

FORMAL DRAFT PROPOSAL

Cafcass Complaints Procedures

May 2008

DRAFT
FOR CONSULTATION

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Cafcass procedures for Children Act 1989 complaints
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These new draft procedures have three stages in the complaints process instead of the current four. The revised complaints policy is intended to be straightforward for children, young people and other service users, and less complex for managers to understand and work with.

Stage 1 **Problem Solving** **Local resolution**

The handling of issues in Stage 1 will usually be by the Line Manager.

Cafcass will record complaints it receives, and a complaints file will be opened in each new complaint as a matter of course¹. Complaints will be acknowledged in writing, specifying the manager responsible for providing the first stage response, and a clear and realistic timescale² for stage 1 to be concluded.

As a guide, the range of actions at stage 1 could include those listed below. This is not intended to be exhaustive. It is for the manager considering the complaint at stage 1 to decide on the appropriate action to be taken, having considered the complaint in the context of the case, the availability of information, and where possible from a mediation and conflict resolution approach.

Clarifying the complaint issues

1. Unless there are clear and recorded reasons for not doing so, the line manager will offer to meet with the child, young person or adult, making complaint³ and discuss the matter with the person complained about. This will ensure that Cafcass has a good understanding of the complaint and that the issues of complaint have all been recorded.
2. A key task is to establish with the complainant a focus on the impact that the events or incidents complained about have had on the child/ren of the proceedings. This will be Cafcass' first and primary concern in responding to any complaint, at all stages in these procedures.
3. Children and young people wishing to raise a complaint will always be offered the support of an advocate to help them to do so.

¹ Cafcass will not accept complaints that are submitted in an abusive manner or where complaints are found to be vexatious. Guidance on the assessment of vexatious ness will be provided separately from these procedures.

² See flow chart in appendix for timescales.

³ The term "child, young person and adult receiving the service" is used throughout this document, as this is the context in which complaints will be considered, with particular emphasis on the impact of our service on or to the child or young person.

Explanation

4. Providing a better understanding of Cafcass service:

Where there appears to be a lack of understanding of Cafcass' service or if it has been misunderstood by the child, young person or adult receiving the service, this should be specifically cross referenced with the range of Cafcass terms of reference including:

- National Standards
- Policy and Procedures
- Court Rules
- Cafcass' statutory functions

5. Explaining the relationship between the Courts and Cafcass in terms of how challenges should be made to disputed evidential issues.

6. Signposting other public agencies' procedures for responding to feedback and complaints where the issues raised are more concerned with service providers other than Cafcass. e.g. Courts Service, Local Authority, Law Society, Cafcass Cymru.

Management review of the case

Where the complainant is expressing concern about the quality of Cafcass work, including any report prepared for court, the line manager will review the case file and any report.

The line manager will write a management review statement either supporting the quality of the work undertaken or highlighting any weaknesses if the report or other work undertaken has not reached the standards expected by Cafcass. In the latter case Cafcass will consider corrective action.

Corrective Action

7. If, the line manager finds that Cafcass has not complied with its National Standards, its Quality Assurance procedures, or any other significant policy or procedure, then some form of action will be necessary. Cafcass will take prompt corrective action as far as it is possible to do so.

8. Corrective actions might include for example:

- An apology.
- A review of the practice in the case in relation to the practitioner concerned.
- Making amendments or corrections to any records held by Cafcass.
- A letter of correction clarification or explanation to the court/children/parties

9. Proposed corrective actions will be recorded on an action plan, which includes time frames for completion. The manager will record when corrective actions have been completed and subject to any confidentiality restrictions the child, young person or adult receiving the service will be informed in writing of both the plan and the details of the person who will ensure that the actions are undertaken.
10. Stage 1 problem solving is completed when all corrective actions have been either agreed or completed. The child, young person or adult receiving the service and staff member⁴ concerned should be informed in writing that this point has been reached.
 - The quality of line managers' responses to Stage 1 complaints will be assured by customer services managers as defined in separate guidance.

Stage 2 **Investigation**

The Stage 2 Investigation⁵ process is to be undertaken by Customer Services Manager.⁶

11. A Stage 2 Investigation will be undertaken where the child, young person or adult receiving the service requests it, and after Stage 1 has been completed⁷.
12. The remit given to the investigator will take account of the full circumstances of any complaint and the response provided within Stage 1 of these procedures. The purpose of the investigation is to decide whether or not Cafcass' policy, procedures and guidance have been followed in relation to the issues that are the subject of the complaint. This would include identifying whether an organisational or individual failing has occurred, and if so to identify the lessons and actions that need to be taken to reduce the risk of reoccurrence, whether in relation to an individual, or Cafcass as an organisation.
13. Whenever a formal investigation is instigated, an independent observer (not otherwise employed by or working for Cafcass) will be appointed to oversee the investigation and to provide assurance that such an investigation is undertaken fairly and impartially.
14. Once the Stage 2 Investigation has been completed, a Senior Manager within Cafcass will have the specified role of Adjudicating Officer.

This role will include:

⁴ For the purposes of this procedure, "staff" and "staff member" include self employed contractors.

⁵ The procedures for Formal Investigations adopted by Cafcass will accord with the DCSF guidance on complaints procedures.

⁶ *Such investigating managers will meet the DCSF guidance on independent line management.*

⁷ Unless there are clear documented reasons why doing so would be likely to place a child's welfare interests at risk or otherwise interfere with the process of a live case before the courts. Investigations cannot be used as an alternative means of resolving factual disputes that are for the court to resolve.

Judging whether the investigation report demonstrates that an adequate and robust investigation has taken place in relation to the complaint made, taking account of the external scrutiny provided by the independent person.

15. If the Senior Manager does not accept the investigation report, the Senior Manager will state what further enquiries need to be made or what other aspects of the complaint remain to be addressed.
 16. If the report is accepted, the Senior Manager will provide the formal written outcome response to the complainant, on behalf of Cafcass. This may include forming a judgment as to whether or not it is necessary to meet with the complainant in person to explain the adjudication.
 17. The final adjudication by the Senior Manager will include clear confirmation of what has or has not been upheld, and any corrective actions that can be taken with a plan to implement these actions including timescales.
- The quality of Stage 2 Investigation reports will be assured by Cafcass Head of Customer Services and Quality as defined in separate guidance.

Stage 3 **Review**

18. Members of an independent panel appointed for this purpose will undertake Reviews. Reviews will be formal panel hearings where the complainant, the investigator and the member of staff will have the opportunity and right to make representations in writing and / or in person.
19. The Review panel will consider the whole of the complaint file and the information provided by those in person, and will conclude:
 - Whether or not the panel is satisfied with the way the complaints process has been applied in this case.
20. If the panel is not satisfied, it will define any further steps that need to be undertaken to complete stages 1 and 2 of the procedures.
 - This point could be a paper exercise in advance of but not instead of any hearing process
21. Once satisfied as to how the complaints process has been applied, the Review panel will hear any representations made in person, read those made in writing, and ask any additional questions that are needed to clarify the complaint or the response to the complaint.

22. Finally it is for the Review panel to decide whether the outcome of the complaint reached at the earlier stage should stand, or be substituted with a different adjudication outcome.
 23. The outcome of any Review at Stage 3 is the final point in the Cafcass complaints procedures.
- Cafcass will adopt the timescales set down in the DCFS guidance on responding to complaints and these are set out below.

Cafcass Procedure for Children Act 1989 Complaints

Stage 1 Problem Solving – local resolution		
Do the issues raised relate to quality of work undertaken/report written?		
Yes – Management Review undertaken	No – Response sent as below	(Usually) Service Manager
Meeting offered to the complainant. Mediatory conflict resolution approach taken. Stage 1 Response sent with clarification, explanation, or corrective actions given.		
		10 Days, unless and extension is agreed

<i>Time scale to this point 2 weeks from point that complaint is first received unless extension agreed.</i>	<i>10 working days</i>
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Stage 2 Investigation		
Investigation undertaken by complaints manager, scrutinised by Independent Observer		Customer Service and Quality Manager.
Senior Manager, acting as adjudicating officer, reviews independence, quality, and detail of investigation report, reaches a finding and then writes to the complainant to confirm outcome and any corrective actions.		Senior Manager
		25 working Days, unless an extension is agreed up to 65 working Days

<i>Time scale to this point 7 weeks from receipt of complaint unless extension agreed (up to 13 weeks).</i>	<i>35 working days</i>
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Stage 3 Review – on request		
Complaint file reviewed by Review Panel and conclusion reached as to whether complaint process was applied satisfactorily.		
If yes, continue as below	If no, returned for extra work at stage 1 or 2	Review Panel
Review panel decides whether complaint outcome stands, or is substituted		
The complainant is informed of outcome		
		20 working days.

<i>Time scale to this point 11 weeks from receipt of complaint unless extension agreed up to 23 weeks.</i>	<i>55 working days</i>
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