Cafcass child protection policy

Overview

This policy sets out the requirements placed by Cafcass, on its staff and contractors, relating to its statutory function of safeguarding and promoting the welfare of children. It details the procedures to be followed when completing a section 16A risk assessment; making a child protection referral; taking urgent action to protect a child; and responding to an allegation made against a person who works with children. It also alerts staff to the requirements placed upon them in respect of complex safeguarding matters such as child exploitation and female genital mutilation, and the resources available to support staff in this area of work.

1. INTRODUCTION

1.1 The policy must be complied with by all Family Court Advisers and their line managers. Where a practitioner determines that circumstances in a specific instance justify a variation from the policy, this decision should be discussed with a manager, and a note made on the case record, as soon as possible.

1.2 Practitioners must familiarise themselves with local protocols for assessment and the threshold document of the LSCB(s)[1] in whose area the team provides a service, as stipulated by *Working Together (2018).* Although Cafcass is not legally bound by Working Together, it is Cafcass policy to adhere to it wherever appropriate in the light of Cafcass' statutory functions.

1.3 It is the responsibility of all practitioners to act on concerns about risk of harm to a child. For guidance on risk assessment, refer to the risk and harm course in CafcassLearning.[2]

2. SECTION 16A RISK ASSESSMENTS

> Section 16A of the Children Act 1989 states that: *If…an officer of the Service…is given cause to suspect that the child concerned is at risk of harm, he must a) make a risk assessment in relation to that child and b) provide the risk assessment to the court.*

2.1 Section 16A means that the practitioner should first consider whether the child is at risk of harm. The section imposes a **duty** upon the practitioner to provide a risk assessment, so it is important to be clear about what "harm" has been identified. The practitioner may not consider that the child is at risk of harm if there are already protective factors in place as a result of the proceedings. The section makes reference to current rather than future harm. Long term risks would be addressed in a section 7 report.

[1] Or the *safeguarding arrangements* set up by *safeguarding partners* (LA, police and health). As many LSCBs still function, at least temporarily and as non-statutory bodies, this policy continues to refer to them.

[2] The learning platform that replaced MySkills as of September 2018

2.2 Only registered and qualified practitioners undertake the statutory duty of conducting s16A risk assessments. Newly qualified social workers (NQSWs) exercise sole case responsibility for this work only when they have been deemed competent through the process of confirmation in post. Students on practice placements do not conduct s16A risk assessments.

2.3 A s16A risk assessment report should not be incorporated into a s7 report, due to the different rules on disclosing the reports to parties. The practitioner should clearly state that the risk assessment has been undertaken in accordance with the requirements of section 16A Children Act 1989, clearly setting out what type of harm the child is at risk of suffering.

2.4 The s16A risk assessment report should not be shared, by Cafcass, with the parties. The court will make directions about the service of the report on the parties and it may be appropriate to comment on any risks associated with disclosure of the report. The provision of the s16A report only to the court enables the practitioner to alert the court to any serious concerns, whilst ensuring the distribution of sensitive material does not place a child or vulnerable adult at risk. The duty to file a report with the court extends to circumstances where the practitioner concludes, following investigation, that there is no risk.

3. CHILD PROTECTION REFERRALS (s47 CHILDREN ACT 1989)

3.1 A child protection referral should only be made by registered and qualified practitioners. Paragraph 2.2 about NQSWs applies. If staff who are not registered and qualified practitioners have a concern about a child they should bring this immediately to the attention of the allocated practitioner, Practice Supervisor or a Service Manager.

3.2 The practitioner should make a child protection referral to local authority children's services where they believe that a child is suffering, or is likely to suffer, significant harm. This applies to:

- All children with whom practitioners come into contact through their work, not just those who are subject to court proceedings
- All types of risk of significant harm to children, including any risk of self-harm or suicide.

3.3 Under s47, local authorities have a duty to make necessary enquiries where they have reasonable cause to suspect that a child who lives, or is found, in their area is suffering, or is likely to suffer, significant harm.

3.4 Whilst it is not generally lawful to disclose information relating to proceedings, rule 12.73 of the Family Procedure Rules 2010 permits information relating to proceedings to be communicated to a professional acting in furtherance of the protection of children.[3] This allows Cafcass to make a child protection referral without the prior

[3] See Information sharing: Advice for practitioners providing safeguarding services to children, young people, parents and carers (HM Government, March 2015).

permission of the court. However, the court should always be informed at the earliest opportunity of any such action taken.

3.5 The consent of a child or parent/s is not required where a child protection referral is being made, but the child and parent/s should be kept informed unless doing so would place the child at increased risk of significant harm or prejudice a police enquiry. Where a decision is taken not to inform the parent/s of the making of a child protection referral, the professional assessment for not doing so must be recorded on the contact log, within ECMS.

Deciding if a child protection referral is required

3.6 Identifying the threshold for a child protection referral requires skilled professional judgment. There are three types of concern, which should prompt the practitioner to consider the need for a child protection referral:

- **Unknown:** a 'new' concern relating to current or recent events.
- **Unresolved:** a concern already referred to the local authority, but where the child remains at risk of significant harm (e.g. because of poor practice or a dispute between agencies). The matter must be escalated through Cafcass line management immediately, making use, as appropriate, of the relevant LSCB escalation procedures.
- **Unreported:** concerns relating to events in the more distant past (but not reported to the local authority at the time) that pose a current risk of significant harm to a child. These are to be distinguished from 'historical concerns' which do not pose a current risk (see 3.7).

3.7 Where the practitioner becomes aware of 'historical concerns' derived from domestic abuse, they should exercise professional judgment as to whether this information should be shared with the local authority.

3.8 The Family Procedure Rules 2010 permit the sharing of any information relating to proceedings to a 'professional acting in furtherance of the protection of children' and this includes the sharing of relevant information with a local authority, about a family which is known to them. Information can therefore be shared without making a formal referral.

Making a child protection referral

3.9 Having discussed the situation with a Service Manager or Practice Supervisor the practitioner should:

- Make the referral by phone at the earliest opportunity to the local authority where the child lives or is found, to the contact number stipulated within LSCB procedures.
- Inform any other relevant local authority that the referral has been made.
- Inform the Service Manager or Practice Supervisor, and record within ECMS the fact that a child protection referral was made by generating the Cafcass child

protection referral form template in ECMS. This will automatically update the child record and the contact log and will set a two day follow up flag on ECMS.

- Confirm the referral in writing at the earliest opportunity by completing **either** the Cafcass **or** the relevant local authority referral form, and save a copy to the case file.
- Inform the court of the referral and of the outcome at the earliest opportunity.
- Contact the local authority within one working day of the written referral being sent if receipt of the referral has not been acknowledged by them.
- Contact the local authority within two working days to establish what decision has been made in respect of the referral.
- Respond to any invitation to a strategy meeting/child protection conference and decide on attendance in line with LSCB procedures. Establish the outcome of any investigation by the local authority within the timescale that has been agreed with the local authority in each specific case.
- Notify the local authority when Cafcass work in the case ends.

3.10 Where a child protection referral is made for a child who is not the subject of proceedings, the local team will create a new case, using the 'non-subject and archive cases' guidance available on the intranet. The referral process to follow is the same as in 3.9, above, and the new case file should be closed when the manager is satisfied that the work is complete, and the referral has been accepted by the local authority.

4. TAKING URGENT ACTION TO PROTECT A CHILD

4.1 If a child is in imminent danger, action should be taken to secure the safety of the child. This involves, depending on the circumstances:

- Seeking medical attention immediately and directly from the emergency services. Parents/carers, if available, should be kept fully informed.
- Seeking police assistance if a child is at imminent risk and making a child protection referral to the local authority following the above procedure.
- Remaining with a child who has been left alone (depending on their age and capacity) and contacting the police.
- Notifying a Cafcass manager as soon as possible, in all of the above cases.

5. COMPLEX SAFEGUARDING

5.1 'Complex safeguarding' (otherwise known as 'contextual safeguarding'[4] is a term used to describe serious risks derived from child sexual exploitation, trafficking, honour-based violence and female genital mutilation (FGM), gang activity, and criminal exploitation. Guidance, including the support available to practitioners, is set out in the Operating Framework. Specific requirements are set out below relating to trafficking and FGM.

[4] See Working Together 2018, chapter 1.

5.2 In all complex safeguarding cases practitioners are required to:

- Make a child protection referral, in line with section 3 above, where a child is suffering, or is likely to suffer, significant harm as a consequence of exploitation.
- Familiarise themselves with the exploitation strategy of the LSCBs in whose area the team provides a service.
- Indicate on ECMS that a case is known, or suspected, to feature an element of exploitation.

5.3 Another complex, and growing, area of work is cases that have an international element. Detailed guidance is available in the Operating Framework.

6. CHILD TRAFFICKING

6.1 Where a practitioner believes that a child has been trafficked - moved from one place to another into conditions of exploitation (sexual, forced labour etc) by deception, coercion or the abuse of power - s/he should:

- Have a discussion with a manager prior to the referral.
- Make a referral to the local authority in line with section 3 above.
- Ask the local authority, in accordance with its first responder status, to refer the child to the National Referral Mechanism (NRM). The NRM is part of the UK Human Trafficking Centre. Referrals to it can only be made by first responders which include local authorities and the police. Cafcass is not a first responder.

7. FEMALE GENITAL MUTILATION

7.1 Practitioners have a mandatory duty[5] to report to the police known cases of female genital mutilation (FGM) in under 18s, identified in the course of their professional work. The procedure to be followed is set out in Annex 1.

8. ALLEGATIONS AGAINST PEOPLE WHO WORK WITH CHILDREN

8.1 This section applies to people who work with children irrespective of whether they are:

- Current or former employees of Cafcass who work with children.
- Service users of Cafcass who also work with children as e.g. teacher, youth worker, social worker, nurse etc.

8.2 Local authorities have a designated officer, or team of officers, who manage and have oversight of allegations against people who work with children. The local authority should be informed when allegations are made against a person who works with children and who has:

- Behaved in a way that has harmed a child, or may have harmed a child;
- Possibly committed a criminal offence against or related to a child; or

[5] Section 5B Female Genital Mutilation Act 2003

- Behaved towards a child or children in a way that indicates they may pose a risk of harm to children.

8.3 In respect of a concern about **a service user** the fact that they are a professional (e.g. a teacher or social worker) may not, of itself, merit a referral. The practitioner should consider whether the behaviour that has caused concern in one context (typically disputes over child arrangements) gives rise to concern about behaviour in other contexts (e.g. typically the user's workplace). A child protection referral should be made alongside the local authority referral if a specific child is at risk. Referrals should not be made directly to the person's employer. Referrals to the local authority about a user should be agreed by a manager.

8.4 The practitioner should seek the permission of the court before making a referral if the concern relates to a vulnerable adult rather than a child.

8.5 In respect of a concern about a **member of staff**, the operational Head of Practice/Assistant Director and Cafcass HR should be notified as soon as possible, who will decide whether to make a local authority referral. There are three potential strands to enquiries into an allegation about a member of staff:

- A police investigation into an alleged offence.
- Enquiries by the local authority about whether a child is in need of protection.
- An internal investigation, including a potential referral to the regulatory body.

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Next Review	September 2019

ANNEX 1: Female genital mutilation (FGM): mandatory reporting

The procedure to be followed is set out in *Mandatory Reporting of Female Genital Mutilation – procedural information* (Home Office; 2015).

A failure to comply with the duty may be considered through fitness-to-practise proceedings conducted by the Health and Care Professions Council.

What the section 5B duty to report means for Cafcass practitioners:

- A failure to comply with the duty may be considered through fitness-to-practise proceedings conducted by the Health and Care Professions Council.
- There is a personal duty to report known FGM to the police. The duty cannot be transferred to another member of staff.
- The duty is engaged when the social worker is *'informed by a girl under 18 that an act of FGM has been carried out on her*'.
- The duty does not apply if a report is made by another individual e.g. a family member. In these circumstances the Cafcass Child Protection Policy should be followed, specifically with reference to making a child protection referral to the local authority.
- There is no duty to report if another social worker has made a report to the police.
- It is the age at disclosure/identification – under 18 – which dictates whether a report is to be made to the police, not the age of the child when the FGM occurred.
- The mandatory report to the police should be made within one working day to the 101 number, unless there is a risk to life or a risk of immediate serious harm, in which case a 999 call should be made.
- The Assistant Director should be informed of the report, and identified as the 'Head of Safeguarding' when the police request this information.
- A child protection referral should be made to the local authority in line with the Cafcass Child Protection Policy.
- A record should be made on the contact log, within ECMS, including the reference number that the police provide. FGM should also be added to the *child needs* section on the child's person record in ECMS.

Non-social work staff should raise a concern about FGM with the service manager.

Resources to support staff are available on CafcassLearning.