with community groups is also underdeveloped, local commissioning arrangements are satisfactory. Engagement with children and young people is weak and little use is made of the excellent initiatives developed by Cafcass nationally to promote the inclusion of children and young people in decisions that affect their lives.

Financial management and planning are strong. While delay and low productivity do not demonstrate good use of resources, some very effective action has been taken to improve value for money through streamlining services.

Areas for improvement

In order to improve the quality of provision and services for children and young people in Cafcass Cheshire and Merseyside, the service area should take action to ensure that:

Immediately

- the needs of children and families in all cases on waiting lists are reviewed thoroughly and records are up to date
- performance management information is accurate and timely
- performance improvement processes, including supervision and appraisal are used consistently to achieve better outcomes for children and young people across the service area

Within three months

- children, young people and families receive a timely service in public and private law cases
- strategic partnership working is effective across all local authorities
- case plans and recommendations to court are shared with children and families appropriately and in a timely manner
- the service area's equality impact assessments are implemented effectively

Within six months

- partnership working with local community groups is effective including support to families involved in domestic violence cases
- all Cafcass provision to support children and young people are used consistently
- participation by children, young people and families in improving services is meaningful
- the impact of family disruption is considered fully against all the Every Child Matters outcomes for children when planning assessments, reporting and making recommendations to the court.

Meeting the needs of service users

Ambition and prioritisation

Grade 3

Ambition and prioritisation are satisfactory overall.

Recently, managers have reshaped the organisational structure in the service area effectively to improve service delivery. Significant weaknesses in performance are now beginning to be addressed through the efficiencies provided by the new arrangements. Backlogs of cases in public and private law are reducing well as a result of the creation of specialist teams, for example in work to first hearing, although there are still further improvements to be made. Following previous interim arrangements, leadership has been strengthened by the appointment of a permanent Head of Service, but the management team is not yet complete. Some staff have had several different managers in the last few months which has resulted in some inconsistencies in management decision making. Additional management resources from within the region have been effectively deployed to strengthen the management team and support the implementation of current changes in Cheshire and Merseyside.

Appropriate strategies, policies and procedures are in place to support practice. The safeguarding of children and young people is a high priority. A strong drive to improve awareness of safeguarding has included the successful implementation of the new safeguarding policy and very high staff attendance at safeguarding workshops. A risk-assessed business plan focuses on improving outcomes for children and young people and identifies the key challenges facing Cafcass in the service area. This rightly includes investing in management development and improving performance. Lines of accountability are effective throughout the service area.

Good information-sharing protocols with some partner agencies have been established at a national and a local level. However, joint protocols are not yet in place with all local authorities. The quality of engagement with the judiciary has significantly improved in recent months and is highly valued. This is resulting in work with children and families becoming more focused on the key issues in each case. Consistent, effective working relationships with local authorities are less well developed.

Resources are sufficient to deliver the service and the area operates within an agreed overspend. Commissioning is satisfactory. Although service responsiveness is inadequate, the quality of service provision is satisfactory overall.

Performance management

Grade 4

Performance management is inadequate overall.

Achievement against many performance indicators is not met and is below that in similar service areas and nationally. Concerted efforts are now being made to improve performance rapidly and consistently across the service area on a range of fronts, and this is beginning to show some improvement. Performance on a few indicators such as those concerning case closures is good and is higher than national and regional averages.

Effective performance management systems are at an early stage of development. Service improvement meetings have been established and although progress is slow, some managers are growing in their understanding of managing performance. Appropriate measures are being taken to address poor practice by using action plans and formal human resources procedures. However, service managers do not make effective use of performance data and are not fully conversant with performance management systems. This prevents them from utilising the performance management tools available. Additionally, some management information is inaccurate and data are not sufficiently robust to be utilised effectively. This represents a deficiency in managing performance and improving service delivery to children and families. Cafcass nationally has a clear strategy to improve the quality and use of data and sufficient funding has been allotted to deliver the required improvements.

Although staff report that they value the supervision they receive, most files inspected contained no evidence of the impact of supervision or management oversight. Quality assurance is weak and inconsistent. Many quality assurance forms seen by inspectors fail to give an overall grade, and lack constructive feedback to assist in improving practice. Recent action has been taken to ensure that service managers take responsibility for quality assuring all court reports and develop a consistent approach.

Workforce development

Grade 3

Workforce development is satisfactory overall.

Human resource policies and practices are robust with good systems to support safe staff recruitment. Disciplinary processes are used effectively with resulting action to ensure children are safeguarded and there is some evidence of organisational learning as a result. Almost all staff have received an appraisal in the last 12 months which is better average performance than the central and national rates. Effective action has been taken to reduce short-term sickness absence and longer-term sickness is being actively managed. The draft workforce development plan is still at an early stage and as yet contains insufficient information as to how key priorities for the workforce will be tackled and achieved. Although there are sufficient practitioners in post, recent vacancies at service manager level have proved hard to fill and a further recruitment round is planned. The service area recognises that action is required to recruit and retain a suitably diverse workforce.

Recently appointed staff report satisfactory induction into the organisation although there is as yet no consistent structured induction process. Staff retention rates are good. Staff and managers spoken to by inspectors showed commitment to improving services to children and families. Historically, the quality of training available has been highly valued by staff although recent organisational policy has limited the availability of a wider range of training and opportunities for staff development. However, the current core mandatory training is valued by staff and reported to be of excellent quality.

While individual staff members report that they feel well supported by service managers and value the supervision they provide, the quality and frequency of formal recorded supervision seen by inspectors offer insufficient constructive challenge to staff to improve practice and performance. Performance data confirm that supervision rates are very low and oversight of the work is not taking place in accordance with Cafcass policy requirements. The service area acknowledges that as yet the reasons behind the inconsistencies in staff performance across teams have not been sufficiently analysed or understood.

User engagement

Grade 4

User engagement is inadequate overall.

Cheshire and Merseyside service area fails to communicate effectively with children and families about the quality of the service they receive. The innovative and high quality national processes and systems for user feedback, such as 'My Cafcass', are not promoted by the service area and very limited use is made of the valuable resource provided by Young Inspectors. Only two such inspections have taken place and in one case there was inadequate advance communication with the young inspection team about a proposed office closure. No established local systems for involving and engaging service users are in place. Overall the national strategy and resources available for user engagement are not integrated into practice at service area level although young people do regularly contribute to staff recruitment.

Almost half of the adults and a third of the children who responded to the Ofsted inspection survey reported that Cafcass involvement had not been helpful. However, a small majority of the adults who responded reported that Cafcass information is easy to understand and they understood the reasons for Cafcass involvement. The majority of children and young people said they were satisfied with the service they received from Cafcass. However, only a third said that their views had made a difference in their case and similarly only a third said that things had improved for them after Cafcass was involved with their family.

Partnerships

Grade 3

Arrangements for working with key stakeholders, relevant agencies, community groups and commissioned services are satisfactory overall.

Inspectors saw some good examples of partnership working with local agencies at a practice level which resulted in improved outcomes for children and young people. A small number of local information-sharing protocols has been developed to improve service responsiveness and effectiveness although strategic partnership arrangements and protocols with some local authorities are in need of further development. Although limited in its extent, local commissioning and monitoring arrangements are satisfactory.

Links with community groups are underdeveloped and the area is aware that partnership working with some key community groups has yet to be established. This includes the need to make better links with Women's Aid and other providers for support to families in Domestic Violence cases.

The new framework for the President's interim guidance in the Cheshire and Merseyside courts has been implemented effectively and is beginning to show impact. Despite understandable criticism of Cafcass by local judiciary when delay was extensive, good working relationships now exist with senior judges. The wider

judiciary are becoming increasingly satisfied with the responsiveness of the Cafcass service in Cheshire and Merseyside as a result of action taken to reduce delays and backlogs. Service managers contribute well to Family Justice Council sub-groups to resolve issues.

Equality and diversity

Grade 4

Work to promote equality and diversity is inadequate.

Only a small number of files and court reports seen by inspectors demonstrate satisfactory practice in relation to equality and diversity. Of those, some gave careful consideration to the relevance of religion, culture or disability in the context of family breakdown. However in most cases, attention to the issues that constitute a families' identity is superficial. Apart from describing nationality or ethnicity, other aspects of identity are not explored or addressed in work with children and families.

The approach to collecting and using diversity monitoring information is inconsistent across the service area. Inspectors saw instances where important diversity information was completed as an after-thought or without sufficient explanation to families about its purpose. Training in culturally competent assessment and practice has not been accessed by staff in the region since April 2009.

Although plans are in place to improve the diversity of the workforce, impact cannot yet be demonstrated. Equality impact assessments have only recently been completed and also have yet to show impact.

However, a majority of children and young people report that they are treated with respect and dignity by Cafcass practitioners. Most direct work with children and families is undertaken in accessible locations which protect confidentiality, although it is recognised that a small number of premises fall short of the standard required and action is being taken to address this. Information about children and families is held securely and in accordance with statutory requirements. Information from complaints is analysed in terms of aspects of equality and diversity.

Value for money

Grade 3

Value for money is satisfactory.

Resources are now being targeted effectively to meet the needs of service users and to deliver statutory functions more efficiently. Value for money has increased and greater efficiencies realised through the recent regional centralisation of application handling and the development of the work to first hearing and early intervention models. The managed reduction of the backlog of cases is beginning to release capacity to provide a more timely service, although managers identify that there is more efficiency to be made including through increased productivity.

The recent improved liaison with the judiciary is resulting in an increasingly effective service, with a clear shared responsibility for developing a more focused approach to reporting.

The costs of services are known and the monitoring of commissioned services is effective and improving. Feedback on service quality is used to influence commissioning decisions. While unit costs for the area have been falling and are now in line with the regional average, they are below the national average, which is good. However, many key performance indicators, including those for allocation and completion of work, are not met. While delay and low productivity do not demonstrate good use of resources, some very effective action has been taken to improve value for money through streamlining services.

Safeguarding

Grade 3

The contribution of the service area to safeguarding children and young people is satisfactory.

Safeguarding has an appropriately high priority throughout the service area business plan and in induction and ongoing training for all staff. Effective measures are in place to ensure that staff understand and comply with the Cafcass safeguarding framework.

Safeguarding is at least satisfactory in all of the files and court reports inspected. Case files demonstrated that assessments are completed, needs are identified and effective interventions undertaken to ensure children, young people and vulnerable adults are safe. The needs of children and young people are the primary focus throughout almost all cases. The majority of children and young people who responded to the Ofsted survey said that they were able to talk to their Cafcass practitioner about what is important to them.

All cases are screened effectively for safeguarding issues including domestic violence. Information about any risk to children is provided to courts at the earliest part of proceedings which is good safeguarding practice. Safeguarding measures are embedded in arrangements for commissioned services and safe recruitment procedures in the service area. Where information-sharing and joint working protocols are in place, these are effective in ensuring good communication about children identified as at risk of harm.

Although their attendance is variable, service managers contribute to local safeguarding children boards. In the one serious case review to which Cafcass contributed, the Cafcass individual management review was evaluated as satisfactory by Ofsted.

However, despite recent progress in reducing the number of cases waiting for a service, the approach to safeguarding children and young people on waiting lists is inconsistent across the service area. Random sampling of a small number of files by inspectors found that the level of priority on a number of cases in the backlog had

not been assessed appropriately. Managers took immediate action to allocate these cases during the inspection. There is no evidence that the service area is undertaking systematic monitoring of safeguarding outcomes for children on cases referred to the local authority or through internal audits.

Evaluation

Grade 4

Evaluation is inadequate overall.

The area's self assessment is not sufficiently evaluative. Although the self assessment provides a wide range of information about action being taken, the impact of that action is insufficiently analysed. Importantly, the unreliability or absence of some key data on information systems means that effective evaluation of performance is compromised. Managers have a broad understanding of the key challenges facing the service, which are addressed within the business plan, but they have not yet fully interrogated the factors that have contributed to aspects of longstanding poor performance in the area. The service area has correctly identified the weaknesses in performance management and user engagement and in securing an improvement in the contribution it makes to improved Every Child Matters outcomes for children and young people.

Quality of provision

Service responsiveness

Grade 4

Service responsiveness is inadequate overall.

Although recently the service area has taken some effective action to tackle delay, key performance indicators for case allocation and filing times are not yet met. Only two-thirds of private law cases are filed within timescales and there is considerable variation in performance across teams. Many cases in public and private law sampled by inspectors showed evidence of significant delay in allocation. The impact of recently established work to first hearing teams is not yet demonstrable and 'Schedule 2' safeguarding letters to the courts are only just beginning to be produced by the due date. While the number of unallocated cases has been significantly reduced since October, a small backlog is being overseen by service managers. However, some of these cases are not subject to regular review and monitoring.

There have been serious delays in the allocation of much public law work. This has only very recently been addressed by working to the target timescale of allocation within two days. Although demand for public law work in the service area increased by ten per cent over the last 12 months, demand for Section 7 reports in private law proceedings fell by almost fifty per cent in the same period. The benefit of this fall in private law work is beginning to show some impact as the level of delay reduces.

The service area is now implementing a strategy to tackle the features which contribute to delay. Steps taken include more efficient use of resources, better management of demand and increased attention to performance management and increased productivity. Service delivery has been streamlined effectively through a centralised system to process new cases and implement safeguarding checks more quickly and efficiently. The establishment of dedicated work to first hearing teams and early intervention models is designed to improve service responsiveness. Recently revised local agreement on the implementation of the President's Interim Guidance is also beginning to have a positive impact. Unallocated cases in public and private law proceedings have reduced significantly from 250 in October 2009 to currently very low numbers and the filing timescales for Section 7 reports have been almost halved over the last year from delays of up to eight months.

Case planning and recording

Grade 3

Case planning and recording are satisfactory.

The majority of case plans and records seen are satisfactory and some are good. Recent recording on case files is accessible, contributes to a good understanding of what has happened and enables accountability to managers. Most files seen comply with Cafcass recording policies. Case plans are comprehensive, based on a good needs analysis and have been effectively implemented. However, most files show little evidence of management oversight and case plans are not being shared with service users on a routine basis.

Family court advisers seen by inspectors are aware of the need for a consistently delivered safe minimum standard of intervention and the importance of good record keeping. Although a range of audit activity about the quality of records was undertaken in December 2009, this is yet to show that the improvements identified have been achieved.

Assessment, intervention and direct work with children

Grade 3

Assessment, intervention and direct work with children are satisfactory.

Almost all assessment, intervention and direct work with children inspected were judged satisfactory or better. Evidence from local authority partners is that once cases are allocated to a children's guardian, the quality of direct work with children is good. Observations by inspectors of direct work with children by both family court advisers and family support workers demonstrate good practice, including a wide use of appropriate tools to elicit children's wishes and feelings and to enable them to voice these safely and with confidence. The foster carers interviewed gave an account of good practice over many years by children's guardians in direct work with children and young people. The majority of assessments, interventions and direct work meet the requirements of Cafcass policy and procedures and the majority of assessments result in a comprehensive understanding of children's needs. The

majority of children and young people who responded to the Ofsted survey agreed that Cafcass advocated effectively on their behalf. However, practitioners did not have a strong awareness of, and had not yet received training in the use of the new assessment framework and no evidence was seen of its implementation in the service area. The appropriate level of scrutiny and challenge to local authority care planning is not always evident from case files seen.

Reporting and recommendations to the court

Grade 3

Reporting and recommendations to the court are satisfactory.

The majority of reports read by inspectors are satisfactory or better. Local authority partners interviewed agreed that work in public law cases was subject to effective scrutiny and challenge by Cafcass children's guardians. The judiciary value the new schedule 2 report letters which provide up to date and effective safeguarding information to courts at an early stage in family proceedings. Most reports have a good focus on the child and are proportionate to assessed need in the case. Most children and young people consider that their views are accurately reflected in the court report and most reports comply with Cafcass policy and procedures. However a small number of reports are poor. These are reports which are overly repetitive, contain irrelevant information, lack analysis and describe rather than evaluate the information provided to courts. While most reports set out the options available to the court they do not always show how each option has been evaluated in order to arrive at an appropriate recommendation.

Complaints

Grade 3

Complaints handling is satisfactory overall.

Attention to safeguarding issues in complaints is improving and the service area has undertaken a specific review of safeguarding issues in complaints. The review identified learning points for practice which have been fed back to staff and there is some evidence of impact on improving the work of individual family court advisers. Almost all complaints to the service area are acknowledged within the required timescale which is better than the national average. However, over half of complaints are not dealt with in the required timescales for completion and performance is poor because it is too slow. Nevertheless, nearly all complaints are resolved at an early stage which is good practice if service users are satisfied with the way their complaint was handled.

Inspectors saw examples of good quality responses to service users by managers and appropriate intervention by the head of service. The service area has a contract with an advocacy service for children and young people in care to provide independent reports for more complicated complaints. These reports are of good quality, contribute to the service users' views and confirm that complaints had been investigated appropriately. A good example was seen of action to improve service

delivery in response to a child's comments.

However, service managers are struggling with the demands of complaints, leading to delay in the completion of complaints investigations. The quality of complaints files seen is variable with some being very disorganised. Survey information indicates that despite the good information provided by Cafcass, the majority of service users say that they do not know how to make complaints about the service they received from Cafcass.

Outcomes for children and young people

Grade 4

The contribution of the service area to improving outcomes for children is inadequate overall.

While appropriate consideration is given to ensuring that children stay safe, other outcomes do not consistently feature in work with children and young people. In some cases seen by inspectors, family court advisors demonstrated an appropriate appreciation of the health and emotional needs of children and young people, but issues such as the impact of family breakdown on educational attainment and the effect of separation on economic well-being are not sufficiently addressed.

Although there are some good examples of attention to Every Child Matters outcomes, the service area does not routinely incorporate consideration of all of these outcomes into assessments, reports or recommendations.

Definitions

Inspection grades

Grade 1	Outstanding
Grade 2	Good
Grade 3	Satisfactory
Grade 4	Inadequate

'No order principle'

Children Act 1989 section 1(5) is known as the 'no order principle'.¹ 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.³ 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.

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 to the proceedings. 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 1989 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.

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 Children Act 1989.

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

³ For further information visit: www.justice.gov.uk/guidance/careproceedings.htm

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.

The President's Interim Guidance for England

This guidance was introduced in July 2009 by the President of the Family Division. It is an agreement between the President of the Family Division, Ministry of Justice, Cafcass, Her Majesty's Court Service and the Department for Children Schools and Families. The aim of the guidance is to put in place measures which will address current backlog of work and prevent further delay through local arrangements agreed by Courts with Cafcass.

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'.⁴ 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.

⁴ www.opsi.gov.uk/acts/acts2002/ukpga_20020038_en_9#pt2-l1g120