

Ofsted's inspection of Cafcass: Greater London service area

Cafcass Greater London service area provides services to children and families in all 33 local authorities in the Greater London area.

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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 Greater London service area in the week commencing 7 December 2009.

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

The Cafcass Greater London service area provides services to children and families across the 33 local authority areas listed on page 19.

The professional staff who provide the social work service to children and families subject to private and public law proceedings are organised in teams located in Archway, Croydon, Ilford, Kingston and Uxbridge. In addition five teams are based at three office locations in Central London, including the High Court Team. Twenty operational service managers and six office managers manage service delivery, and these are supported by specialist managers for quality improvement and customer service, complaints handling and organisational learning.

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 Operational Director (South), the Heads of Service, the Head of Service (South) for quality improvement, the senior Human Resources manager, family court advisers, family support workers and most of the service managers. Inspectors evaluated private and public law reports, case files, complaints records, human resources files, supervision and appraisal files, duty systems and Cafcass work at court. They surveyed the views of Cafcass staff, adult service users, children and young people. Inspectors directly observed Cafcass practice with adult and young service users, met with foster carers and with four children looked after by local authorities, and conducted telephone interviews with adult service users.

Overall effectiveness

Grade 4

The overall effectiveness of the Cafcass Greater London service area is inadequate.

While the service area has taken some recent creative steps to tackle delay, it is too early for these to show sufficient impact. This means that children and families are still waiting too long to receive a service from Cafcass. In some cases, where Cafcass remains involved in private law cases with repeat reporting to court in the same proceedings, the benefit to children and families is not demonstrated.

Engagement with service users is very weak and assessments are not shared consistently with children and families. Despite the provision of some good training on equality and diversity to some parts of the service area, practice in this respect is poor overall. Actions identified through equality impact assessments have not yet been implemented effectively. Although the work of quality improvement managers is strong, with some well-designed tools and processes, improvement in the service area's overall performance is slow. Management information is often out of date or inaccurate and few performance targets are met. Complaints handling and the contribution by Cafcass to the promotion of improved outcomes for children and young people are inadequate, in particular in private law, where the impact of family breakdown on health, education and economic outcomes for children is not well considered or addressed.

However, the leadership style in the service area is clear and purposeful and minimum standards for service delivery to children and families are mostly met. In the main the service area meets the Cafcass statutory functions and resources are deployed satisfactorily. Most case records are sound and the majority of reports to court are satisfactory or better. Safeguarding is satisfactory overall. However, Cafcass safeguarding policies do not cover fully some of the specialist services provided to High Court cases such as those involving child abduction. At times, the understanding between the service area and the court about the management of cases lacks clarity which then puts pressure on the finite resources available to Cafcass.

Direct work with children and young people is mostly strong and in many cases effective advocacy is provided for them in both public and private law cases. While the majority of children and young people surveyed said that they were satisfied with the service they received from Cafcass, most also said that their views made little difference to what happened in their case. Of the adult users surveyed, almost the same number expressed satisfaction with the service provided by Cafcass as were dissatisfied. Among those dissatisfied were adults who criticised the way Cafcass dealt with domestic violence issues in their case.

The service area knows its areas of strength and weakness in most respects, but overestimates its strengths in performance management and in assessing and meeting the equality and diversity needs of children and their families.

Capacity for improvement

Grade 3

Capacity to improve is satisfactory.

Managers in the service area are making well thought out strategic changes to promote significant improvements in service delivery to children and families. Through a multidimensional approach and a better understanding of the range of factors contributing to delay, management strategies are beginning to reduce the amount of time that children and families wait before they receive a service from Cafcass. Managers can demonstrate a track record of improvement in some key areas of compliance and accountability which they perceive to be prerequisites to future practice improvement. Evidence of impact includes greater efficiencies in the contract management of self-employed practitioners, reorganisation of the workforce and the introduction of duty systems in each office.

The service area has been slow to introduce the national performance management system and the effectiveness of quality assurance activities is variable. Although most performance management processes are now in place they are not used consistently. Individual action-planning has been targeted appropriately and with some positive results for managers and practitioners where there is a need to ensure basic compliance with Cafcass policies.

The area's workforce development planning, and good recruitment and retention practice ensure that there are enough full-time staff. However, the deployment of the workforce is insufficiently flexible to meet fluctuating demand for services. The leadership team has ensured that the training programme is now linked more specifically to the business plan objectives to meet local and national priorities for practice improvement.

Although strategic priorities are yet to be fully agreed with the judiciary, there is evidence of effective engagement with most courts. Some local authority partnerships are underdeveloped at a practice level. However, links at a strategic level are satisfactory. Engagement with children and young people and the capacity for their views to influence the design and improvement of services are weak.

Financial management and planning are strong and some effective action has been taken to realign service delivery to improve value for money, deliver priorities and improve the quality of service to children and families.

Areas for improvement

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

Immediately

- safeguarding policy meets statutory guidance fully and practice complies with Cafcass requirements in all cases
- performance management information is accurate and timely
- performance improvement tools are used consistently to achieve better outcomes for children and young people across the service area
- recommendations for repeat reports in private law cases are always appropriate to the assessed needs of the case.

Within three months

- case plans and recommendations to court are shared with children and families appropriately and in a timely manner
- strategic partnership working is effective across all courts
- the management of complaints is consistent, timely and complies with the Cafcass complaints policy.
- the service area's equality impact assessments are implemented effectively.

Within six months

- the workforce is deployed with sufficient flexibility to meet fluctuating demand
- 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
- participation by children, young people and families in improving services is meaningful
- service provision meets the equality and diversity needs of the children and families in each case.

Meeting the needs of service users

Ambition and prioritisation

Grade 3

Ambition and prioritisation are satisfactory overall.

The leadership provided by the senior managers in London ensures that the necessary resources are in place to deliver the key priority of safeguarding children and young people. The four heads of service and their service managers are collaborating effectively to implement an appropriate improvement strategy which is clearly focused on the key challenges facing Cafcass in London. This has rightly included investing in management development.

Business planning mostly reflects the improvement strategy and is risk assessed appropriately. The implementation of Cafcass national policies and procedures by the service area is satisfactory in most respects. Operational plans are prioritised appropriately by managers. For example where office accommodation is not conducive to working with children and families, this is risk assessed appropriately and action is taken to minimise any adverse impact for service users and staff.

Recently, managers have reshaped the organisational structure within the service area and early indications demonstrate its potential to provide more effective and more timely services to children and families. Improvements made include the development of good alternative ways of delivering parts of the service, for example through family group conferences. The stronger arrangements for the management of contracts for self-employed practitioners are contributing to improved effectiveness of these staff and to an overall satisfactory quality of service provision. However, the effectiveness of first-line managers is not consistent across the service area. Significant challenges remain for national and local managers, including tackling the level of resistance to change in the service area. For example, there is some continued resistance to performance management and although the new duty systems are beginning to show positive impact, some front-line staff have reservations about this approach.

While heads of service are providing clear strategic leadership, some key challenges remain in ensuring that their priorities are shared and understood by key stakeholders. Strategic priorities are yet to be clarified with some of the London judiciary. Engagement with local authorities is variable and has yet to ensure that systematic and effective problem solving is in place at operational levels to support public law practice.

Performance management

Grade 4

Performance management is inadequate overall.

The service area is failing to meet its key performance targets. Despite a clear focus on performance management, the service area is not improving the quality of practice and timeliness of service provision quickly enough. The Quality for Children (Q4C) performance management system has the potential to provide robust information to drive service improvement but data about the quality of practice are not captured or used consistently. Too often shortfalls in practice are only identified retrospectively, thus failing to have the required impact on practice or on outcomes for children and young people.

Service data, particularly information about children and families who use the Cafcass service, are not reliable and are misleading. Consequently, the information provided in the service area cannot be relied upon by managers as a basis from which to make effective decisions to meet the needs of children and young people.

However, the performance management of professional staff in the area demonstrates a clear commitment to address deficits in practice and improve outcomes for children. These include effective steps taken to identify, challenge and rectify poor practice by front-line staff and first-line managers, using action plans and formal procedures appropriately where necessary. The contribution of quality improvement managers to drive progress in practice is valued by most staff and is evident in some practice seen by inspectors. The improvements have yet to address inadequate practice consistently across the area and to stretch those whose work is now satisfactory to higher levels of achievement.

Workforce development

Grade 3

Workforce development is satisfactory.

The service area has sufficient full-time staff and resource capacity to meet the needs of its service users, despite inefficiencies in some working practices. The workforce development plan makes provision for an adequate staffing structure that can respond to changes in service demand. However, it is not deployed with sufficient flexibility to meet current fluctuations in demand for services. In addition, the major realignment of services in October 2009, which changed casework intake arrangements, resulted in temporary staffing pressures in some frontline services, which have yet to be fully addressed.

Recruitment, retention and succession planning are good. Recruitment processes are effective; they comply with safe recruitment procedures and all managers involved in recruitment are trained appropriately. The vacancy rate is low and staff turnover rates indicate a stable front-line workforce. Managers are very well supported by the

human resources team in addressing staff capability issues where appropriate. New staff report that induction and foundation training are effective, although not always sufficiently timely.

While a knowledge, learning and professional development programme is in place, its effectiveness is limited as so many staff are subject to practice improvement procedures. For example, the majority of staff have not yet completed equality and diversity training or key mandatory training, such as the advanced levels of training for improved practice in domestic violence cases. However, remedial action to address weaknesses in staff performance is beginning to show evidence of improving practice in some cases.

Performance in the completion of staff appraisals, although slightly below the national target, is better than regional and national averages. However, the national plan to implement a ten to one ratio of practitioners to service managers has not yet been achieved and this is having a negative impact on the quality of management oversight in some teams, including the frequency of supervision.

User engagement

Grade 4

User engagement is inadequate.

The service area acknowledges that user views have not had any significant impact on improvements to service delivery. Opportunities for users to provide feedback on the quality of service received, such as through the 'HearNow' service available on the Cafcass website, are used only to a very limited extent. The proportion of children and young people in Greater London who have used the feedback system is significantly lower than in the South sector and the national averages, and is well below the national target.

Of those who responded to the Ofsted survey, a majority of adults commented that they found Cafcass information easy to understand. Some users said they were concerned that in private law proceedings, irrespective of their particular circumstances, they felt they had received a standardised, 'one size fits all' type service and that domestic violence issues were misunderstood by some practitioners.

The majority of children and young people reported that they were satisfied with the service they received. However, only a third said that their views had made a difference in their case. About half of the children and young people said that things had improved for them after Cafcass was involved with their family circumstances.

However, there are some good recent developments in user engagement which have the potential to make a difference, including the establishment of a group representing service users. While the group includes representation from a broad range of relevant community groups, it has only met twice and it is too early to

demonstrate impact.

Cafcass young inspectors have been involved in the recruitment of family court advisers and made a positive contribution to the development of office accommodation in the service area.

Partnerships

Grade 3

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

Arrangements for procuring and for monitoring the effectiveness of commissioned services are good. Through its commissioning activity Cafcass is successfully extending the coverage of contact services and actively promoting these services to partners. Links with statutory agencies at a strategic level are mostly satisfactory and there is some effective partnership working with the courts and Local Safeguarding Children Boards.

While in broad terms the judiciary are generally satisfied with the quality of work by Cafcass practitioners, they express concerns about delay and that performance overall is too inconsistent between practitioners.

However, the understanding between the service area and the judiciary about the management of individual cases is at times unclear. This adds to the challenge faced by Cafcass to manage its finite resources and, at the same time to meet the requirements of the court and not encroach on matters of judicial independence.

While Cafcass collaborates satisfactorily with most local authorities at a strategic level, partnership working is less effective at an operational level. Some local authority social workers and managers across London do not feel sufficiently engaged. For example, the purpose and benefits of new ways of working introduced by Cafcass, such as the new duty systems, have not been discussed sufficiently at an operational level. Furthermore, delays in the appointments of guardians in public law cases contribute to poor communication with social workers.

Equality and diversity

Grade 4

Work to promote equality and diversity is inadequate.

The required actions from completed equality impact assessments have yet to be fully implemented. Monitoring of information about the ethnicity and diversity of service users is significantly below the target set nationally and the ethnicity of just over a quarter of service users is not recorded. While one report was judged as outstanding by inspectors, too few reports include an assessment of users' needs in relation to religion, culture or ethnicity. The majority of reports did not refer to

relevant issues in respect of the lifestyles or disabilities of children, young people and their families.

The Ofsted survey found that the level of dissatisfaction expressed by service users from a minority ethnic background about the lack of attention to equality and diversity issues is twice the national average. Minority ethnic service users are disproportionately represented within the complaints system. Although the service area has commissioned some research into this, it has yet to understand why this is the case.

In some cases experts are engaged appropriately to advise family court advisers and the courts on equality and diversity issues during proceedings and the service area uses a range of interpreting services. While the service area previously provided good training in culturally competent practice, this was only provided to two teams (Ilford and Archway) in London and is no longer available.

Value for money

Grade 3

Value for money is satisfactory.

Significant improvements made by managers in financial management ensure that budgets are managed efficiently. Systematic and effective action by managers has improved value for money in some parts of the service. Some substantial cost reductions have also been achieved without any negative impact on productivity, for example in the unit costs of self-employed contractors. Organisational restructuring has enabled the provision of more services but at less cost through the allocation of child abduction cases to one specialist team. Recent organisational change and plans to address delay have real potential to be effective and contribute further to achieving value for money.

However, value for money is unsatisfactory in those cases where there is a delay in service provision. Ineffective working models, such as routine co-working and repeated addendum reports, do not demonstrate the best use of resources and mask spare capacity in the service area.

Safeguarding

Grade 3

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

Improving safeguarding practice is a clear and high priority and this is understood by staff and confirmed by partner agencies. The needs of children and young people are the primary focus throughout almost all cases and 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. Cafcass offices provide safe and confidential facilities for working with children and young people.

Representation by the service area is good on all 32 Local Safeguarding Children Boards across London and the Pan London Safeguarding Children Board, with effective contributions made to eight serious case reviews. Most individual management reports produced by Cafcass for the serious case reviews have been assessed by Ofsted as adequate or better and one was judged outstanding. While learning from serious case reviews has been disseminated to staff, the impact of this is yet to be evaluated. Involvement with multi-agency risk assessment conferences with regard to domestic violence is more variable but effective pre-conference screening work is taking place in some offices.

The quality of safeguarding practice is very inconsistent, ranging from inadequate to outstanding, including safeguarding issues in domestic violence cases. External audits have identified weaknesses in some management practice in assessing risk and these are being addressed through individual action plans to improve performance. Of the cases inspected, too many showed that risk assessment tools are not used effectively or are not completed at all. This supports the findings of local internal audits. Consistent and timely screening of new cases has not yet been embedded fully across the area. The Cafcass safeguarding policy does not cover adequately all aspects of the specialist work undertaken by the High Court Team, specifically in child abduction cases.

Communication with the local authority children's social care services is timely when children and young people are identified to be at risk of harm. However, the system for following up requests for safeguarding information is insufficiently robust. Requests to the police for information on convictions or cautions are processed effectively. However, unlike some other Cafcass service areas, soft information from the police is not available and this severely limits the ability of Cafcass to assess fully the risk and to provide comprehensive information to courts, for example in domestic violence cases.

All recruitment of staff complies with safe recruitment practice and there are robust policies in place for handling allegations against staff. Contracts with commissioned services meet Cafcass requirements and include appropriately robust monitoring of the safeguarding practices in those organisations.

Evaluation

Grade 3

Evaluation is satisfactory overall.

In most respects, the area's self-assessment is accurate; it demonstrates a satisfactory level of analysis, which accurately reflects performance in the service area, and an understanding of the key challenges facing the service. The service area knows broadly its strengths and weaknesses but overestimates its strengths in

performance management and in assessing and meeting the equality and diversity needs of children and their families. In contrast, managers have underestimated the service area's performance in case planning and recording. The service area has assessed accurately its key weaknesses in engaging child and adult service users, in the quality of complaints handling, in being able to demonstrate its contribution to improved Every Child Matters outcomes, and the service area's overall effectiveness.

Quality of provision

Service responsiveness

Grade 4

Service responsiveness is inadequate.

Children and families are subject to an unacceptable waiting time for receipt of a service in private law cases and the trend of delay in filing private law reports by all teams is increasing across the service area. While there is some delay in allocating public law work, the extent of waiting times is less acute than in private law. In that sense children in public law proceedings receive a priority service when compared with children subject to private law proceedings.

However, the service area is now implementing a strategy to tackle the features which contribute to delay rather than just focusing on providing more resources. Steps taken include: the duty system in each office; use of agency staff; implementation of the Private Law Programme; implementing the Interim Guidance of the President of the Family Division; and securing additional funds ring-fenced to deal with the backlog of cases awaiting allocation. While the strategy is now in place and has the potential to be effective, it is too early for the effectiveness of these arrangements to be fully demonstrated.

Managers are proactively monitoring the waiting lists and inspectors saw evidence of Cafcass making arrangements with some courts to enhance timeliness and to reduce unnecessary demand. The area has introduced some new services such as family group conferences which are leading to some good outcomes for children and young people.

Performance in the service area against national indicators on timely allocation and completion of work is below the national target and national averages. There is already extensive delay in the allocation of private law work, with only 60 per cent of requests for reports allocated within a month of receipt. However, recent figures show that the delay in completing reports in private law is increasing. While over the last 18 months the average rate of filing a report with the court is 16 weeks, during the past six months, the average has increased to 17 weeks and the trend is rising in all offices with a recent high of 22 weeks in one month. During the inspection, some 322 private law cases were unallocated, of which 189 had less than 10 weeks to their filing date.

The delay in the allocation and completion of public law work is less acute than for children and young people subject to private law proceedings. The latest figures show that 86% of public law cases are allocated within the target timescales which is, nevertheless, below the national performance indicator and worse than national average performance.

Although the Cafcass data are unreliable and the figures are disputed by some courts, the service area reports that the delay in public law work is partly due to a significant rise in demand for Cafcass services in London following the Baby Peter case. This meant that the service area moved from having no delay in public law to a waiting list of 400 care cases by August 2009. This had reduced to 208 care cases allocated to a duty family court adviser by the time of the inspection.

However, some inefficient working methods in the service area contribute to delay. These include the use of routine rather than targeted co-working private law practice in some offices and the recommendations by some practitioners for repeat, addenda reports in the same proceedings.

Case planning and recording

Grade 3

Case planning and recording are satisfactory.

The majority of case plans and records seen by inspectors are of satisfactory quality. Most files seen comply with Cafcass recording policies and are clearly structured and up to date. Most case plans provide a satisfactory foundation for assessment, intervention and direct work with the child and family and are reviewed at appropriate intervals. Some case plans include appropriate analysis of risk and need factors but Every Child Matters outcomes are not yet sufficiently integrated into planning. A minority of case plans and records are of poor quality or are not completed in a timely manner. Some written case records are not legible or up to date, are undated or there is an absence of timely managerial oversight. Case plans are not routinely shared with children and families.

Assessment, intervention and direct work with children

Grade 3

Assessment, intervention and direct work with children are satisfactory.

In most cases seen, assessments are child focused. Practitioners are committed to establishing the views of children and young people effectively and in representing these to the court. One outstanding example of assessment, intervention and direct work was observed during this inspection.

Parents and children who have participated in family group conferences report high satisfaction with the service provided and that this method enables better communication between them. Most assessments and local authority care plans are challenged appropriately by children's guardians to promote better outcomes for the child. In most private law cases seen, there was evidence of a clear statutory welfare need. Almost all children and young people who responded to the Ofsted survey report that Cafcass advocates effectively on their behalf.

However the absence of explicit criteria or the use of a validated assessment framework can lead to a lack of transparency about the process and the outcomes of assessment in many cases. While good tools are available for practitioners to use in direct work with children, these are not yet routinely used in this service area, resulting in inconsistencies in the service received by children and young people. Some private law practice is based on an overly-dogmatic view of the benefits of contact which can detract from a clear focus on hearing, responding and enabling children to express their individual wishes and feelings. This can lead in some cases to unnecessarily protracted assessments and proceedings, including some inappropriate pressure on children despite their clearly expressed views.

Reporting and recommendations to the court

Grade 3

Reporting and recommendations to the court are satisfactory.

The majority of reports read are satisfactory or better and are written in the format required by Cafcass. Inspectors saw two examples of outstanding reports. In the main, recommendations link satisfactorily to the evidence provided and most reports set out the options available to the court appropriately. The minority of reports, which are inadequate, are poorly presented, lack rigour and analysis or are speculative or overly-subjective. Others fail to appraise the local authority's care plan effectively or raise concerns and issues without clarifying or addressing these.

Most children and young people surveyed for this inspection felt that their views were accurately reported to the court.

There is insufficient dialogue with children and family members about the report and the recommendations made. Nationally, the highest proportion of review and addendum reports are produced within the London service area and this practice can result in delay in meeting the needs of children and families.

Complaints

Grade 4

Complaints handling is inadequate.

The service area is slow to respond to complaints with only 40 per cent of responses completed within the required national timescale. Quality assurance of complaints responses is insufficient and results in an unacceptable variation in the quality of response letters. The service area does not have a robust system for the secure retention of complaint records and nearly one third of complaints files could not be located at the time of the inspection.

Some analysis of complaints is carried out but this is not systematic and only a few learning points from complaints are disseminated to staff in the area. The service area recognises this as a weakness and plans to conduct a full audit of complaints.

Only one third of the service users who responded to the Ofsted survey said they knew how to make a complaint about the service they received from Cafcass. However, whenever a child or young person wishes to make a complaint an advocate is offered.

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 feature consistently in the work with children and young people. In some cases seen by inspectors, family court advisers demonstrated an appropriate understanding of the health and emotional needs of children and young people, but the impact of family breakdown on educational attainment and the effect of separation on economic well-being are not addressed sufficiently.

The service area does not routinely incorporate all of the Every Child Matters outcomes into assessments. In too many cases, the outcomes are considered retrospectively and therefore do not inform reports or recommendations.

Cafcass Greater London service area provides services to children and families in the following local authority areas

Barking and Dagenham, Barnet, Bexley, Brent, Bromley, Camden, City of London, Croydon, Ealing, Enfield, Greenwich, Hackney, Hammersmith and Fulham, Haringey, Harrow, Havering, Hillingdon, Hounslow, Islington, Kensington and Chelsea, Kingston upon Thames, Lambeth, Lewisham, Merton, Newham, Redbridge, Richmond upon Thames, Southwark, Sutton, Tower Hamlets, Waltham Forest, Wandsworth, Westminster.

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

¹ www.opsi.gov.uk/acts/acts1989/Ukpga_19890041_en_1.htm.

² See footnote 1.

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 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.

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.

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

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

⁴ www.opsi.gov.uk/acts/acts2002/ukpga_20020038_en_1.

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.