



Conflict of Interest Policy

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CONFLICTS OF INTERESTS POLICY

1. BASIC PRINCIPLES

- 1.1 For the purposes of this policy, a conflict of interests arises not only when a conflict of interests exists but when a third party, particularly a party to proceedings, perceives or could perceive that a conflict of interests exists.
- 1.2. It is the personal, professional responsibility of all Cafcass practitioners, whether employed or self-employed, to be alert to actual or potential conflicts of interests which may prevent them from working in any particular case or which might make them unsuitable to do so.
- 1.3. Cafcass practitioners should ask themselves in every case whether their personal or professional circumstances give rise to any actual or potential conflict of interests. It is important to recognise that although a conflict of interests may not exist at the start of a case, it may arise during the proceedings. It is essential therefore that managers¹ and practitioners consider the possibility of conflict not only before work is allocated, but throughout their work on an allocated matter.

2. THE DUTY OF MANAGERS AND PRACTITIONERS

2.1 The manager's duty

- 2.1.1 A manager must not allocate work to a practitioner if undertaking the work would cause a conflict of interest for the practitioner. Even if no conflict exists at the time of the allocation, managers must be alert to the possibility of a conflict arising at a later point. If a conflict does later arise, the manager must consider whether to take action to have the practitioner removed from the case.

2.2. The practitioner's duty

- 2.2.1. A practitioner must declare any conflict of interest to the manager immediately the practitioner becomes aware of it. If a conflict of interest arises during a case, it is the duty of the practitioner to declare the conflict not only to the court but also to the manager.
- 2.2.2. If Cafcass applies to court for the termination of a practitioner's appointment in proceedings as a result of a conflict of interests having arisen, the practitioner shall co-operate with that application.

2.3. The shared duty

- 2.3.1 If a conflict of interest arises or is anticipated during a case, it is essential that the practitioner and manager discuss the issue as a matter of urgency.

3. CONFLICTS WHICH WILL ALWAYS PREVENT A PRACTITIONER ACTING IN A PARTICULAR CASE

¹ "Manager" means, in relation to employed practitioners, the practitioner's service manager and in relation to self employed practitioners, the practitioner's contract manager.

- 3.1.1 The starting point for determining whether a conflict prevents a practitioner acting in a particular case is rule 4.10(7) of the Family Proceedings Rules 1991.²
- 3.1.2 Rule 4.10(7) does not, however, apply to all roles undertaken by Cafcass practitioners, and it does not apply to practitioners who undertake self employed work for local authorities; yet similar issues of principle apply.
- 3.1.3 Accordingly, for the purpose of Cafcass's conflict of interests policy, Rule 4.10(7)³ shall be treated as though it read:

A practitioner shall not accept appointment as a children and family reporter, children's guardian, guardian ad litem, reporting officer or parental order reporter if s/he :

- (a) is a member, officer or servant of, or a contractor with, a local authority which, or an authorised person (within the meaning of section 31(9) Children Act 1989) who, is a party to the proceedings;*
- (b) is, or has been, a member, officer or servant of, or contractor with, a local authority, voluntary organisation (within the meaning of section 105(1) Children Act 1989) or an adoption agency, who has been directly concerned in that capacity in arrangements relating to the care, accommodation or welfare of the child or his family during the five years prior to the commencement of the proceedings; or*
- (c) was a serving probation officer who has, in that capacity been previously concerned with the child or his family.*

4. OTHER POTENTIAL CONFLICTS

4.1.1 No conflict of interests policy can identify in advance all the possible conflicts of interests that may arise. However, situations where a conflict of interests is likely include those where a practitioner:

- is related to or in a relationship with a witness or lawyer involved in the case, or ;
- where the practitioner or someone close to the practitioner knows a member of the family personally;
- undertakes voluntary or paid work for, or has a financial involvement with, an organisation (e.g. contact centre) involved in the case;
- is a member of, or has acted as advisor to, the board of an organisation (e.g. a mother and baby unit) involved in the case;
- sits as a magistrate in family proceedings.

² And the counterpart rule in Family Proceedings Courts, r10(4) of the Family Proceedings Courts (Children Act 1989) Rules 1991

³ And r10(4) of the Family Proceedings Courts (Children Act 1989) Rules 1991