

Guidance on the use of professional time to benefit children

We are issuing this guidance, with the approval and support of the President of the Family Division, in order to be clear about the best way in which children can be helped by Cafcass and Cafcass Cymru in the family courts throughout England and Wales, during a time of record levels of demand for our services. This is a national framework for local discussion and use.

We put the emphasis on flexibility, so that Cafcass and Cafcass Cymru practitioners in their various roles before the court can use their time to best effect on the cases that matter most. We ask the judiciary at all levels to support such flexibility and to operate within this framework. We will ensure the service we provide to children and to courts is not diluted as a result of these changes.

This guidance applies to all staff across the family justice system who are making decisions about how Cafcass and Cafcass Cymru professional time is used, including the decisions taken by Cafcass and Cafcass Cymru staff themselves.

The ways in which we think Cafcass professional time should be used to benefit children most.

1. Flexibility about the use of case analyses and position statements in public law cases

Rationale

It is essential that children's guardians help the court and all parties to set a direction for the case which is consistent with the child's needs and the child's timescales. This means the children's guardian seeing the child, understanding the issues and providing advice about the best direction of the case until the final hearing, at a realistically dated Case Management Hearing (CMH). This will normally be between 12 and 18 days from the receipt of the application, unless there are clear grounds for an urgent listing. This advice to the court may be in the form of a position statement or an initial case analysis, depending on the issues at stake. For example, contested removal cases will normally need an initial analysis. It is more important that this early work is carried out, with clear advice given to the court, than whether the write up of the early work is in the form of a position statement or an initial case analysis or whether evidence is given in person at the first hearing. Whatever form the written work or the evidence takes at the first hearing, the guardian will be in the driving seat and will ensure that their advice to the court is clear and focussed.

Flexibility applies for the duration of the case, as long as the court is content with whether the guardian produces one case analysis, two case analyses or position statements via the child's solicitor. We would normally expect a definitive analysis to be produced for the hearing which is making the decisions about the child's permanence placement and contact framework, at whatever stage of the case this is.

Section 31 and secure applications will always have a position statement for every hearing where this is needed, so that each hearing can be effective.

2. Pre-proceedings in public law

Where arrangements exist, we encourage the local authority and Cafcass/Cafcass Cymru to work together in the pre-proceedings phase so that cases which come to court are those with

no safe community-based alternative and so that if the potential application needs to proceed to court, that the issues have been narrowed as far as possible. This is good case management.

3. Defined interventions by Cafcass and Cafcass Cymru in private law cases after the First Hearing (FHRA)

We think it is crucial that the work carried out by Cafcass and Cafcass Cymru before and at the First Hearing (FHRA) continues unchanged e.g., the production of a safeguarding letter or report in every case and attendance at FHRAs, as now. This is in order to maximise the safe resolution of as many private law applications as possible at the earliest possible point.

The work of Cafcass and Cafcass Cymru after the first hearing will be streamlined and refocused, so this is the area of work we propose should be subject to most change.

Cafcass and Cafcass Cymru plan to deliver clearer and more defined interventions after the first hearing, either a three or four session casework intervention in the most complex cases such as Rule 16.4 appointments, or new child impact reports which will be piloted for up to 6 months in Essex, York and North Yorkshire and North Wales. Each child impact analysis will include a structured professional assessment and recommendation by Cafcass/Cafcass Cymru and may also include some brief casework. The new template for this purpose is set out at the end of this guidance, though there may be further minor changes to the template to reflect operational differences between England and Wales. In other local areas, traditional s7 reports will be produced for the time being, pending the new proposed interventions being trialled and evaluated. Child impact reports are not a lighter version of a s7 report. They are a more intensive child focussed version.

It would be helpful if courts can set out the specific issues they would like to be addressed in any form of report on the face of the Order, as set out in the Child Arrangements Programme (the CAP), with general requests for reports being avoided. Where an FCA is present in court, they should assist the court in deciding the scope of the report.

The threshold for asking Cafcass/Cafcass Cymru to carry out work beyond the first hearing should be a concern about significant child impact, not the fact that the parental dispute is continuing in court.

4. Court-ordered Contact Activity Directions

There will be no change to the current child contact interventions and commissioned services available to courts.

5. Second/addendum reports in private law cases

We see no reason to ask Cafcass or Cafcass Cymru to deliver work outside of this framework which in itself reinforces the importance, integrity and principles of the Child Arrangements Programme (CAP). For example, second or addendum reports after the FHRA should only be requested in exceptional circumstances. Where such a report is ordered, the reason should be expressed clearly on the face of the order.

6. Attending court

Our view is that attendance by Cafcass and Cafcass Cymru practitioners at court should be kept to the necessary minimum, to allow them the maximum time to carry out the work with children and families that can lead to positive change for children. A half day spent unnecessarily in court together with the associated travel is a half day that can be spent with one or more children, the equation is that stark.

Broadly speaking, Cafcass and Cafcass Cymru practitioners should attend court either to give evidence, when their evidence is critical to decision-making, or to hear evidence that is essential for them to hear if they are to be able to carry out their own work and to make effective recommendations to courts.

We do not expect Cafcass and Cafcass Cymru practitioners to be sitting through lengthy hearings of any description, unless this is necessary.

In public law cases, the child's legal solicitor or barrister will still be able to attend every hearing, having taken instructions from the guardian who will remain accessible by phone to the solicitor or barrister in the usual way. Guardians should actively invite the court to excuse their attendance where attendance by their solicitor will suffice.

7. Advice to courts

A lot of work is asked of Cafcass and Cafcass Cymru because courts are apprehensive about taking decisions without advice, especially when neither party is legally represented. Rather than order a report from Cafcass/Cafcass Cymru, we think it is better if local arrangements are made between Cafcass/Cafcass Cymru, the judiciary and HMCTS, in order to ensure Cafcass/Cafcass Cymru advice is available to courts when it is most needed. This already happens in some courts e.g., requests to advise on a specific issue on the day or within a short period of time and the Hotline Protocol in place in Wales which ensures that courts always contact Cafcass Cymru prior to making a Rule 16.4 appointment. Cafcass and Cafcass Cymru are more able to respond to these requests in a timely way, than they are to directions to carry out work on cases where there are no safeguarding or serious welfare concerns. We ask for compliance with the national and local protocols in place about this, so that courts can receive the advice they need at the right time and in the most efficient way.

Essentially, this is Cafcass and Cafcass Cymru acting in a social work advisor role to court, as the social work equivalent of legal advisors.

8. Support for judicial initiatives

We will continue to support local judicial initiatives such as those on case progression, settlement conferences, FDACs and facilitating children to meet judges as part of effective case management and resolution.

9. Implementation of this guidance

This guidance will be operational from 1 July 2017. Please let us know of any support needed with training or development.

Anthony Douglas CBE
Chief Executive, Cafcass

Nigel Brown
Interim Chief Executive, Cafcass Cymru



Cafcass Child Impact Analysis

Date of Application:

Court:

Court Case Number:

Cafcass ECMS Number:

Application Type:

Hearing Type:

Hearing Date:

Cafcass Family Court Adviser:

Office Address:

Date Report Completed:

Filing Date:

Child's solicitor (where applicable)

Details of any current orders

WARNING: This report is restricted by rules of court. Unauthorised communication of the information in it is a serious matter and may constitute contempt of court.

NOTE: Significant factual errors (not matters disputed by the parties) in this report should be referred to the author. Any concerns about other aspects of the report (for example, the extent of enquiries, the opinions expressed in it or matters disputed by the parties) must be addressed in court.

Name of child	Date of birth	M/F	Ethnic origin

Name of parties <i>(and other important adults)</i>	Relationship to child	Date of birth	M/F	Ethnic origin

Key agencies involved	<i>(Give brief details of their involvement)</i>

1. Summary of issues for the child

This section should include:

- *The specific focus of the analysis as ordered by the court*
- *A summary of the issues in the family (set out in clear, straight forward language) and how they are impacting on the child*
- *Summarise the relevant risk information contained in the Safeguarding Letter.*

2. Enquiries undertaken

- *A bullet point list of enquiries undertaken to inform the child impact analysis.*

3. Child Impact Analysis

- *Set out the evidence base for the impact of the issues in the case on the individual child*
- *Analyse the impact, including from child observation*
- *Include and analyse the child's wishes and feelings, as appropriate bearing in mind the child's age and developmental stage.*

4. Structured Professional Assessment

- *Bring together a succinct account of the child's experiences and how their safety and well-being can best be promoted*
- *Relate the evidence base back to the application*

5. Recommendations for the child

- *Specific recommendations about what the parent/s or other key people should do in order to help the child in a sustainable way.*
- *Which court orders and framework are recommended so as best support the child's safety, well-being and future development?*

In compiling this report, I have had regard in particular to the welfare checklist as required by Rule 16.20/16.33 Family Procedure Rules 2010 and I have applied a welfare checklist analysis to the facts of the case throughout.

Signed:

Name:

Cafcass Role: Family Court Adviser

Date: