

# Ofsted's inspection of Cafcass: Birmingham and the Black Country service area

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Birmingham and the Black Country service area provides services to children and families in Birmingham, Solihull, Sandwell, Dudley, Wolverhampton and Walsall.

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## Introduction

Ofsted carried out the inspection of service provision by the Children and Family Court Advisory and Support Service (Cafcass) in the Birmingham and the Black Country service area in the week commencing 12 January 2009.

In April 2008 Cafcass introduced a new structure to deliver better services to children and families involved in public and private law proceedings in the family court. This is the second 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 is accountable to the sector's Operations Director. The operations directors are directly accountable to the Cafcass Chief Executive.

The Birmingham and the Black Country service area is also called Central 5 (C5). It provides services to children and families across the local authority areas of Birmingham, Solihull, Sandwell, Dudley, Wolverhampton and Walsall. The Operations Director Central had been in post for two months and the Head of Service for 11 months prior to the inspection fieldwork.

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 Birmingham, Walsall and Wolverhampton. Six operational service managers, two of whom are interim agency managers, manage service delivery supported by two specialist managers for quality improvement, customer service and staff development.

During the fieldwork, inspectors examined an extensive range of documentation and held meetings with stakeholders, the judiciary, local authorities and with interest groups such as Women's Aid and Families Need Fathers. Interviews were held with members of staff, including the Cafcass Chief Executive, Operations Director Central, Head of Service, lead manager for quality improvement, 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. Ofsted surveyed the views of Cafcass staff, adult service users, children and young people. Inspectors 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 conducted telephone interviews with adult service users.

## Overall effectiveness

### Grade 4

The overall effectiveness of the service provided is inadequate.

Crucially, some key services are not currently delivered to minimum standards. Performance is weak in meeting some statutory functions. Examples include inconsistency in the quality of assessment, case planning, recording and some court reporting, and unacceptable delays in providing a timely service to some children and young people. In public law, this delay poses risks or actual failure in ensuring appropriate advocacy for children. Although the area has failed to ensure a timely delivery of some services, managers have taken a proactive approach to ensuring that waiting lists are safely managed. The very recent work done at national level with senior judiciary to introduce new ways of working has the potential to support local managers to further address delays.

While service provision overall needs to improve, arrangements to safeguard the children and young people are adequate. National priorities are clearly reflected within planning in the service area. The newly appointed senior manager with overall operational responsibility in the central sector has quickly and accurately identified the area's key strengths, weaknesses and challenges. The key challenges in improving practice across the organisation's responsibilities, particularly with regard to inconsistent quality of risk assessments for children in families who have experienced domestic violence, have been identified and prioritised well.

Local leadership has secured sufficient resources and is ensuring better service delivery and greater accountability through more rigorous performance management across the whole workforce. However, the amount of change that needs to be achieved has been underestimated. The new national Quality for Children system (see page 8) provides helpful tools to assist managers to manage their staff effectively so that they benefit from support and unambiguous messages about the implications of unsatisfactory performance. In Birmingham and the Black Country, Cafcass has adopted this system well, but it has yet to have an impact on improving all aspects of the service provision. Managers are not supported sufficiently in this task by appropriate information systems. The quality of data input and system reports lack sufficient rigour to ensure that managers are planning using accurate service data.

Consultation with both adult service users and children and young people is under-developed, with no demonstrable evidence of their contributions to service design or development.

The service area has some way to go to ensure that it can demonstrate a positive impact to improving outcomes for children and young people across the five Every Child Matters outcome areas. For example, in ensuring that the impact of family

breakdown on children's well-being is adequately addressed; and that where ongoing concerns about shortfalls in provision to support children in need are identified by Cafcass, they are notified appropriately to the Local Safeguarding Children Board.

## Capacity for improvement

### Grade 3

Capacity for improvement is satisfactory.

The area has demonstrated a satisfactory ability to self-assess its strengths and weaknesses and to establish the appropriate priorities to secure continuous improvement. Senior leadership is rightly focused on ensuring that the skills of the local leadership team are developed to sustain and strengthen the improving direction of travel. The strength and quality of local planning has ensured there are sufficient resources available to deliver a satisfactory service, but there is still work to do to achieve this and to provide consistent value for money.

There has been a very recent trend in improvement, for example improved performance in risk assessment and a stronger focus on the quality of practice. However, it is too early to demonstrate the impact of this positive management action on outcomes for children and young people. That said, there are positive indicators that the Quality for Children system is demonstrating potential to deliver sustained improvement through, for example, strengthened action plans for improving individual staff practice. In addition, the effectiveness of workforce planning is satisfactory and knowledge learning and development are good.

The area is not strong in service user engagement, particularly in involving children and young people in service design, but there are some good individual examples of engaging them in casework.

Although many aspects of current delivery in Birmingham and the Black Country are inadequate, the key building blocks for achieving change are in place. The recent record of progress is a good indicator of capacity to deliver further improvement.

## Areas for improvement

In order to improve the quality of provision and services for children and young people in Birmingham and the Black Country the service area should take the following action.

### Immediately

- Ensure that work required by statutory duty is prioritised.
- Ensure risk assessments are more robust and that priority is given to cases involving domestic violence.

## Within three months

- Eradicate the backlog in private and public law cases.
- Ensure that a sustainable strategy is in place to deliver services in a timely fashion in the long term.
- Ensure that the performance management system is implemented consistently across the service and is well supported by robust and accurate data.

## Within six months

- Secure meaningful participation by children, young people and families in improving services.
- Ensure that the impact of family disruption on all aspects of the Every Child Matters outcomes for children is considered fully in assessments and reports.

## Meeting the needs of service users

### Leadership, management and planning

#### Grade 3

Leadership and management are satisfactory.

There is good evidence that the five key priorities set by Cafcass nationally to improve service delivery are being applied locally by managers. These are starting to have a positive impact. Although only recently in post, the senior manager for the central sector has a firm grasp of the area's strengths and weaknesses and has identified appropriate strategic priorities. These include urgent action to tackle delay and improve practice in cases involving domestic violence. Appropriate plans are also in place to increase the pace of change and the effectiveness of staff through coaching and active performance management by the leadership team. Although local managers have identified well the priority areas for improving practice knowledge and delivery, the extent and rate of change required to achieve consistent quality had been underestimated.

Senior managers have secured increased resources to sustain effective screening of new work; ensure risk assessment of waiting lists; improve practice in key areas; and meet ambitious targets to eradicate the backlog in service delivery. These are recent developments which have started to have a positive impact, but have yet to demonstrate a sustained improvement over time.

Local managers have set a clear vision for practice improvement. This includes good lines of accountability and a better emphasis on the consistency and quality of service provision. Managers have ensured a good level of support for staff to improve their practice. However, the emphasis on support is overstated and

insufficient attention has been given to providing clear management direction to ensure better compliance and more consistent practice.

## **Performance management and workforce development**

### **Grade 3**

Performance management and workforce development are satisfactory overall.

Cafcass nationally has introduced a good performance management system called Quality for Children. This has yet to be implemented consistently, but there is early indication that it has led to some demonstrable improvements over a very short time. These improvements have been achieved through the introduction of individual action plans for practitioners. Where necessary, practice improvement notices have been implemented and supported by effective human resources processes to ensure compliance with the objectives set.

The implementation of these systems is having a positive impact on how performance is managed in Cafcass. This marks a significant change and improvement in the organisation's approach to workforce compliance, quality of practice and ultimately to outcomes for children and young people. While managers are very well supported by human resources to address staff performance, the link between failure to meet improvement targets and possible future action is not sufficiently clear. For example, practice notices have not spelled out sufficiently clearly that repeated failures to meet targets will result in more formal capability processes.

Staff whose work was found to be inadequate have attended appropriate training courses and most have an individual action plan to specify their development and training needs. The Head of Service (Quality Improvement) is leading the work to provide intensive one-to-one coaching for staff with the greatest learning needs, but this has yet to be implemented.

Knowledge, learning and development opportunities are well planned and well regarded by staff. There is evidence of some imaginative and positive use of individual learning accounts.

The service area meets a number of the set performance targets, but there is a wide variation of performance between teams. The central management system is limited in its ability to collect and process performance data and the quality of some data input is unreliable. This impedes the effectiveness of service planning.

## **User engagement**

### **Grade 4**

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



There is a clear commitment in the service area business plan to improve the participation of children and their families through a range of methods, including focus groups for children and young people and adult service users, active use of feedback from practice observations and the use of data and information collected at local level. However, inspectors saw little evidence that these plans have been implemented or that users' views had influenced service development. Suggestion and comment boxes were seen in every office visited but there were no signs that these were used regularly by service users. Discussions with children and parents about the circumstances of their individual cases are evidenced on files, but it is not clear if, or how, the content of such discussions is collated or used. During 2008 the area received 70 responses, including 26 from local children and young people, to HearNow, the national process for receiving user feedback on service provision. Again, no evidence was produced to show how the content of these responses had influenced service design, development or practice.

Nonetheless, young people are regularly involved in the recruitment and selection of staff who will be working directly or indirectly with children. This is good practice, enhancing the skills of the young people as well as informing appointments.

## **Partnerships**

### **Grade 3**

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

Cafcass has a satisfactory system for ensuring there are suitable and named staff with links to commissioned services, the police, the Local Safeguarding Children Boards and other key partners. There are effective, regular opportunities for dialogue with local authorities to discuss issues of key interest. Inspectors saw examples of good collaboration with local authorities, such as appropriate information sharing to ensure that respective professional responsibilities are clear.

Communication between Cafcass and the local family judiciary is satisfactory. However, the issue of delay in delivering a timely service in some cases is an area of great concern for the judiciary. Although satisfactory arrangements are in place to ensure the quality of commissioned services, effective links with some local community groups are insufficiently developed.

Where Cafcass have concerns about services provided by other agencies to promote the welfare of vulnerable children they are not systematically brought to the attention of Local Safeguarding Children Boards. These would include issues such as thresholds for local authority 'children in need' services and access to child and adolescent mental health services.

## Value for money

### Grade 4

Value for money is inadequate overall.

Providing value for money is an appropriate focus of several initiatives, such as the recruitment of family support workers, the emphasis on shorter reports, and reductions in the use of self-employed staff who incur higher costs. However, the service is not able to demonstrate the effectiveness of some initiatives in delivering improved value for money. The service has not used unit cost data to inform planning or to inform its management of the inequalities in service responsiveness between Birmingham and the Black Country.

The area's work with children and families demonstrates several examples of inefficiency, for example some children's guardians repeating rather than assessing the work of a local authority and a number of overly long court reports.

The service area is also investing in new ways of working with families, such as a parenting programme. However, it is not clear how this will achieve value for money. The cost of these new services has not been effectively weighed against the failure to deliver a timely service in the area's core business.

## Equality and diversity

### Grade 3

Work to promote equality and diversity is satisfactory.

The service has invested in and promoted equality and diversity issues through a good range of initiatives, such as mandatory training courses, a resource pack developed by family support workers and a 'cultural competence' conference. Staff are enthusiastic about these initiatives and committed to improving performance in this area. However, their impact on outcomes for children or on the quality of practice has yet to be demonstrated. Although the ethnicity of service users is nearly always recorded, the needs of children related to ethnicity are not always demonstrably assessed.

The service user survey shows that the majority of users feel they are treated with respect. This is mirrored in good arrangements for storing information. All offices have safe and secure arrangements for the filing of sensitive information and assuring the confidentiality of work with service users.

The service monitors the ethnicity of the children and families who use its services but, nevertheless, falls slightly short of meeting its 95% target for service user diversity monitoring.

Although equality impact training has been offered to all service managers, the absence of an equality impact assessment for the area is a major weakness, leaving staff unable to be sure whether service users from different groups are receiving a service that is fair, equitable and sensitive to their individual needs.

Forty per cent of the population of the area are from different Asian ethnic groups. The profile of the staff group does not yet sufficiently reflect that of the local communities, but good efforts are being made, with some success, to recruit more staff from minority ethnic groups. The Head of Service has been particularly effective in forging links with local communities with a view to improving relationships, communication and service delivery.

## **Safeguarding**

### **Grade 3**

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

Safeguarding is a priority within the area and arrangements for identifying and responding to risks of harm to children are adequate overall. Practice demonstrates a satisfactory emphasis on the child as the primary focus of the work. Inspectors found examples of good practice in this regard in both private and public law.

Staff have good access to a clear national policy and guidance on responding to domestic violence and some effective tools for assessing risks. However, in a small minority of cases, the risk of future harm had not been fully assessed and the impact of domestic violence on children's emotional well-being had not been considered in sufficient depth.

The business plan for the service area reflects those Cafcass policies and procedures that require a rigorous focus on safeguarding children. This is evident in recruitment and selection processes where a strong and clear emphasis on safeguarding has resulted in safe recruitment systems, including very good compliance with requirements for Criminal Records Bureau checks. Procedures for dealing with allegations against staff and for tackling poor or dangerous practice are embedded in safeguarding policy. Training provided on safeguarding, including domestic violence, is highly regarded by staff and take-up of this training is monitored effectively.

Sound systems are in place for risk-assessing cases awaiting allocation. Appropriate and timely checks are conducted in all cases to check what information is held by other key agencies. Practice in undertaking risk assessments on open cases is improving but some cases scrutinised lacked a fully completed risk assessment. However, when concerns about significant harm or immediate risk to children are identified, these are referred appropriately and promptly to local authority children's services. Despite this, inspectors found a lack of clarity about the duty placed upon Cafcass by s120 of the Adoption and Children Act. In particular, there is uncertainty

among staff about whether and when historic incidents of domestic violence should be notified or referred to the local authority for investigation.

The service makes a satisfactory contribution to the work of Local Safeguarding Children Boards, although attendance is not consistent. Its contribution to the work of the serious case review panel is good. Individual management reviews completed for serious case reviews have been evaluated by Ofsted as good or better and there is timely dissemination of lessons learned to inform future practice.

## Quality of provision

### Service responsiveness

#### Grade 4

Service responsiveness is inadequate overall.

Failure to allocate work in a timely way is resulting in delays for children and young people in both public and private law. This is of particular concern in the Black Country where the allocation of private law cases results in unacceptable waiting times of up to 20 weeks.

Service users report increased anxiety for themselves and their children as a result of such delays. Once allocated, cases are progressed in a timely way and families receive good information about the services provided. Delays in the allocation of a guardian ad litem in some rule 9.5 cases have led courts to appoint solicitors who then appoint independent social workers to carry out Cafcass's statutory duties.

Failure to fill vacancies and internal administrative difficulties have contributed to current delays, but recruitment processes have recently been overhauled to address this problem. However, Cafcass continues in some cases to undertake work which is unnecessary, reducing the effective deployment of staff and thereby contributing to continued delay.

Cases that have not been allocated are on a waiting list, which is generally well managed and risk-assessed. Cafcass has recently introduced letters to service users informing them that it has received a court request to undertake work. While this is a helpful step, it is unsatisfactory that these letters do not give an estimated time of when the work will be started, leaving service users unclear as to when they are likely to be seen.

Cafcass has a local strategy to tackle delay. This includes using additional resources, more efficient use of existing resources and improved partnership working. This has been agreed by Cafcass's national office and the judiciary.

## **Case planning and recording**

### **Grade 4**

Case planning and recording is inadequate.

A file audit undertaken in August 2008 within the service found that one third of case plans and records were inadequate. Despite a good range of specific measures established to reduce these deficiencies, there is limited evidence of improvement in the quality of case planning and recording.

Cafcass expects practitioners to use case plans to demonstrate purposeful and effective work with families. However, plans seen on files often comprised only a list of tasks to be completed, rather than an analysis of information leading to key objectives and desired outcomes for the child or young person. In the few cases where case planning was satisfactory or better, the case plan was comprehensive and timely and interviews or interventions were planned carefully, recorded and evaluated.

The format, content and quality of case recording are inconsistent and too often poor, with handwritten and illegible day-to-day contact sheets. Staff and managers acknowledged that work done by family court advisers is not always recorded on the file. This is unacceptable practice. Inspectors found insufficient evidence of service managers consistently reading files, discussing the content with the author and signing off case documentation.

## **Assessment, intervention and direct work with children**

### **Grade 4**

Assessment, intervention and direct work with children are inadequate.

Although there are plans to develop a national assessment framework for Cafcass, this is not yet in place. Too many cases lack a clear and comprehensive assessment and there is too much reliance on reported speech and practitioner opinion, rather than an analysis of factors that affect the welfare of children and young people, such as the impact of historic domestic violence or parents' problem-solving abilities.

Evidence from files demonstrated that many assessments are articulated only in court reports, rather than in case recording or assessment documents, resulting in a failure to provide a clear evidence trail to support judgements and recommendations.

The variation in the quality of direct work with children and young people is unacceptable. Inspectors found examples of both excellent and inadequate practice. In particular, the quality of communication with children is too variable. Staff have access to good guidance, including age-appropriate techniques for direct work. However, this has yet to impact consistently in practice.

Within public law, children's guardians do not always make a clear distinction between their role and that of the local authority social worker. This results in a failure to provide an appropriate and independent critique of local authority assessments and plans.

## **Reporting and recommendations to the court**

### **Grade 4**

Reports and recommendations to the court are inadequate.

The majority of reports examined in both public and private law were evaluated as inadequate. Inspectors agree with the views expressed by the judiciary that private law reports are often formulaic, overly concerned with the narrative course of events and lack evaluation. New report formats, recently introduced by Cafcass in response to the Public Law Outline, require practitioners to report more briefly. One unintended outcome of this shift in practice has been a move away from reporting on all aspects of the welfare checklist. This has resulted in significant areas of the checklist not being covered, for example in some reports a failure to report on children's wishes, feelings and needs, all of which are important factors for the court to consider. A few reports showed a lack of even-handedness to both parents.

In making recommendations reports did not always make use of case law, appropriately address the no order principle, fully consider the options available to the court or make clear recommendations. In some public law reports there was insufficient evaluation of the local authority's care plan for the child. Inspectors saw some reports which were inadequate because they were difficult to understand, demonstrated a poor choice of language or spelling, were idiosyncratic in style and format or mainly contained repetition of material already available to the court.

Nonetheless, some good reports were also seen. Where reports were good they made appropriate use of research, gave evidenced accounts of children's wishes and feelings, clearly linked evidence to recommendations and used assessment evidence to advise the court appropriately. There were examples of concise, focused reports helpfully analysing the work of local authorities and demonstrating where practitioners had discussed their recommendations with families prior to filing the report. Where reports were adequate or better, the judiciary valued the information and service provided to the court.

## **Complaints**

### **Grade 3**

Complaints handling is satisfactory.

Very few complaints or compliments are received by the service and most of the complaints files inspected were adequate in their timescale and compliance with the Cafcass policy. The few that were inadequate included examples of poor

administration, loss of important documents and inconsistency in the quality and clarity of responses to complainants. Inspectors found that the language used in a letter to a young complainant was over-complicated and lacked clarity.

The service is collating and disseminating appropriately what has been learned from complaints, including a good example of how complaints handling in this area influenced practice improvement nationally.

## **Outcomes for children and young people**

### **Grade 4**

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

There is insufficient focus on all of the five Every Child Matters outcomes. Although attention is given to some areas of need, particularly 'staying safe', there is too little explicit reference to outcomes for children across front-line practice and this deficit is not considered sufficiently through quality assurance processes.

Inspectors found a lack of an explicit focus on assessing and reporting on the impact of family breakdown or parental disputes on children's emotional well-being, and only limited attention given to other aspects of their health. Few reports reflect an assessment of the impact of family circumstances on children's education, their friendships or leisure activities. Very few reports or assessments evaluate the impact of family breakdown on economic well-being, including changes in where the child lives, standards in the home or the risk and impact of financial hardship on children.

However, the contribution to helping children stay safe is satisfactory overall; as is the focus on ascertaining children's wishes and feelings.

## 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.<sup>1</sup>

### 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'. 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'.<sup>2</sup>

### 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.

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<sup>1</sup> C Prest and S Wildblood, *Children law: an interdisciplinary handbook*, Jordans, 2005.

<sup>2</sup> See footnote 1.



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.

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 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.

## **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)'.