

FAMILY ASSISTANCE ORDER GUIDANCE

This policy explains what family assistance orders are, and the limited circumstances in which Cafcass practitioners should recommend them.

1. WHAT A FAMILY ASSISTANCE ORDER MEANS FOR CAFCASS

The legal definition 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. If an FAO is made alongside a contact order a Cafcass officer may also be directed to advise and assist on establishing, improving and maintaining contact. Where a FAO is made alongside other types of section 8 orders 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.

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.

In practice, particularly since the introduction of the framework provided by the Private Law Programme, the number of cases in which a FAO will be necessary and appropriate for Cafcass are limited.

A Practice Direction has been issued to the judiciary (attached as an Annex to this guidance) which requires the court to consult the appropriate officer of either Cafcass or 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, to help ensure that a FAO is made in circumstance in which it is likely to be beneficial for the children and family.

2. DECIDING WHEN TO RECOMMEND A FAMILY ASSISTANCE ORDER

A family assistance order may be suitable when 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. Practitioners should only 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 beyond:

- the usual level of involvement required for a single or multiple issue report; or
- what can be incorporated into an order for a Contact Activity condition or direction; or
- any other type of parenting intervention (mediation, Parenting Information Programme)

and where the adults who would be named in the order are likely to give their informed consent to it.

In all cases the practitioner should, before recommending a FAO, consider whether there are other services outside of Cafcass (such as therapeutic interventions) which would be better placed to assist the family.

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 and promotion of the welfare of the child/ren?
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 **and which will only be achieved** with the support of Cafcass? 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 – a FAO should only be recommended if these outcomes can only be reached with specific Cafcass input.
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?

If the practitioner believes that a FAO would safeguard and promote the welfare of a child, this should be reflected in the 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 order¹. Though not a statutory requirement, it is good practice to ascertain the views of the affected child/children about the proposed order.

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. As part of securing the

¹ 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.

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.

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

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 a Family Support Worker (FSW) or by another agency.

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

- 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.
- 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.
- 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.

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. 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.

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

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.

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 1st 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

September 2007