

Family Assistance Order Guidance

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

1.0 What a Family Assistance Order means for Cafcass

1.1 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 'time with' the parent. 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 any matters relating to the section 8 order that the court requires, including whether either order ought to be varied or discharged.

1.2 A family assistance order (FAO) is an order that the court may not make without the consent of every person (other than any child) named in the order.

A local authority must consent to the order if they are providing the appropriate officer unless the child lives within the area.

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.

1.3 A FAO can last for up to 12 months and the court has to define the length of the order so they can be made for shorter defined period.

1.4 A Practice Direction has been issued to the judiciary (attached at Appendix 3 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 (either in writing or orally) by the appropriate officer about whether an order would be in the best interests of the child, how it might operate and the optimum duration.

2.0 The test to be applied when considering commencement of a Family Assistance Order

Family Assistance Order (FAO) Flowchart

Apply this thinking in any case where an FAO is being considered, has been ordered or where an FAO has been ordered and where consideration is being given to challenging the order.



When considering if an FAO is the most appropriate disposal you must consider the following:

- We need to be satisfied that our involvement in the case is **necessary** to enable a good outcome for the child.
- Is this the only way forward? FAOs are one of a number of disposals available within private law proceedings. Could the required outcome be achieved through use of a commissioned service, by referral to LA or other signposting?
- Is the desired **child impact/outcome achievable** through specific targeted work, which is affordable within available resources?



Additional Criteria to consider:

- Additional vulnerabilities within the case such as learning disability or mental health issues mean that parties and / or child are likely to struggle to progress plans without additional support.
- Are the adults who would be named in the order are likely to give their informed consent to it.



Key principles:

- An FAO should be considered at the earliest point in a case and can be suggested at Work to First Hearing or Work after First Hearing stages. They should be avoided as a follow on from extensive Cafcass involvement such as 16.4s.
- All recommendations for FAOs need to be discussed and agreed with a Service Manager.
- Recommendations should make clear that no report will be filed at the end of the FAO without a specific order for this to be filed.
- Duration should be carefully considered and specified in the recommendation. Short, time limited, purposeful FAOs are more effective than long running ones (see **appendix 1** for case studies).
- A clear plan of work should be drawn up and shared with the parties and the court, using the FAO template plan attached at **appendix 2**.
- Parties must be in agreement to the making of the order.
- Where we have not recommended the FAO and do not believe it necessary or purposeful, the Service Manager should actively challenge the court in accordance with the practice direction, attached at **appendix 3**.

Appendix 1:

Factors that have contributed to FAO working well:

- Full agreement by parties with the making of the FAO and the purpose.
- Clearly defined plan of work that is shared with the Court and parties.
- Issues have previously been assessed but parties have not been able to move forward in line with past orders/ recommendations.
- Risk Issues are known/ assessed and work needed to manage a safe plan.
- Where parties support an arrangement in principle but the child needs some additional support that parents can't offer to enable plan to start/ progress.
- Time limited (most effective FAO's have been between 3 and 6 months in duration).
- When recommended early in a case to prevent drift and delay.

Factors that have contributed to the FAO not being effective use of resources:

- No clearly defined plan of work and contacts with family being in an adhoc, responsive basis.
- Hostile or entrenched cases which have not progressed sufficiently well throughout other interventions such as 16.4 /section 7
- Cases where the work could have been completed as part of the section 7 or 16.4.
- When used following already lengthy involvement in a case unless outcome is clearly achievable within a short space of time.
- When a commissioned service would have been more suitable.
- Cases where work should have been completed by local authority or early help services,
- When other routes have been tried and not worked ie menu of options has been worked through and this is the last order to try.

Appendix 2: FAO template plan

Family Assistance Order agreement and work plan

This agreement sets out what is hoped to be achieved and the role of the parties and Cafcass in completing the work. Ideally this should be drawn up at the point the FAO is being recommended and a copy given to parents and the Court once the Order has been made.

Aim of FAO

How with the work be achieved (specify who will be seen, timescales, purpose of the visit/communication and contingency)

Expectations of the family court advisor and parties

Tasks that won't be undertaken as part of the FAO

Appendix 3: Practice Direction, 3rd September 2007

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

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Owner	Sarah Parsons
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