



## CHILDREN AND FAMILY COURT ADVISORY AND SUPPORT SERVICE

Paper for the Board Meeting on 03 September 2010

### FREEDOM OF INFORMATION ANNUAL REPORT

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#### 1. AIM AND PURPOSE

- 1.1 To provide the Board with an overview of the changes in the nature and volume of Freedom of Information (FOI) requests received by Cafcass during 2009/10.

#### 2. RECOMMENDATIONS/ACTION FOR THE BOARD

- 2.1 This report is for information only.

#### 3. SHORT SUMMARY

- 3.1 There has been an increase in the number of FOI Act (2000) requests over the last 2 years. The number of requests has nearly doubled between 2008/09 (66) and 2009/10 (115). This may be due to an increase in awareness of the right of access to information about public services. The majority of requests are for area and case related statistics. It has been observed that there has been an increase in the number of requests relating to staff and complaints, so new categories have been created for 2010/11 in order that this trend can be monitored.

#### 4. BACKGROUND

- 4.1 Successive Governments have established a statutory framework for enabling access to information, in particular the Data Protection Act 1998 and the Freedom of Information Act 2000.
- 4.2 On June 1<sup>st</sup> 2010 the new Prime Minister, wrote to all Government bodies setting out the Government's commitment to "set free" government data.
- 4.3 Key features of a FOI Act request

- An applicant can request any non-personal information held by Cafcass.
- Applicants are required to put a request in writing.
- The Act provides for a time limit for dealing with a request for information – 20 working days. In some circumstances the time limit can be extended.
- Information is currently provided free of charge.
- There are 23 possible exemptions under the FOIA. Seven of the exemptions are absolute and the remainder are subject to a public interest test.
- If an applicant is unhappy with the way in which the request has been handled or is dissatisfied with the decision, the applicant can ask for an internal review. If the

applicant remains dissatisfied as a result of the internal review they can complain to the Information Commissioner's Office (ICO).

## 5. KEY ISSUES FOR THE BOARD TO CONSIDER

5.1 Table 1 sets out information about the number of requests and Cafcass' speed of response.

**Table 1 - Summary of FOI Act requests.**

	Year					Total
	April 2010-15 August 2010	2009/10	2008/09	2007/08	2006/07	
Requests received	47	115	66	65	49	342
Requests answered within 20 working days	42	91	Not collected <sup>1</sup>			133
Queries not answered within 20 working days	3	11	Not collected <sup>1</sup>			14
Requests where No answer was needed	2	13	Not collected <sup>1</sup>			15
Average Response time in working days	12.3	14.3	Not collected <sup>1</sup>			13.7
Internal reviews	3	8	4	2	3	20
ICO involvement/Complaint with decision notice	0	3	1	0	0	4

There has been an upward trend in requests over the last 2-3 years which may be due to several factors such as increased public knowledge of the rights of the public in relation to public owned data, increased media attention around Cafcass and the increase in the public's use of the internet. Cafcass have had an increase in requests from a web site called Whatdotheyknow.com – nearly a quarter of all requests in 2009/10 were from this web site.

5.2 Timeliness: The average response time has been calculated for last year and the current year to date. The time taken to complete an FOI request in 2009/10 was 14.3 working days and for the first part of 2010/11 is 12.3.

5.3 Use of Exemptions: The following table shows the number and range of exemptions that have been applied to requests. The table indicates that the most common type of exemption applied relates to requests for personal information.

<sup>1</sup> The data for and the time taken to respond to FOIA requests was not collected prior to 2008 and therefore is not provided in this report.

**Table 2 - The use of FOI Act exemptions**

Year	FOIA Exemption applied									
	S8	S12	S14	S21	S22	S36	S40	S42	S43	S44
2010/11	-	3	5	-	-	-	1	-	2	-
2009/10	3	1	1	-	2	4	6	-	-	-
2008/09	-	-	-	-	1	1	3	1	1	-
2007/08	-	3	-	7	2	4	3	-	-	3
2006/07	-	-	-	-	-	2	1	-	-	-

The exemptions applied:

S8	Request for information – incorrect/false information therefore not processed
S12	Exemption where cost of compliance exceeds appropriate limit
S14	Vexatious or Repeated requests
S21	Information accessible to applicant by other means
S22	information intended for future publication
S36	Prejudice to effective conduct of public affairs
S40	Personal information
S42	Legal professional privilege
S44	Prohibitions on disclosure

5.4 Internal reviews: Table 1 shows the number of internal reviews that have been conducted by Board members within Cafcass. The trend shows that as the number of requests have grown the number of reviews have grown proportionately. The majority of internal reviews are in response to requesters not being satisfied with the information provided (usually due to Cafcass not collecting the information) or in response to an exemption that has been applied. Requesters are entitled to go to the Information Commissioner's Office (ICO) if they are still not satisfied with the outcome of an internal review.

5.5 Complaints to ICO & correspondence summary:

The Information Assurance & Data Handling (IA&DH) Officer is regularly in contact with the ICO for advice and discussion. The ICO's website also provides a range of guidance. The majority of this contact is regarding FOI Act request investigations or Subject Access Requests that fall within the Data Protection Act 1998.

In 2008/09 a decision notice was made by the ICO to Cafcass requesting the release of Board minutes and reports onto the internet for public access.

In 2009/10 Cafcass were investigated in respect of 3 separate requests/complaints:

- The first was regarding the release of corporate management team meeting minutes where the complaint was upheld. The information was then released with personal information removed.
- The second and third notices related to issues raised by an individual complainant. The second of these notices found Cafcass had correctly applied the vexatious (section 14) exemption. The third of the notices upheld the complaint. Cafcass then provided information about the Chief Executive's diary entries, with personal information removed. More information about these decision notices can be found on the ICO's website: [www.ico.gov.uk](http://www.ico.gov.uk).

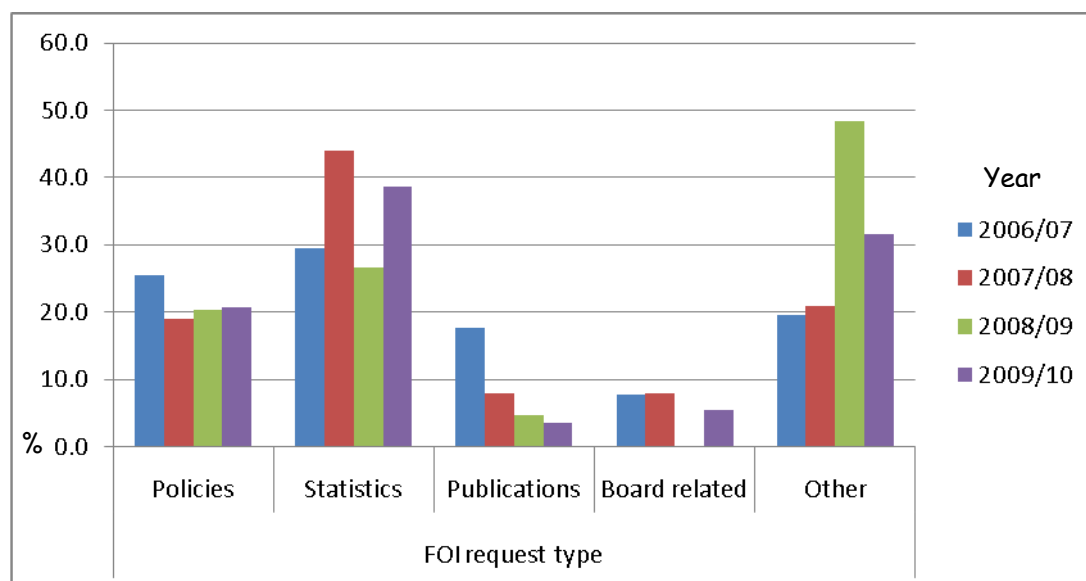
5.6 Cafcass have abided by the findings of the three ICO's decision notices and have considered their implications for the Cafcass publication scheme and the methods of processing the data we hold. Each individual request for information continues to be addressed on its own merits.

5.7 Request analysis:

Diagram 1 below shows the percentage of requests categorised into five request types over the last four years.

- The requests for policies remain constant. All publically relevant Cafcass policies have been placed on the Cafcass web site, as part of the Cafcass publication scheme.
- There has been a decrease in publication requests. This is likely to reflect the widening of the scope of the Cafcass publication scheme and website.
- Information requests relating to the Cafcass Board have remained at less than 10% of all requests.
- The most frequent type of request relates to statistics about Cafcass service areas and associated cases.
- The 'other' category contains information request which do not fall within the other four categories.

**Diagram 1 - The percentage of requests categorised into five request types over the period of 2006-2010**



5.8 Links between the FOI Act and Subject Access Requests. The Information Commissioner has powers in relation to both FOI requests and requests for access to personal information (for example for case files) made by service users under the terms of the Data Protection Act 1998. It is not unusual for a service user to write to Cafcass with a complaint, a subject access request and a freedom of information request in one single email or letter. It is very important for all aspects of such requests of the enquiry or request to be addressed separately and under the relevant process. There have been several briefings provided to staff to ensure that requests for information made under the FOI Act and Data Protection Act are dealt with in the correct manner.

- 5.9 Web enquiries/email & publication scheme. Cafcass receive requests for information via the web enquiries email address on the internet (where whatdotheyknow.com requests are received), letters to staff nationally, complaints letters and direct post or email requests to the IA&DH officer.

The Cafcass publication scheme can be found on the Cafcass web site: [http://www.cafcass.gov.uk/system\\_page/freedom\\_of\\_information.aspx](http://www.cafcass.gov.uk/system_page/freedom_of_information.aspx) which has categories as defined by the ICO. This is updated regularly and reviewed annually.

- 5.10 Future work. Due to the current statutory requirements and high policy priority attached by the government to 'transparency' issues it is important for Cafcass to maintain its publication scheme and publish any relevant information on a regular basis. The IA&DH officer is liaising with the National Archives to discuss how Cafcass might publish data on the data.gov.uk website.

The Case Management System will be utilised in 2010/11 to allow FOI requests to be logged. This will in future provide better reporting and monitoring of such requests.

## **6. BENEFITS FOR CHILDREN**

- 6.1 Cafcass' promotion of transparency and commitment to sound to information management and practice signifies that we are committed to managing in the interests of both adult and child service users.

## **7. FINANCIAL ANALYSIS**

- 7.1 The increased numbers of FOI requests have been contained within existing budgets and within the workload of the IA&DH officer.

## **8. RISK ANALYSIS**

- 8.2 The potential reputational damage that would arise from significant non-compliance with the requirements of the Freedom of Information Act 2000 means that Cafcass needs to continue to be diligent in responding to FOI requests in a timely and proper way.

## **9. DIVERSITY ANALYSIS**

- 9.1 The methods of accessibility for the public to the information maintained by Cafcass are varied; the publication scheme and website, hard paper copies, and emailed information in several formats is available. The public have a right to express a preference for different methods of communication as set out in section 11 of the FOI Act.

Miss Jasvinder Jassal  
Bruce Clark  
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Information Assurance & Data Handling (IA&DH) Officer  
Director of Policy