

# Ofsted's inspection of Cafcass: Durham and the Tees Valley service area

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Durham and the Tees Valley service area provide services to children and families in Durham, Middlesbrough, Stockton on Tees, Hartlepool, Darlington, Redcar and Cleveland.

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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 Durham and the Tees Valley service area in the week commencing 23 February 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 third inspection of Cafcass since that restructure. These three inspections are piloting a new methodology which will be reviewed before the 2009–10 inspection programme for Cafcass is finalised.

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 Durham and the Tees Valley service area is also called North of England 2 (N2). It provides services to children and families across the local authority areas of Durham, Middlesbrough, Stockton on Tees, Hartlepool, Darlington, Redcar and Cleveland. The Operational Director (North) has been in post since February 2008 and the Head of Service has been in place since September 2008, but had been the senior manager for N1 and the adjoining service area since April 2007.

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 Durham and Middlesbrough (covering the Tees Valley). Four operational service managers manage service delivery, supported by two specialist managers, one for quality improvement (who is yet to take up post) and the other for 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 such as Women's Aid and Families Need Fathers. Interviews were held with members of staff, including the Cafcass Chief Executive, the senior manager leading on the private law change programme, the Operational Director (North), the Head of Service for N2, the Head of Service (North of England) for quality improvement, the Children's Rights Director, 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 conducted telephone interviews with adult service users.

## Overall effectiveness

### Grade 4

Overall effectiveness in the Durham and the Tees Valley service area is inadequate. Despite some emerging strengths, the effectiveness of this service area is limited by inadequacies in its arrangements for safeguarding children. A number of serious safeguarding issues were identified during the inspection. While none indicated that a child was at immediate risk of significant harm, these examples of failure to follow Cafcass safeguarding policy contributed significantly to the inspectors' overall judgement.

Despite this, some aspects of the area's service delivery and performance against targets are strong. The area is meeting most of its key performance indicators and exceeding some. Service responsiveness is good, with timely support provided to most children and their families. Leadership, management and the area's direct work with children are satisfactory overall and the service delivers satisfactory value for money.

However, in cases where safeguarding procedures are not followed appropriately, the effective use of public funds is not demonstrated. While direct work with children and young people is satisfactory, there is insufficient local activity for consulting with local children, young people or adult service users. The service area is not yet able to demonstrate consistent effectiveness in improving Every Child Matters outcomes for children and young people. The service area also has weaknesses in some other areas, such as assessment practice and complaints handling.

The service area has still to ensure an equitable sharing of supervisory responsibility across its management team. This will be necessary to achieve the many positive aspects of its business plan, including improving practice and more effective representation on all local safeguarding children boards. Some managers are not yet able to identify or address consistently deficits in the quality of work with children and families. Currently there has been an underestimation of how far the workforce needs to improve to achieve consistency in the quality of practice.

## Capacity for improvement

### Grade 3

Capacity to improve is satisfactory as, despite the area's identified weaknesses, the positive impact of improvement activity is evidenced in a number of areas. The service area has demonstrated an ability and motivation to achieve change and it has appropriate plans to achieve this.

The service area has embraced the positive opportunities that the Quality for Children system has to deliver improvement. This has laid a solid foundation, and the service area now consistently collects performance information about the quality of

practice. The evidence base to address quality and performance of staff is improving steadily.

The strengths in the service area include effective senior leadership and planning which has demonstrated a track record of improvement, especially in effectively tackling delay. This is a notable achievement, as the service area has now moved from being one of the worst to the best performer in terms of reducing waiting lists across Cafcass. Also improved are aspects of workforce planning, particularly succession planning, ensuring a focus on practice improvement and sustained progress towards achieving organisational and cultural change.

Key challenges for the service area remain, but these are acknowledged and understood. Leaders' and managers' priorities are appropriately focused on ensuring that quality assurance is increasingly effective and that particular regard is paid to consistency of compliance with safeguarding policy and practice. The service area is also gathering evidence of improvements in outcomes for children and young people and ensuring children, young people and families have more opportunities to influence service delivery and improving complaints handling.

## Areas for improvement

In order to improve the quality of provision and services for children and young people in Durham and the Tees Valley, the service area should take the following action.

### Immediately

- Ensure children and young people are safeguarded through consistent compliance with the Cafcass safeguarding policy in all cases.
- Ensure that the quality assurance work of managers is consistent through effective moderation of accurate judgements.
- Fulfil the statutory duty to cooperate in all local safeguarding children boards.

### Within three months

- Ensure that the responsibilities of service managers for supervising staff are equitably balanced.
- Ensure that the management and handling of complaints is consistent with the Cafcass complaints policy.
- Ensure that the impact of family disruption on all aspects of the Every Child Matters outcomes for children is considered fully when planning assessments and reports.

## **Within six months**

- Secure meaningful participation by children, young people and families in improving services.

## **Meeting the needs of service users**

### **Leadership, management and planning**

#### **Grade 3**

Leadership management and planning are satisfactory overall.

The head of service provides clear leadership to the management team. There is an acknowledgement and awareness of the strengths and weaknesses within the frontline manager group. Similarly, the head of service has an understanding of the challenges to improve frontline practice, in particular the weaknesses in safeguarding, and demonstrates clear commitment to remedy deficits.

The service area business plan and risk register are securely in place, reflecting appropriately the priorities set by Cafcass national office. These are quality of practice and service delivery; performance management; resource management; leadership; and professional behaviour. Managers have given appropriate priority to changing staff attitudes and tackling delay. The effectiveness of leadership is demonstrated through, for example, turning the performance on waiting lists from one of the poorest in the country to one of the best. This was also achieved at a minimal cost.

Senior managers acknowledge that there is still some resistance to proposed improvements and demonstrate good leadership through managing the change process effectively and ensuring compliance in the workforce. They recognise that improvements made to the culture of accountability need to be sustained to deliver better quality services to children and families. This means moving practice away from a high dependence on individual autonomy, where the type and quality of service is determined by individual practitioners, towards corporate responsibility for service provision, where the type and quality of service is determined by national policy and assured through performance management at local level.

Service managers do not supervise equal numbers of people, but plans are already in place to remedy this.

### **Performance management and workforce development**

#### **Grade 4**

While there are strengths in performance management and workforce development, the weakness in quality assurance leads to an inadequate judgement overall.

While management information systems are good, enabling accurate and timely performance monitoring on a team by team basis, individual appraisal is not given sufficient priority. The quality assurance processes are in place, particularly the Quality for Children performance management system, which managers are using to gather data about staff performance. However, the application of quality assurance is not consistent or fully embedded. Where the service area has undertaken audits, the evaluation of the extent of change needed is more generous than that supported by the evidence from this inspection. In audit, front-line managers are able to identify the strengths and weaknesses of staff in teams that they do not line manage, but they are less likely to assess accurately and challenge deficits in their own teams.

The service area has been too slow to use formal procedures where poor practice has been identified. For example, no practice improvement notices were issued prior to inspection and this level of remedial action has only taken place very recently.

Achievement against most performance indicators is good, with some exceeding targets. Workforce planning is satisfactory. However, managers do not consistently identify where further practice improvement is necessary. Key performance management processes, such as appraisal and supervision, are not sufficiently secure and managers' knowledge of the quality of practice in their own teams is variable.

Workforce plans are in place, including succession planning. Recruitment is timely and recently appointed staff bring particularly valuable new skills and experience in safeguarding and child protection to the organisation. The focus of management development has been identified appropriately and is directed at practice development, appraisal and performance management, management and leadership, recruitment, and equality and diversity training.

Unusually, for Cafcass, the staff profile in this service area is White British at all levels, although the demographic profile of this area is also predominantly White British. While the workforce plan identifies the need to develop a more diverse workforce, this action has not been given priority attention. The staff profile in terms of race and gender imbalance has not changed in the seven years since the last inspection of the former Cafcass North East region.

## **User engagement**

### **Grade 4**

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

There are a number of good initiatives by Cafcass nationally to improve the impact of service user views on service design and delivery. In response to these, the service area is committed to improving user engagement locally and there have been a number of useful events and activities recently to gather their views. These include a focus group of young people and inspections of office facilities by a group of young



inspectors. However, these initiatives are very new, so it is too early for them to have had an impact on how services are delivered. At the time of the inspection Cafcass could not demonstrate that service users had yet made a difference to service provision or design.

## **Partnerships**

### **Grade 3**

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

The service area does not contribute consistently to meetings with key stakeholders such as the judiciary, local authority managers and local safeguarding children boards.

However, where the service area has prioritised its attention to interagency work, partners have responded positively and there is evidence that liaison has been highly effective. For example, proactive work with the police has improved the timely provision of important safeguarding information to promote better-informed risk assessment. Similarly, the service area has been instrumental in developing local interagency boards. These focus on improving service delivery and better understanding, such as agreeing joint guidance on working practices with local authorities.

Opportunities have been taken to further improve partnership work through effective joint training arrangements with stakeholders. This has, for example, promoted a common understanding between staff from different agencies in the implementation of the Public Law Outline and Common Assessment Framework.

Monitoring arrangements by the service area for commissioned services meet the requirements of the Cafcass policy. This has led appropriately to a recent review of partnership working, which resulted in the revision of some contracts and decommissioning of some services.

## **Value for money**

### **Grade 3**

Value for money is satisfactory, with some positive features.

In most aspects, local resource allocation suitably reflects national and local priorities. There is efficient and effective delivery of most Cafcass statutory responsibilities. However, in cases where safeguarding procedures are not followed appropriately, the effective use of public funds is not sufficiently demonstrated.

Commendably, unit costs of service provision in the service area are the lowest in Cafcass. The service area keeps within its budgets, including a recent underspend which was used to assist the Northern sector overall. Financial systems are sound.

Overall, there is evidence of effective action taken in the service area to improve efficiency and create opportunities to make further improvements. For example, despite the recent small increase in delay in allocating some private law cases, the service area has eliminated waiting lists at virtually no cost. Similarly, the service area uses family support workers efficiently to improve the deployment of family court adviser resources, which demonstrates improved value for money.

While inspectors saw some examples of inefficiencies in private law work, this was not the case in public law. The better use of early intervention work demonstrates good use of resources. For example, it has appreciably reduced the number of private law applications that lead to the more lengthy work of a full welfare report.

## **Equality and diversity**

### **Grade 3**

Work to promote equality and diversity is satisfactory.

The quality of the work to meet the diverse identity needs of children and families is variable. While inspectors saw examples of very good work with children and adults with special needs, there were other examples where the impact of disability was not understood fully or assessed adequately. However, overall, equality and diversity issues are worked with satisfactorily in most work with families and in reporting to court.

Performance in monitoring the diversity of service users has improved significantly in the last six months and the performance indicator is broadly met.

The workforce profile has identified weaknesses in terms of race and gender imbalance. While some staff have undertaken equality impact assessment training and there are plans to conduct an assessment for the area, the current absence of any equality impact assessment is a weakness.

Accommodation for service users is comfortable and well equipped overall. The confidentiality of service user information is maintained. Cafcass staff consistently treat service users with dignity and respect and provide a service which is sensitive to people's needs in terms of gender, race and disability.

## **Safeguarding**

### **Grade 4**

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

A number of serious safeguarding concerns were identified by inspectors. In five cases where risks had been identified, or alleged, including domestic violence, these were not responded to appropriately by practitioners or their managers. While none indicated that a child was at immediate risk of significant harm, there was sufficient concern for Ofsted to refer these cases to the Head of Service, requesting an urgent review. These examples of failure to follow Cafcass safeguarding policy and procedure contribute significantly to the judgement that safeguarding in this service area is inadequate overall.

Although domestic violence was not addressed appropriately in some cases, inspectors did observe some good practice in handling domestic violence issues. Those examples of improved practice support the positive views reported by some key stakeholders during inspection.

File reading by inspectors indicated variable and inconsistent practice in regard to risk assessment. Some standard risk assessment forms were comprehensive and were used as a working tool, but some were not completed at all, while others were not completed to a satisfactory standard or were not completed until after the case had been closed. These findings are supported by the Cafcass Northern sector's own audit of risk assessments in private law cases, conducted in September 2008. It audited the work of a sample of 13 practitioners in the N2 service area and concluded that 65% of the work of these practitioners was inadequate. Since the audit, managers have taken appropriate steps to ensure identification of the practitioners whose practice was inadequate and to re-evaluate a number of files.

Safe recruitment processes are good; they comply with recognised standards, are managed well and carried out by suitably qualified staff. Criminal Record Bureau checks are up to date.

The eradication of waiting lists ensures that Cafcass's work with children and young people is started swiftly. This provides the opportunity for an early examination of safeguarding matters to promote children's welfare. The recent introduction of a duty system is a positive development in screening safeguarding issues, but it is too early to determine its impact.

Staff are aware that managers have identified safeguarding as their primary duty. They also recognise the implications of this on their practice, such as the requirement to complete safeguarding checks in a timely way, undertake risk assessments and, where necessary, refer safeguarding concerns to the local authority. Most staff attended a conference in March 2008, which emphasised the prime importance of the safeguarding role.

Senior managers have taken appropriate action to ensure that all staff receive risk assessment training in the next few months.

Although assessments in private law cases commence prior to the receipt of police checks, appropriate action has been taken to ensure that recommendations to the court are not made until they have been received. Managers have liaised effectively

with the judiciary on this issue to ensure that essential safeguarding steps are in place prior to decisions about children's residence and contact arrangements.

While the service area cites insufficient capacity at management level as a reason for inconsistent attendance at local safeguarding children boards, it is inadequate that the service area fails to fulfil its statutory duty to cooperate with them.

## **Quality of provision**

### **Service responsiveness**

#### **Grade 2**

Service responsiveness is good overall.

Senior managers have taken very effective steps to tackle previously high levels of delay in service provision. This was achieved at low cost, which is commendable. Although there is a recent waiting list developing in private law cases, the service area is achieving consistently better performance than the national average across all measures for service responsiveness. On current reported data the service area is exceeding targets for performance. Effective steps have been taken to ensure that management information about delay is accurate. Attention to tackling delay is given an appropriately high profile in both the business plan and national corporate programme, appropriately reflecting one of the key priorities set for Cafcass by government.

### **Case planning and recording**

#### **Grade 3**

Case planning and recording are satisfactory overall.

Case recording in files examined during the inspection was satisfactory or better in the large majority of cases, which is broadly in line with the findings of local audits. Direct work with children, particularly that undertaken by family support workers, is generally well evidenced in the files. However, too few files contain a clear record of the worker's evaluation and analysis of the case.

A large majority of case plans were adequate or better. Nearly all files contained a case plan. However, the service has more to do to ensure that all plans are up to the standard of the best, which have clear and specific objectives and clarify the outcomes to be achieved and how these will be reviewed. In some instances, it was not clear that plans were used as working tools or that there was demonstrable management oversight of these. As yet, there is little evidence of case planning being shared with service users.

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

### **Grade 4**

Assessment, intervention and direct work with children are inadequate overall.

There are some examples of good practice in direct work and communication with children; however, assessment practice is weak.

The national *Framework for the assessment of children in need and their families* (Department of Health, 2000) has yet to be implemented in private law across the national organisation. Senior managers have invested considerable time in promoting this model. The introduction of an agreed assessment framework is long overdue and represents a significant step forward for Cafcass private law practice once implemented.

The use of the My Needs, Wishes and Feelings template and guidance to assist staff in working with children has only recently been implemented and has yet to be used consistently by all staff.

There is too much variation in the quality of direct work with children and young people. Practice observed by inspectors revealed some examples of poor communication, as well as some positive examples in which practitioners had effectively identified the needs, wishes and feelings of children. In some cases, this had enabled an agreement to be reached prior to the court hearing.

Managers have recognised the variability in the quality of practice and have begun to take appropriate action by undertaking some direct observation of practice. It is planned that all practitioners will have had at least one interview observed by a manager by the end of March 2009, and that they will have at least two interviews observed every year.

In a survey of children and young people who use Cafcass, most agreed that the Cafcass worker had listened to them, and the majority said that they could tell their Cafcass worker anything. Despite the small sample, this is evidence of good practice.

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

### **Grade 3**

Reporting and recommendations to the court are satisfactory overall.

A large majority of reports examined during the inspection was satisfactory or better. This is broadly in line with the service area's own findings from case audits. Most of the reports judged by inspectors to be good were in section 9.5 cases or public law. However, two of the concerns identified by inspectors which are reported within the safeguarding sections, were identified through reports.

There was some evidence of a satisfactory focus on the child but this was not consistent across reports. Some reports show that good use has been made of observation of babies and young children to inform an assessment of their feelings. Nearly all reports include clear recommendations to the court. There are some examples of reports exploring the no order principle and fully addressing the options available to the court, although the service has more to do to bring all reports up to the standard of the best in this regard. However, there is little evidence that reports are shared with service users in a timely manner.

## **Complaints**

### **Grade 4**

Complaints handling is inadequate.

An audit by the service area shows that nearly half of all complaints received were not acknowledged within the required timescale. Timescales for responding to complaints are also poor. There is insufficient recording on complaints files of the actions taken to investigate the complaint and little analysis of the issues or how the final adjudication judgement was achieved. Although inspectors did see good evidence of service users being informed about the complaints process, the number of complaints from children is very low.

Despite the acknowledged weaknesses in complaints handling, the service does demonstrate that it is open and responsive to complaints. For example, managers are proactive in offering to meet with complainants, which is good practice. However, in a few instances, complainants are inappropriately advised that their complaint is a matter for the court, which reduces the opportunity for Cafcass to learn from service users' experiences. Managers rarely seek to confirm the components of the complaint, even where the complaint letter is complex. This means that the response does not always address all the issues raised.

There is some learning from complaints through dissemination of learning points and in changes to service delivery. However, there is insufficient evidence of how poor practice identified through complaints is addressed with the individual member of staff concerned.

The new complaints process which is being implemented has the potential to address many of these weaknesses.

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

### **Grade 4**

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

Unlike most other children's services organisations, the Cafcass service area has not done enough to incorporate and embed Every Child Matters outcomes into all aspects of practice.

Some files demonstrate a good awareness of emotional well-being and 'being healthy', but insufficient consideration is given to the other outcomes. Despite the greater emphasis given to 'staying safe' by senior managers, it is evident that not all staff have been following Cafcass safeguarding policy and procedures, thus failing to ensure good 'staying safe' outcomes for all children. Insufficient consideration is given to the potential effect of family disruption and change of residence on children's educational achievement, relationships and economic well-being.

Family court advisers currently analyse the impact on Every Child Matters outcomes on the closure of cases. This means that earlier opportunities to consider outcomes are missed and that some assessments do not include a consideration of outcomes. Implementation of the assessment framework would rectify this. Cafcass has yet to develop a system to aggregate the information they record on Every Child Matters outcomes to inform service planning and design.

## 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 duty to have regard to 'the matters set out in section 1(3)'. NB: Requirements in regulations and court rules are not 'statutory' in that they are not set out in a statute and are therefore secondary legislation.