



**Performance and Quality Committee meeting minutes
Monday, 14 December 2020, 11:00 – 13:00
Microsoft Teams meeting**

Present

Caroline Corby, Board member – Chair
Paul Grant, Board member
Mandy Jones, Board member
Joanna Nicolas, Board member (Co-Opted)
Deep Sagar, Board member
Eileen Munro, Board member

In attendance

Jacky Tiotto, Chief Executive Officer
Kevin Gibbs, Operational Service Director (South)
Anji Owens, Operational Service Director (North)
Teresa Williams, Director of Strategy
Sarah Parsons, Assistant Director
Ben Rolfe, Head of Business Analysis
Nicola Blakebrough, Corporate Manager (Secretariat Services)
James Jackson-Ellis, Corporate Officer (Secretariat Services)
David Winks, MOJ representative
Tammy Conn, Head of Practice (A12) – item 8
Shabana Jaffar, Senior Lawyer – item 3.2
Janice Straker, Service Manager (A13) – item 8
Wesley Henry, Family Court Advisor – item 8
Saima Ali, Family Court Advisor – item 8

Apologies

Adam Lennon, HMCTS representative

1. Welcome and apologies

The Chair welcomed everyone to the Performance and Quality Committee (the Committee). Apologies were received from the HMCTS representative, Adam Lennon.

2. Declarations of interest

No new declarations of interest were received.

3. Minutes, actions and matters arising

The minutes of the previous meeting were approved as an accurate record. The Committee noted that the majority of actions were complete with several items returning to the March 2021 meeting.

3.1. COVID-19 Impact and Response

The Chief Executive Officer summarised that active case volumes continued to rise with a sustained growth of circa 100-150 new cases received to Cafcass every two weeks. The Prioritisation Protocol had been triggered in one region, South Yorkshire and Humberside on 23 November due to high caseloads, rising public law demand and staff absences. Concerns remained that prioritisation would not create sufficient capacity, as about 20% of work nationally was expected to fall within category 3 and 4, with only 7 cases (including 1 public for public law) left unallocated in the first week of prioritisation in the region.

Assistant Directors continued to complete the fortnightly self-assessments which provided an overall health check of their region and provided an indicator of when prioritisation was likely to be triggered. The Prioritisation Protocol was unlikely to be triggered in other regions before the end of the year. The Chief Executive Officer highlighted that she was due to meet with the Permanent Secretary on Tuesday (15 December) to continue the discussions regarding prioritisation and private law reform. One area of focus would be blitz courts – there is a sense that we have a lot of work ready to be heard and need to develop co-ordinated system to focus on that work.

Board member, Eileen Munro queried if there was a mechanism in place to review unallocated cases once prioritisation had been triggered. The Operational Service Director (North) confirmed that any case would be triaged in the first instance, held in the duty system and reviewed weekly. If there was a change to the case an alert would be triggered.

The Committee considered that private law reforms were likely to progress quicker in the family justice system because of the demand and pressure caused by COVID-19. The Committee requested that a summary of the backlog handling work would be provided to the Committee in March.

Action 1: The Committee would receive a summary of the backlog handling work at its meeting in March 2021.

3.2. ECMS/Cafis - update on the need to run in parallel longer than anticipated, and the action being taken to mitigate the impact on frontline staff

The Committee noted the update as to why ECMS and CAFIS were running in parallel for longer than anticipated and the action being taken to mitigate the impact on frontline staff.

3.3. Transgender case/judgement and implications for Cafcass

The Senior Lawyer reported to the Committee that the High Court had ruled that children under the age of 16 considering gender reassignment were unlikely to be mature enough to give informed consent to be prescribed puberty-blocking drugs. The High Court had also ruled that it was highly unlikely that a child aged 13 or under would be competent to give consent to the administration of puberty blockers. It was also doubtful that a child aged 14 or 15 could understand the long-term risks and consequences of the administration of puberty blockers.

The Committee queried if Cafcass had the right expertise in place should it be involved in such cases. The Chief Executive Officer noted that the Corporate Management Team were still debating this ruling and how it could increase its expertise in this area. Board member, Joanna Nicolas recommended the name of a specialist advisor.

The Committee requested that a report be provided to the Committee in March on how Cafcass was seeking a broad spectrum of views from parents, children and families on the gender reassignment ruling and any subsequent implications to practice.

Action 2: The Committee would receive a report at the March 2021 meeting on how Cafcass was seeking a broad spectrum of views from parents, children and families on the gender reassignment ruling and any subsequent implications to practice.

4. Quality updates

4.1. Providing outcome letters to children at the end of proceedings

The Assistant Director reported that feedback from children indicated that they wanted to feel prepared in advance of their meeting with a Family Court Advisor, as well as understanding the outcome and/or the recommendations set by the court. Template letters had been agreed and would be uploaded onto the Children and Family Information System in January for Family Court Advisors to use, with the expectation that all children would begin receiving letters by the middle of February.

The Committee considered it important to review and evaluate outcomes to determine whether children felt listened to and could understand the decisions made about them. The Chief Executive Officer proposed that the Committee receive a feedback review update at the September 2021 meeting which would demonstrate how Cafcass was listening to children and families, acting on feedback and improving practice.

Action 3: The Committee would receive a feedback review update at the September 2021 meeting which would demonstrate how Cafcass was listening to children and families, acting on feedback and improving practice.

4.2. Case complexity

The Director of Strategy reminded the Committee that it had received a paper summarising emerging findings from scoping work with Family Court Advisors to identify the factors associated with case complexity at its September meeting. The scoping work had been

qualitative and exploratory, and further work on complexity was being developed to analyse case work complexity.

The Committee suggested that to effectively understand whether complexity was increasing, a review of historic cases would need to be undertaken, and whether there would be benefit in such an exercise. The Chief Executive Officer agreed that Cafcass would need to decide how much resource should be put into further work.

The Committee agreed that the factors relating to parental mental health and child's mental health would be amended and referred to as 'mental ill health'. The Director of Strategy confirmed that Cafcass had a mental ill-health practice expert.

Action 4: The Committee would receive an update on case complexity at the June 2021 meeting.

4.3. Developing detailed analysis of the data on court outcomes by ethnicity

The Director of Strategy reported that following the diversity analysis presented to the Committee in September, further work was being taken forward to analyse data, informed by our responsibilities under the public sector equality duty, relating to the heritage of children Cafcass works with and, where appropriate, that of their families. The outcome of this analysis would be presented to the Committee in March 2021.

The Director of Strategy also reported that initial strategies had also been identified for improving the capture of missing information about the heritage of children and families we work with.

The Committee proposed including gypsy and/or traveller in the 'white' ethnic group. The Committee also stressed that there was reputational risk from having 'unknown ethnicity' in 22% of cases and considered it difficult to draw any conclusions with that percentage of information missing.

Action 5: 'Gypsy and/or traveller' would be incorporated as an option in the 'white' ethnic data group.

Action 6: The Committee would receive the analysis of the ethnicity data at the March 2021 meeting.

5. Performance Scorecard (previously Performance Report)

The Head of Business Analysis presented to the Committee the Performance Scorecard which replaced the Performance Report. The Performance Scorecard aim to provide the Committee with greater information to ensure that relevant risk to performance was adequately highlighted.

The Committee queried the Assistant Director prioritisation Self-Assessment and the RAG status for A14 (Essex, Sussex and Norfolk region) which was rated red but likely to trigger prioritisation within the next 4-8 weeks. The Operational Service Director (South) confirmed

that the situation in each area remained fluid and additional resources including recruitment had been implemented as well as demand reduction measures.

Record caseloads had resulted in higher allocations to frontline supervisors. Service Managers and Practice Supervisors now hold an average of nearly 19 active cases compared to 16 in the same period 2019. The Head of Business Analysis confirmed that 1,310 active cases had been allocated to Cafcass Associates, which represented 3.6% of active cases.

The Committee noted that there had been an increase in the volume of feedback, as well as in the number and proportion of compliments received relative to complaints and that 6% of complaints had been upheld. The Chief Executive Officer confirmed that a complaints review was ongoing, and the Committee would receive an update in future as part of the Customer Services Annual Report.

The Committee requested that the Performance Scorecard and accompanying glossary be shared with Board members. It was also suggested Board members may appreciate a 30 minute workshop on the Performance Scorecard and glossary.

The Committee and MoJ representative thanked the Head of Business Analysis for the Performance Scorecard and welcomed the updated format, highlighting that it greater reflects Cafcass' situation in terms of organisational performance and risks.

Action 7: The Performance Scorecard and accompanying glossary would be shared with Board members.

6. Outcome of C100 study

The Assistant Director provided the outcome of an analysis of c100 applications. A previous study had been completed in 2016, to help Cafcass understand any change in the risk profile of private law live with and spend time with applications.

A team of Assistant Directors and Heads of Practice had reviewed 152 c100 applications received by Cafcass on one working day, Thursday 6 February 2020.

The key findings demonstrated that managers recorded a lower rate of 'no risk' cases compared to previous iterations of the study but remained consistent in how many could be safely resolved outside of court proceedings. Domestic abuse was the most recorded risk factor but almost half of cases featured multiple risk factors and domestic abuse was a standalone risk for only one family, demonstrating the complexity of many private law applications.

The Assistant Director highlighted that the intention was to repeat the C100 study twice in 2020, with pre and post-COVID-19 samples, to understand any change in the risk profile of applications. However, evidence suggests that few applications cited COVID-19 implications as a reason for their application. The Assistant Director confirmed that the study would not be repeated for the purpose of comparing the impact of the pandemic, instead the study would be repeated with a more refined focus on supporting reform, focussing specifically at triage, returning families and gatekeeping options.

7. Quarterly Learning Review

The Assistant Director presented to the Committee the Quarterly Learning Review and highlighted that the Serious Incident Notification Bulletin was cascaded to teams on a monthly basis.

The Committee noted that the Bulletin included a good level of information that focussed on learning and improving practice. The Committee suggested that that the bulletin should clearly explain what a Serious Incident Notification is and the process for receiving one.

The Committee also noted that in the recent Case Quality Audit, 38% of work was graded as less than good/outstanding. The Assistant Director confirmed that the Case Quality Audit report was being finalised and the National Improvement Service would include detailed findings and a comprehensive action plan to improve the percentage of work graded as less than good/outstanding.

8. Practice Presentation: Seeing Children Remotely and Outcome of the Children Seen Audit

The Committee received a practice presentation from the Head of Practice and Family Court Advisors on seeing children remotely and the outcome of the children seen audit.

The Head of Practice outlined the child seen audit summary and reported that of the 235 children sampled, 85% of the children had been seen, with 35% seen in person and 38% seen remotely. 15% of children were not seen at the time of the audit, with no defensible decision making recorded. Where meetings with children took place, 65% said the quality of the meeting was good/outstanding and of the 15% children who were not seen, 8 children went on to be seen following the audit, leaving 7 children not seen.

The Committee noted that systematic recording of children seen on case files had been implemented from June 2020 and was still bedding in. Given the increasingly high caseloads, family court advisors would use their professional judgement to determine whether it was appropriate to see a child in person and to record the decision. The audit had identified issues in recording and this was an area to be improved. Progress had been made on improving the data and Assistant Directors were providing reassurance to the Operational Service Directors that children were being seen. Board Member, Joanna Nicolas, queried how Cafcass confirmed the data recorded was accurate, and that Family Court Advisors were not recording seeing a child when they had not. The Head of Practice said this was very unlikely to happen and our responsibility would be to monitor the quality of the rationale of decision making.

The Head of Practice also reported that there was a good level of child centred work, however siblings could be overlooked during sibling meetings and the uniqueness of individual children was not always evident. Additionally, the individual children's needs, wishes and feelings was not also prominent on the case file and children were not always being communicated with throughout the life of the proceedings and updated about key decisions.

The Family Court Advisors highlighted to the Committee what had worked well and what hadn't when seeing children remotely. Children often presented as more relaxed and older children appeared more engaged, practitioners were able to observe children in their parent/caregiver's care which provided greater insight into the children's needs, wishes and feelings. However, there remained the possibility of potential influence from parents and to miss non-verbal cues. It was also difficult if a child became distressed and were unable to provide meaningful comfort.

The Committee commended the presentation and thanked the Head of Practice and Family Court Advisors for their time.

Action 8: The Committee would be provided with an update on the data and decision making in relation to children seen.

Action 9: The Chair of the Committee to ask for the Cafcass Board to be updated with the data on children being seen at the 20 January 2021 Board meeting.

9. Any other Business and Forward Planner

The Committee noted the Forward Planner.

ACTION SUMMARY

Action 1: The Committee would receive a summary of the backlog handling work at its meeting in March 2021.

Action 2: The Committee would receive a report at the March 2021 meeting on how Cafcass was seeking a broad spectrum of views from parents, children and families on the gender reassignment ruling and any subsequent implications to practice.

Action 3: The Committee would receive a feedback review update at the September 2021 meeting which would demonstrate how Cafcass was listening to children and families, acting on feedback and improving practice.

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Action 5: 'Gypsy and/or traveller' would be incorporated as an option in the 'white' ethnic data group.

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