



# FAMILY ASSISTANCE ORDER POLICY

This policy explains what family assistance orders are and how Cafcass practitioners should make use of them in their work with children and families.

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## 1. WHAT A FAMILY ASSISTANCE ORDER MEANS FOR CAF/CASS

### The Legal Framework

1.1 The legal definition <sup>1</sup> of a family assistance order is set out in s16 of the Children Act 1989, which enables a court to make an order requiring a Cafcass officer or an officer from a local authority to advise, assist (and where appropriate) befriend any person named in the order.

1.2 A family assistance order (FAO) is a voluntary order, in that the court may not make the order without the consent of everyone (other than any child) named in the order.

1.3 Following the implementation in October 2007 of section 6 of the Children and Adoption Act 2006 the requirement that the case be “exceptional” in order for a FAO to be made has been removed and the maximum duration of an order has been extended from six months to twelve months. An additional clause inserted into s16 sets out that if an FAO is made alongside a contact order a Cafcass officer may be directed to advise and assist on establishing, improving and maintaining contact. Where a FAO is made alongside a section 8 order of any kind the court can direct that the Cafcass officer must report to court on specified matters relating to the section 8 order and/or the FAO, including whether either order ought to be varied or discharged.

1.4 To ensure that a FAO is made in circumstances in which it is likely to be beneficial for the children and family, a Practice Direction has been issued to the judiciary, which is attached as an Annex to this guidance, which requires the court to consult the appropriate officer of either Cafcass or the local authority children’s services before making an FAO. This provides for the court to be advised by the appropriate officer about the potential benefits of an order and the optimum duration. It also gives the appropriate officer the opportunity to assist the court in ensuring that those adults who are to be named in the order have given informed consent to it, and makes provision for them to comment on the opinion expressed by the appropriate officer before any FAO is made.

## 2. DECIDING WHEN TO RECOMMEND A FAMILY ASSISTANCE ORDER

2.1 Cafcass practitioners should consider recommending a FAO to the court where there are identified child welfare needs which are likely to be met only with assistance from Cafcass and where the adults who would be named in the order are likely to give their informed consent to it. This guidance sets out some suggested criteria to help practitioners decide if a FAO appears appropriate. ***A family assistance order should be recommended when***

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<sup>1</sup> (Section 16 Children Act 1989, available at: [Children Act 1989 \(c.41\)](#))

***there is an identifiable and consensually agreed task concerning the child's welfare which is too difficult for a family to undertake without specialist assistance from Cafcass or a local authority.'***

When thinking through the suitability of a FAO it may be helpful to consider the following criteria:

1. Would a FAO contribute to improved safeguarding of the child/ren?  
*Has risk screening and a risk identification form been completed, linked to separate meetings with both parents (and usually the child)<sup>2</sup>? If you have concerns about child or parental vulnerability it is important to request that the court allow time for a fuller safety assessment before making an order.<sup>3</sup>*
2. Does the initial assessment indicate that the issues in dispute can be identified, narrowed and agreed by the parents and child (subject to age and understanding) and given a specific focus suitable for a FAO?
3. Does the initial assessment identify sufficient potential for parental cooperation to make a FAO appropriate?
4. In your professional judgment, are the parents/carers sufficiently able to differentiate their needs from those of their child so as to make a FAO a viable means of post-proceedings intervention?
5. Can practical outcomes be identified which are clearly beneficial for the child/ren? *For example, helping parents to work together to better understand their child's needs, and support their children to adjust to changed living arrangements; helping parents to develop suitable contact arrangements and maintaining key relationships within their extended family networks.*
6. Has the child been enabled (subject to age and understanding) to express their views about what s/he might like to happen in the family? Can the child play an active part in the FAO?
7. Are there additional resources which may support the sustainability of a FAO for this child and family? (i.e. support from the extended family, or the support of other agencies for the child and/or family members).
8. What report, if any, might most appropriately be provided to the court at the conclusion of the order and/or during its operation?

2.2 If the practitioner believes that a FAO would safeguard and promote the welfare of a child, this should be reflected in the Analysis and Recommendation (A and R) report to the court. In some cases, where the proposal for a FAO originates from the court itself, it may be necessary to request an adjournment to allow sufficient time to assess the family and to make sure there is a full and informed agreement of the adults who are to be named in the order<sup>4</sup>. Though

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<sup>2</sup> Page 19 & 20 of the Safeguarding Framework)

<sup>3</sup> Page 22 of the Safeguarding Framework

<sup>4</sup> The persons who can be named in an FAO are set out in section 16(2) CA 1989. They are:

- o Any parent, guardian or special guardian of the child;
- o Any person with whom the child is living or in whose favour a contact order is in force with respect to the child;

not a statutory requirement, it is good practice to ascertain the views of the affected child/children about the proposed order.

2.3 As in all Cafcass interventions it is important to involve the family in the analysis and decision-making process. However, in the case of a FAO this is particularly important, because an order can only be made with the consent of the adults who are named in the order. The use of the Child Analysis Model may also prove helpful<sup>5</sup> to this process as might the '*How it Looks to Me*' child participation tool.

2.4 As part of securing the adults' informed consent to the making of an order, they should be provided with a copy of the Cafcass case plan which would be implemented if a FAO were to be made.

2.5 Before a court makes a FAO in accordance with the terms of the September 2007 FAO Practice Direction (annexed at the end of this guidance) it will seek the opinion of the Cafcass officer about whether an order is in the best interests of the relevant child/ren and if so, about the way in which it should operate and its duration.

### **3. CASEWORK DURING A FAMILY ASSISTANCE ORDER**

3.1 In all cases, a FAO will be allocated to a Family Court Adviser who will act as case manager. The case manager may carry out some of the work under the FAO him or herself, or it may be carried out by another professional within Cafcass, such as a Cafcass Family Support Worker (FSW) or by another agency (see 3.2.4 below).

3.2 When providing services to a family under a FAO the following practices are to be followed:

3.2.1 If any new concerns emerge during a FAO which gives cause to suspect that the child is at risk of harm, it must be brought to the attention of the case manager immediately. The case manager must ensure that Cafcass' response to these new concerns accords with the Cafcass Safeguarding Framework.

3.2.2 During the course of the FAO, it is good practice for the case manager or FSW periodically to review progress towards meeting the goals set out in the case plan. The goals should then be revised or added to as necessary.

3.2.3 The case plan should set out the nature of the interventions to be carried out by Cafcass and other agencies, including their frequency, duration and the locations where the interventions are to take place.

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o The child him or herself.

<sup>5</sup> Page 9 in the Needs Wishes and Feelings Practitioner Guidance

3.2.4 Cafcass may arrange for services under the FAO to be provided by an external agency or agencies. A decision to refer a case to another agency for additional services will be taken by the case manager. This will often be effected by making a CAF<sup>6</sup> (Common Assessment Framework) referral. The case manager or FSW may need to call a multi-agency meeting to identify how the range of services will be delivered and to clarify the role of Cafcass and other agencies in coordinating and reviewing the delivery of services. Everyone named in the FAO should also be invited to the multi-agency meeting.

3.2.5 The case manager or FSW should ensure that the child, everyone named in the FAO and other professionals involved are aware of the exact terms of the FAO, exactly what work the court wants to take place under it, and of the steps the court wants the case manager to take. The case manager or FSW should also make sure that those named in the order are clear about the circumstances which may cause the case to be referred back to the court. For example, the case manager may need to report to court on progress (or lack of progress) or seek a further order or an extension to the current order. .

#### **4. THE CONCLUSION OF A FAMILY ASSISTANCE ORDER**

4.1 As the order approaches its end date, the practitioner should arrange a final review with the family to review what has been achieved and to identify what should be reported back to the court (if required by the terms of the FAO), what ongoing needs remain and how these might best be met, including through referral to another agency.

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<sup>6</sup> See The Cafcass Safeguarding Framework Guidance for CAF (paragraph number 2.36 - page23) & Guidelines for casework in private law (section 3)

## **ANNEX: PRACTICE DIRECTION 3 SEPTEMBER 2007**

### **FAMILY ASSISTANCE ORDERS: CONSULTATION**

1. This Practice Direction applies to any family proceedings in the High Court, a county court or a magistrates' court in which the court is considering whether to make a family assistance order under section 16 of the Children Act 1989, as amended ("the 1989 Act"). It has effect from 1<sup>st</sup> October 2007.
2. Before making a family assistance order the court must have obtained the opinion of the appropriate officer about whether it would be in the best interests of the child in question for a family assistance order to be made and, if so, how the family assistance order could operate and for what period.
3. The appropriate officer will be an officer of the Service, a Welsh family proceedings officer or an officer of a local authority, depending on the category of officer the court proposes to require to be made available under the family assistance order.
4. The opinion of the appropriate officer may be given orally or in writing (for example, it may form part of a report under section 7 of the 1989 Act).
5. Before making a family assistance order the court must give any person whom it proposes be named in the order an opportunity to comment upon any opinion given by the appropriate officer.
6. Issued by the President of the Family Division, as the nominee of the Lord Chief Justice, with the agreement of the Lord Chancellor.

*The Right Honourable Sir Mark Potter  
President of the Family Division and Head of Family Justice*