



## **CHILDREN AND FAMILY COURT ADVISORY AND SUPPORT SERVICE**

### **Paper for the Board Meeting on 10 December 2009**

#### **DUTY/EARLY INTERVENTION SCHEMES: A POSITION STATEMENT**

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#### **1. AIM AND PURPOSE**

- 1.1 This report updates the Board on how duty schemes and teams are operating, and gives, at Appendix 1, examples from South Yorkshire, Exeter, Birmingham and Manchester, to illustrate the range of models being developed in response to local circumstances.

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

- 2.1 The report is for information and discussion of how we can improve our range of duty schemes as we go forward

#### **3. SHORT SUMMARY**

- 3.1 Duty systems (known by various different names, for example "Early Intervention") have been used in Cafcass for many years, in either public law, private law or both e.g., the Wells Street in Central London and Bolton public law duty schemes. Over the past year, all Cafcass offices have been required to introduce office-based duty schemes. This development reflects the need to consider in a timely way all new applications received from the courts and to enable proper scrutiny of new information relating to cases that are already allocated to staff, in particular when they are absent from the office. Dealing with this through a consistent process is more effective and also a more efficient use of both practitioner and business support time. With recent steep increases in the volume of court applications to us, duty systems have been expanded and early intervention teams are being established in a number of areas, mostly in large teams where it is possible to dedicate a group of staff to focus on office and court duty work in the early stage of cases. Single duty officers, either permanent or on a rota, remain the norm in smaller teams for logistical reasons. Duty and early intervention teams are starting to offer a quicker and safer service to children and families. In public law, it is expected that the use of dedicated public law teams will be time-limited, as they would not be necessary in a situation in which all new public law cases could be immediately allocated to a Children's Guardian.

#### **4. BACKGROUND**

##### **Public law**

- 4.1 Cafcass has, until recently, been able to allocate all public law cases to named practitioners within a few days. With the increase in the volume of s31 applications

over the last year, it has not always been possible to allocate all cases upon receipt, and consequently we have not achieved the allocation timescales set out in our key Performance Indicators. This has meant the crucial input of a children's guardian in the early stages of a case, to ensure immediate safeguards are in place and scrutinise a local authority's assessment/s and care plan, has on occasion not been provided to at the outset of a case.

- 4.2 In response to this, a range of duty advice schemes have been or are being established, in particular in the worst-affected areas. From 30 July 2009, these have been provided for in the President's Interim Guidance, supported by our own revised Operating Priorities. This new national framework is being rolled out across the country with up to 45 local arrangements, published by local Designated Family Judges, usually based on significant input from Cafcass, HMCS and others.
- 4.3 Duty input to public law cases varies from early advice to courts, either directly or through the child's appointed solicitor, to longer-term involvement over a number of weeks, as in the South Yorkshire model (described in appendix A).

### **Private Law**

- 4.4 Until 2-3 years ago, private law cases papers were allocated to a named Family Court Advisor, to meet the filing date set by a local court. The number of cases not easily resolvable or not suitable for early resolution due to safeguarding concerns have increased in recent years, in their nature and complexity and because we (the family justice system) have become aware of the amount of work the court needs to do to ensure safeguarding concerns have been fully explored e.g, compliance with the President's 2008 Practice Direction (Residence and Contact Orders: Domestic Violence and Harm).
- 4.5 Cafcass has improved the efficiency of its screening of all private law C100 application forms, and, in 6 trial areas, has enhanced this through pre-first hearing risk identification phone calls to the adult parties. On average, about 6 hours of practitioner, business support and manager input is needed into each case prior to the first hearing, work that was not undertaken to any degree 5 years ago. Our section 16A risk (Children Act 1989) risk assessment duty, which came into effect in October 2007, has been a key factor in explaining the increase in the amount of organisational resources devoted to private law work. However, the sharp increase in private law applications over the past year, is altering the private: public balance in the use of resources back towards public law cases.
- 4.6 The most efficient and effective way to process private law applications and ensure robust and timely screening, information for the court and signposting, is through a duty system of some description. In some teams, especially smaller teams, this is done either by a single specialist practitioner or through a rota, sometimes with a specialist administrator dedicated to this work. In other teams, private law early intervention teams have been set up, some of which carry cases beyond the first hearing until they are safely resolved.

## **5. KEY STRATEGIC ISSUES FOR THE BOARD TO CONSIDER**

- 5.1. Duty schemes are now widespread and take different forms according to local circumstances. As more cases are starting than being closed (across the family

justice system), it is likely more cases will be managed by early intervention services for longer periods of time

- 5.2. Cafcass policy, set out in our National Standards (2007), is to allocate one practitioner to each case, from as near to the start of each case as possible, through until the end. Departing, in our public law work, from the principle and practice of practitioner continuity is contentious, but in some teams operating under great pressure, cases are now being managed on duty for some months, and some children are being seen (and have to be) for advice to court to be robust.
- 5.3. Duty schemes in public law are regarded with some caution by judges and legal practitioners. Where the practitioners in a local duty team are highly respected, the service is accepted much more readily. Practising on duty demands a particular suite of skills, so the best schemes have been staffed by specialist practitioners, managers and business support staff.
- 5.4. Duty teams have been integral to front-line teams and organisations for decades and adopting such approaches enables us to ensure that children's immediate needs are identified and responded to and that subsequent allocation is prioritised through an assessment of risk and need. Another relevant trend is that in many sectors, such as the health service, specialist practitioners are being asked to triage large numbers of new patients rather than being left alone to work through their list of treatments and/or operations for long-term patients. Because this way of working is new to many Cafcass practitioners and managers, as well as external partners, the culture change, even as a short-term measure, requires careful management.

## **6 BENEFITS FOR CHILDREN**

- 6.1 Where duty systems replace waiting lists, children are benefiting from early intervention services. Whilst duty schemes are not always able to ensure the clarity of focus offered by an identified worker giving the case continuity, many serious concerns about the welfare of children have been spotted and action taken.
- 6.2 Care has to be taken not to confuse children by giving them more than one practitioner who listens to their story and tries to help them. It should only be in exceptional circumstances that a child sees more than one practitioner and it is proposed that remains policy.

## **7 FINANCIAL ANALYSIS**

- 7.1 With grant funding for this and the following financial year already set, reliance cannot be placed on additional funding becoming available in response to the substantial increases experienced in case volumes throughout 2008/09. The approaches set out in this report seek to ensure safe practices within these resource constraints. The establishment of duty schemes will change the way in which local teams are organised with some consequent revisions to local budgets, but the overall resources available to local areas to work in these ways remain fixed. The basis of allocating funding to local areas is being revised for 2010/11 to reflect the pattern of court applications into teams which will more closely align with the ways of working set out in the previous sections, rather than recent models based (in private law) on report ordering levels.

## **8 RISK ANALYSIS**

- 8.1 The ability to manage backlogs together with the growth in case volumes remains one of the highest areas of risk in the Cafcass Corporate Risk Register, both in terms of the likelihood of being unable to manage and also the significance of the impact of a failure to manage. The proposals set out in this paper represent a pragmatic approach to mitigating risks that cases are overlooked. In particular the proposals seek to mitigate the risk of there being a material issue relating to a case being overlooked. The use of duty systems has been identified in the Risk Register as an important key control. The effectiveness of these systems in managing risk will be kept under close scrutiny.
- 8.2 As a result of the development of duty systems all incoming work is now screened for current risk and appropriate action is taken to ensure children are safeguarded where necessary. In private law cases the courts receive a short report as to identified risks. Cases where reports are subsequently requested can be prioritised according to need, thus reducing the risk of safeguarding issues failing to be recognised and responded to. In public law an immediate duty response ensures that risks are highlighted in the early stages of a case. In those schemes where cases transfer to the longer-term teams around the time of the Case Management Conference (CMC), there is still sometimes delay in allocation due to capacity pressures. In such cases however the service manager has the benefit of a transfer summary identifying urgent issues to inform priority for allocation.

## **9 DIVERSITY ANALYSIS**

- 9.1 Duty schemes enable an initial consideration of the needs of the individual case documentation to be completed and then reviewed alongside new incoming information (as Local Authority and police checks come in, for example). This work is done by a highly skilled practitioner, able to consider how any race, gender, disability, religious or other identity issues might combine with risk factors evident on the case file. Duty work also provides an opportunity for managers to make an informed allocation decision based on skills match between the workers available and the issues on the case, so as to provide the best possible service to the service user.

## **10 COMMENTS FROM THE HEAD OF LEGAL SERVICES**

- 10.1 Allocation of work in family cases depends on whether the child is party. Where the child is party, the court appoints a practitioner and a named practitioner is appointed as children's guardian (in a public law case) or guardian ad litem (in a private law case where the child is made party under rule 9.5 of the Family Proceedings Rules 1991). Once Cafcass has allocated the case in those proceedings, it cannot change the practitioner without the court's agreement. In other cases the child is not party, for instance in private law proceedings where a report is ordered under section 7 of the Children Act 1989. In such cases the practitioner is not "appointed" and this means that Cafcass does not need the court's permission before changing the practitioner but can re-allocate if necessary.
- 10.2 Some duty schemes operate by allowing practitioners to work on public law cases without being appointed by the court. Such practitioners act as "duty officers", a term that derives not from legislation but from the individual duty schemes agreed between Cafcass and the court. Duty officers assist the court by carrying out the statutory functions of Cafcass under section 12 of the Criminal Justice and Court

Services Act 2000; those functions include the duty to safeguard and promote the welfare of the children in proceedings, and to provide information, advice and other support for the children and their families. Similarly, when Cafcass conducts safeguarding checks prior to first hearing, it is fulfilling its section 12 function of safeguarding and promoting the welfare of children.

## **11 COMMENTS FROM THE HEAD OF HUMAN RESOURCES**

- 11.1 Duty schemes in operation currently have been put in place following consultation with local staff, managers and trade unions. We are working with Trade Unions nationally to consider a national framework which has the required flexibility to meet local needs.

**Anthony Douglas and various managers with responsibility for specific duty schemes**

**4<sup>th</sup> December 2009**

## **APPENDIX A - Examples of duty schemes**

### **South Yorkshire**

South Yorkshire operates Early Intervention teams in both public and private law.

The **Public Law** team runs from the Doncaster office with all applications faxed from the issuing Court (5 in South Yorks). Business Support staff enter the details on to the Case Management System (CMS), issue Welcome Pack material and pass the papers to the Duty Officer for the date of the First Hearing

A named Duty Officer is identified for each case on receipt and attends First Directions Hearings in all Section 31 applications unless there is more than one new case being heard in different venues at the same time when it may be that one has to take priority and duty advice – without physical attendance - is provided to the other Court via the children's solicitor following discussion with the duty officer. (The team has been running for a year and in only a handful of cases has not been able to attend the first hearing).

**Work to first hearing** includes as a minimum:

- Screening of the pre proceedings papers and following up with the Local Authority's Legal advisor where they are incomplete
- Discussion with Social Worker
- Appointment of a solicitor for the child on behalf of the court
- Where possible meeting with the child
- Attendance at the first hearing
- Advice to the court on urgent next steps

**Work Post First Hearing** includes as a minimum:

- Liaison as above with child, solicitor, social worker, parents, Independent Reviewing Officer
- Analysis of the work of the Local Authority
- Preparation of Analysis and Recommendations report for the CMC

(The Court, Child's solicitor and Cafcass Duty Officer all accept their responsibility to ensure that, at CMC, tasks for the Children's Guardian are defined to inform Cafcass input up to IRH in accordance with The Presidents Guidance that attention should be given to releasing Children's Guardians from some tasks/hearings in mid case this is key to releasing staff time.

If immediate allocation to a permanent Children's Guardian is possible then this happens at issue, otherwise cases transfer as soon as possible but no later than the 6 week post issue date. Letters are sent to Court, Child's solicitor, parents and Local Authorities advising them of the transfer to an allocated Guardian at this point.

Work in respect of Discharge Applications, Secure Applications and Adoptions are completed by the worker in the Early Intervention Team in their entirety without the need for transfer to the longer-term teams. Work witnessing consent in respect of relinquished babies and agency placements will be prioritised.

Members of the team all carry a half-time caseload of long-term work to enable them to take on cases where the nature of their involvement at the early intervention stage indicates that continuity of worker is essential.

In **Private Law** the early Intervention team runs from the Sheffield office. The Court allows 4 weeks between issue of Section 8 applications and the listing date for First Directions Hearing, unless the matter is urgent, to enable Cafcass to complete safeguarding checks. Urgent matters needing an earlier determination are referred back in for further directions, allowing for Cafcass to complete the risk identification process.

**Cafcass work to first hearing is defined as:**

- Requesting safeguarding checks with Police and Children's Services and ensuring this information is received.
- Writing a letter to the Court to provide a short safeguarding analysis, and where appropriate informed by any contact with the parties that has taken place. The Court will be notified of any information that is not available and as a result, a short adjournment or an interim order may be necessary.
- Where work is proposed beyond the first directions hearing, Cafcass will suggest the future work to be undertaken either directly or via other agencies.
- Parents, children and young people will be referred to other services for support where there are no significant safeguarding or welfare concerns and consideration is given to the use of Commissioned level 1 and 2 services where appropriate and contact activity orders (e.g. co-parenting groups) although this is only be recommended after a safeguarding analysis has been completed.

The team advise the Court of any safeguarding issues arising from statutory checks and will make recommendations for future action using the Schedule 2 letter format

The team publish, and keep updated, an information sheet/"menu of options" detailing services that may be available.

The local agreement with the court is that generally reports are not to be ordered unless the parties have seen the Cafcass officer and the officer has identified safeguarding or welfare issues requiring the court to seek further advice. In many cases the issues will be safely dealt with via shorter or more focused work from Cafcass. When focused reports are required the agreement with the court is that the issues need to be clearly stated in the Court's Directions.

The development of the teams has brought practice improvement. The Public Law team has been running since November 2008 and has an over 99% rate of allocation within 2 days. The Private Law team was established in June 2009. In the previous year around 55% of applications resulted in request for reports. Work done earlier in the year together with the work of the team has resulted in this dropping initially to around 35%. It is currently at around 25%.

Allocation of work beyond Early Intervention remains a challenge but Service Managers make decisions based on risk where previously they allocated on the basis of date.

## **Birmingham Private Law Programme and Public Law Duty Advice**

Birmingham started the Early Intervention, Work to First Hearing team on 18 May 2009 to ensure a safe standard of approach to all new C100 applications. During the period 18 May 2009 to 30 November 2009, the service in Birmingham received 700, C100s. All applications were allocated, safeguarding checks and telephone interviews completed and a schedule 2 letter provided to court, within the agreed 28day period. An FCA attended every first hearing to assist the court in determining appropriate further orders.

The service received 130 Orders for task centred work beyond the first hearing. All orders for further pieces of work have been allocated and filing dates met. There has been no build- up of backlogs since the start of this model. The courts are reporting a high level of satisfaction with the new way of working.

In principle the courts want public law cases allocated to one consistent guardian, at the point that the application is received. The framework around the Private Law Early Intervention team and the subsequent reduction in section 7 reports has created capacity to allocate some of the increase in Public Law cases. However the significant increase in Public Law from the same period in 08/09 has impacted on the areas ability to allocate all cases to one consistent named guardian.

To ensure a service to all children Public Law Early Intervention service is in place. Each member of the team is available to accept cases immediately on receipt from court. They are part of the Duty system ensuring that there are two or more practitioners available on a daily basis. Cases allocated in this way remain with the Duty Advice Guardian until the Case Management Conference (CMC). On allocation, the children's guardian will ensure that a solicitor is appointed. Each case will be risk assessed, case plans started, and contact/meetings arranged with children/young people and other relevant adults. It is anticipated that at this point capacity can be found to allocate on a longer term basis. Despite the service being under continuing pressure currently there are no unallocated public law cases.

## **Cafcass S7 - Peninsula Southwest Intake & Assessment team**

### **Overview**

The approach and overall working practices in S7 have been developed to ensure consistent screening and risk assessment are a priority.

This has seen a shift away from the traditional and limited role of being officers of the court to a more pro-active frontline safeguarding agency required to ensure the safety of children referred to the service as well as considering their overall welfare.

The service area accepts that it is not safe or acceptable practice to have any cases unallocated, and a minimum safe service must ensure that all children known to the service have received an initial risk assessment to ensure oversight and prioritisation of their case.

As a result, the management team in S7 decided to review existing methods of working, including allocation priorities, to ensure the right systems, processes and culture were in place to deliver this model.

This new way of working has now begun to demonstrate significant changes to the traditional guardian role in public law in order to ensure all children and young people receive some level of service during the current high demand within S7.

Private Law is also affected and the changes mean that pre-court work is focussing on safeguarding and risk assessment in the first instance.

### **Intake and Assessment Team**

When considering the overall direction for Cafcass, the President's Interim Guidance, increasing demand and the move to allocating all cases on receipt, it was agreed to set up a specialist Safeguarding and Assessment Team in S7.

Initially this team is based in Exeter with a specialist and dedicated Service Manager, dedicated business support and a dedicated team of family court advisers and family support workers. Ultimately it is planned that the Intake and Assessment team will receive and process all C100's for Somerset, Devon and Cornwall and will ensure the safety of children up to and including the First Hearing in both Public and Private Law proceedings.

This team will receive all new referrals, both Public and Private, risk id, screen and take to first hearing.

Cases will then be allocated (in accordance with assessed need and priority) within the relevant geographically based teams. Priority will be based on need and risk and not related to the cases status of either Public Law or Private Law Cases.

### **Private Law**

The Intake and Assessment Team will function within the new President's interim guidelines and allow us to present a menu of options at the first hearing with the decision of the most suitable way forward based on the Safety of the child.

Work to first hearing will concentrate on child safety and collecting sufficient information so as to ensure the most appropriate way forward is selected from the CSA 'menu for choice'. This comprehensive set of options will be available throughout the Peninsula and can be seen at Annex 1 below

In addition to the screening checks all parties will be interviewed either by phone, letter or e-mail and a short written analysis will be provided for the first hearing. This analysis will detail any possible areas of risk and where appropriate suggest the next stage of intervention by selecting from the CSA menu.

In addition to the current level of checks, we will put a system in place to capture possible level 2 police check information at this initial stage and also contact schools and relevant health professionals.

Therefore, we will provide as much information as possible for the First Hearing, thus allowing us to protect children and assist the court and families to select the most appropriate option from the CSA menu.

In addition this team will also discuss with parents referral to other support agencies, for example Women's Aid, Families Need Fathers, Seeds, Parent Line etc.

### **Public Law**

All public law referrals will be processed through the Intake and Assessment Team. All checks will be undertaken and processed by this team. Where possible the case will be allocated on day one by the appropriate local team, although even if this is achieved the specialist service manager will ensure the initial safeguarding and screening checks are completed.

If immediate allocation in the local team is not possible the Intake and Assessment Team will appoint the solicitor and carry out work to the first hearing and also attend the initial hearing.

### **Team Profile**

#### **Specialist, Service Manager:**

This will be a full-time post with probable cover coming either from a designated CSA casework Service Manager or from a deputy within the specialist team.

#### **Family Court Advisors:**

Specifically trained for this function, the number of FCAs will be based on projected referral information and subject to further review in the new year once the resource allocation for S7 is finalised. The final number of FCA's will also depend on the detailed work, looking at referral numbers, time required on each case, balance between public and private work, agreed tasks of other team members, i.e. Trainee FCA, referral co-ordinator, court officers, administrators, number of court duty days etc.

#### **Trainee FCA:**

This would be one to two posts, designed as essential training for the development of our own staff.

## **Dedicated Administrator**

Based within the team, and dedicated to supporting the Intake and Assessment team. It is proposed that they will eventually be responsible for processing all C100's across the service area and all related work.

## **Proposed posts as part of review and development of the team**

### **Referral Co-ordinator:**

Proposed X 2, subject to agreed tasks, and the work being undertaken on referrals and initial screening etc..

### **Court Officers:**

Proposed role will be to attend the first hearing as part of the Private Law Pathway, they will not be qualified FCA's but have a mediation background, they will be supported by volunteers and recruited to attend specific local courts.

### **Specialist Administrator:**

This post will be based at Middlemoor Police HQ for Devon and Cornwall Constabulary, and undertake level 1 and 2 checks on all Cafcass cases.

Checks will be returned within 48 hours and come in the form of a written report, which can be shared with the court and all parties. Any immediate concerns will be referred at the time of being checked by telephone to the designated service manager.

Administrators, probably two, again subject to agreed tasks of the referral co-ordinator and the number of referrals for processing.

The proposed team will be:

### **Service Manager**

- 3 x Family Court Advisors**
- 1 x Trainee Family Court Advisor**
- 2 x Referral Co-ordinators**
- 2 x administrators**
- 4 x court officers**
- 8 x Volunteers**

Work is currently in progress to determine the final team profile, dependant on workload analysis. There have been no additional costs to set up the initial team as the SM post falls within the 1 to 10 ratios and each team will contribute pro rata based on referral information. However the development of the team will depend on the 2010-2011 budget being adequate to meet the demands of the increased workload in the CSA and taking into account the geographical requirements of the area.

## **Peninsula Southwest Private Law Menu**

- **Resolution at 1<sup>st</sup> Directions Hearing**
- **Refer to Mediation**
- **Family Group Conference**
- **Parenting Class (FSW)**
- **Initial A & R Report**
- **Wishes & Feelings Report**
- **Family Work (Case Work) FSW**
- **Referral to Contact Provider (IRIS)**
- **Specialist Risk Assessment (AHIMSA)**
- **Finding of Fact Hearing**
- **Direction for Final Hearing**
- **Referral to Local Authority**
- **Rule 9.5 Guardian**
- **Family Assistance Order**

## **Office Duty and Screening Procedures in N7**

All FCA's are on the office duty rota. Each office has a designated Safeguarding Administrator (SA) who works along side the Duty Officer in N7.

The duty officer screens the C100 and commissions safeguarding checks with the police and L/A. This is done within 24 hrs. Where the C100 indicates that the case has been known or currently known to social services and the name of the social worker provided then duty officer will contact the social worker to ascertain the nature and length of involvement. If the case is currently open to the L/A and where appropriate the court is advised that if a S7 report is required then it should be undertaken by the L/A, this avoids unnecessary delay in request being made to L/A.

Where serious safeguarding concerns are identified appropriate action is taken. i.e referral to L/A.

The SA monitors the requests and returns of the Safeguarding checks using CMS and where necessary the SA will contact the agencies for outstanding information. This is to ensure that all available safeguarding information is available for the first hearing. The SA collates all the safeguarding Checks that are returned from the Police, L/A and ensures that they are placed in the duty tray in date order, which is given to the duty officer each day who screens the information. This has been very effective as the information is handled only by duty officer and SA this reduces risk of information being overlooked or missed.

In all WTFH cases a safeguarding screening report ( Schedule 2 letter) is prepared for the court, and filed with court at least three days prior to the hearing, this ensures that court is appraised of any risk/ safeguarding issues or indeed if safeguarding checks have not been returned. The Safeguarding screening report also ensures that there is a clear record of what information has been shared with the court. This is particularly important as some courts are still listing cases on Non Cafcass duty days.

Any information received for unallocated cases (S7 reports & Public Law) is screened and an assessment of any presenting initial risk is made. This is recorded on CMS so that it is available for Service Managers, who prioritise cases for allocation.

Unallocated cases are not allocated to duty in N7 as we are taking a central allocation approach and it is far more effective to have a list of all the unallocated cases in one place in CMS. Prioritisation of unallocated cases has ensured that cases are allocated on the basis of initial assessment of risk and need.

If the duty officer takes any telephone calls where allegations are made regarding harm to a child or vulnerable adults a very careful/ detailed log is made and in consultation with the service manager a decision is made about whether it is appropriate to make a notification or referral to the L/A or other appropriate agency.

The role of the SA has been pivotal in ensuring effective and efficient duty & screening process, as he ensures that follow up takes place for all checks. He has also been very effective in liaising with police forces both locally and outside the jurisdiction.

Over the recent weeks we have moved to a system where by there are a small number of FCA's who undertake office duty as we have found that this ensures greater consistency in the standard of information recorded and assessments undertaken.

The N7 approach ensures that in all private law cases checks and screening are undertaken upon receipt and in cases where serious safeguarding concerns have been picked up they are actioned appropriately. Referrals and signposting to other agencies takes place without delay.

The system benefits children and families by ensuring:

- Any immediate safeguarding concerns are acted upon appropriately.
- Cases requiring the L/A to undertake a report are not unnecessarily delayed.
- The Safeguarding Screening report enables the court to make an early determination where there are no risk issues.
- Where there are safeguarding issues the court is fully appraised of the situation, thereby avoiding the possibility of unsafe agreements by parties being ratified by the court.