



CHILDREN AND FAMILY COURT ADVISORY AND SUPPORT SERVICE

Paper for the Performance Committee Meeting on 12 September 2016

ANNUAL FREEDOM OF INFORMATION REPORT

KEY POINTS

- *Cafcass received 203 requests for organisational information under the Freedom of Information Act during 2015/16; this represents an increase of 10% from the previous year. The most frequently requested topic was Cafcass policy. This increase is to be expected given the greater publicity given to family court cases in the last 12 months and because of the ever greater expectations about transparency in public life.*
- *Cafcass also responded to 93 requests for personal information held by Cafcass (subject access) under the Data Protection Act, which is a 28% reduction compared to 2014/15.*
- *The differences in the data changes above are hard to reconcile, so the volume changes will be kept under close review over the next 12 months, to make sure there are no systemic reasons involved.*
- *There are no concerning trends in the types of reason for the two sets of requests highlighted in this report.*

1. AIM AND PURPOSE

- 1.1 To provide the Committee with an overview of the nature and volume of Freedom of Information (FOI) requests received by Cafcass during 2015/16.

2. RECOMMENDATIONS/ACTION FOR THE COMMITTEE

- 2.1 This report is for information only.

3. BACKGROUND

- 3.1 The Freedom of Information Act 2000 came into force on 1 January 2005. It allows individuals to request information from public bodies. The majority of requests received contain multiple queries, but are counted here as one request.
- 3.2 Routine requests for available or case-related information can be responded to under business as usual. 'Non-routine' requests or requests specifically stating the legislation are treated under the FOI Act, and these statistics relate to these only.
- 3.3 Public bodies must respond within 20 working days and disclose the requested information where it is recorded and where it is not subject to an exemption or exception allowing it to be withheld.
- 3.4 Applicants can ask for an internal review if they are not satisfied with a public authority's initial decision on whether or not to disclose the requested information, or if they were unhappy with the way the request was handled. This process should be a fair and thorough review of the initial decision.
- 3.5 If an applicant remains dissatisfied with the outcome of an internal review, they are able to appeal to the Information Commissioner's Office (ICO). The ICO is the independent regulator of public authorities in their handling of information rights

3.6 Under the Data Protection Act 1998, individuals have the right to access copies of their own personal data held by public authority by making a 'subject access request' (SAR). These are handled separately to FOI requests and are managed within the Customer Services Team.

4. EXECUTIVE SUMMARY

FOI Measure	2015/16	Trend: 2014/15 comparison
Number of FOI requests	203	185
Most popular category of request	Policy	Policy
Responses within the timescale	99.5%	98%
Average response time	9 days	13 days
Outcomes of requests <ul style="list-style-type: none"> Information fully provided Information partially provided Information fully withheld Information not held by Cafcass 	55% 35% 6% 3%	56% 28% 14% 2%
Responses using exemptions or exceptions	27%	25%
Request for review <ul style="list-style-type: none"> Internal (Cafcass review) External (ICO appeal) 	4% 0%	5% 0%

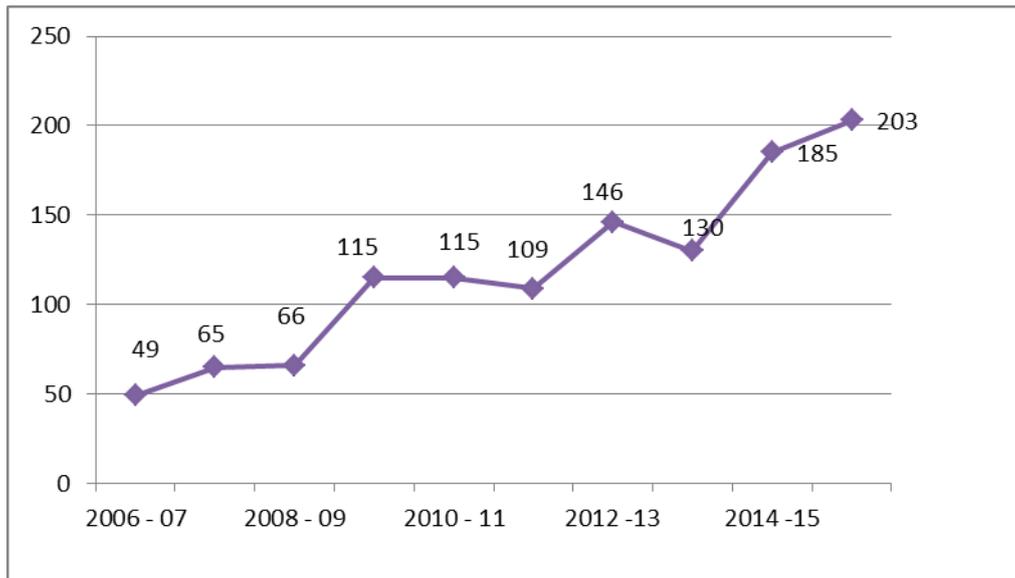
5. ANALYSIS AND COMMENTARY

5.1 Number and type of requests

Key point 1: Cafcass received a total of 203 requests in 2015/16 which is 10% more than the previous year, and continues the year on year trend of increased requests.

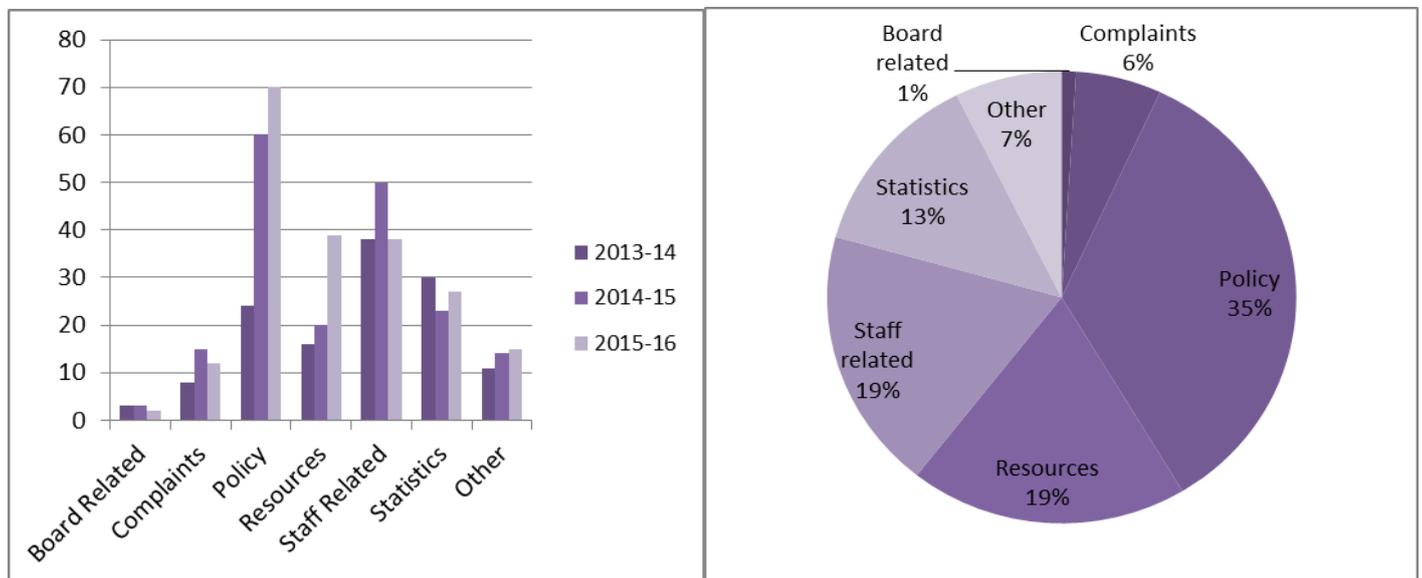
The main increase in requests has come from one-off applicants and from resources-related requests which almost doubled.

Figure 1: number of requests received by Cafcass since 2006/7



5.1.1 FOI requests received by Cafcass are recorded under different categories according to the topic of the request; where a request contains multiple queries relating to a number of different topics, the main category has been counted. The total number of requests per category compared with the results from the previous year is shown in figure 3 below. A breakdown of the proportion of requests received per category in 2015/16 is illustrated in figure 4.

Figures 3 and 4: percentage of requests received per category; number of requests received per category in the last three years.



5.1.2 **Policy** (and training) requests remained the most popular category of request and accounted for 35% of all requests received.

- One reason for the continuing increase could be the number of litigants-in-person, with many requests for standard policy and procedure in relation to the role of Cafcass in family court proceedings, the type of personal information collected and used in court reporting (such as police records), and Cafcass' processes of interviewing and working with children and families.

- A number of requests were for the position of Cafcass and relevant training in relation to issues faced within family law proceedings of parental conflict, implacable hostility, emotional abuse and domestic abuse.

5.1.3 **Staff related** requests remained frequent; they were commonly from service users relating to practitioners who they were working with and were sometimes related to complaints.

- The majority were requests for the qualifications, training or recommendations of individual members of staff.
- Other requests related to our management and accountability structures, staff code of conduct and performance monitoring, as well as workforce information and diversity data.

5.1.4 **Complaints** related requests are often combined with policy and staff requests.

- Those relating only to complaints asked for numbers, type and escalation of complaints, as well as mechanisms for feeding back learning to staff and remedial actions taken.

5.1.5 **Statistics** information is often requested from journalists, researchers and other government agencies, as well as service users.

- The most common statistics request was for parental order application figures and related queries about the surrogate's country of residence and applicants' genders.
- Other requests related to diversity data of those involved in proceedings, and recommendations and outcomes of cases.

5.1.6 **Resources** requests increased significantly, almost doubling compared to the previous year.

- The majority are commercial enquiries relating to services used by Cafcass, particularly asking for contract information for IT and software providers.
- Other requests related to how public money is allocated and spent in Cafcass and commissioned services.

5.1.7 **The Cafcass Board** were subject to a small number of requests, relating to biographical and contact details, as well as Board papers which were not published at the time.

5.1.8 **Other** requests included: enquiries about the role of Cafcass solicitors and appointment of external solicitors; pilot programmes including the use of clinical psychologists; Ofsted inspection results by office; serious case review information; and the itinerary of the Cafcass Chief Executive.

5.2 Applicant type

5.2.1 The 203 FOI requests received were made by 156 different applicants. The total number of applicants has increased by 19% from 2014/15, when requests were received from 131 different applicants.

5.2.2 One-off applicants made 66% of the total requests. This number of one-off requests by different individuals increased by 22% increase and accounts for the rise in requests.

5.2.3 Three applicants made serial requests constituting 14% of total requests. These were related to individual complaints. There is a reducing trend in serial requests, which constituted 19% of total requests in 2014/15 and 23% of total requests in 2013/14. This reduction may be caused by increased use of exemptions within the FOI Act to prevent its abuse by trivial or repeated requests.

5.2.4 The vast majority of FOI requests appear to be from service users, as they relate to policy or staff issues. A number are related to commercial interests from public sector contract opportunities. Some requests have been received from journalists and researchers relating more generally to types of application or incidents within family court proceedings.

Figure 2: number of requests received per applicant grouping

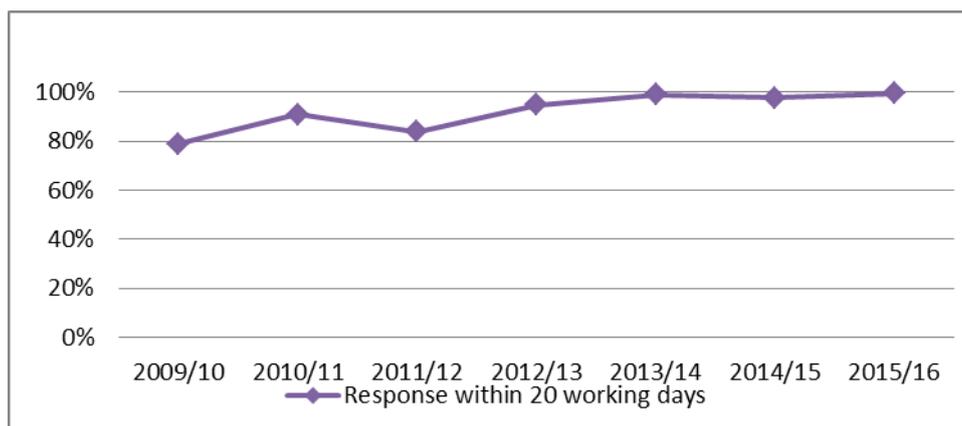


5.3 Timeliness of responses to requests

Key point 2: 99.5% of requests were responded to within the statutory deadline of 20 working days. The average response time was 9 working days, which is a reduction compared to the previous year (13 working days).

5.3.1 Delay in one instance was caused by collating and agreeing safe disclosures of the Chief Executive's itinerary. The Governance team aim to communicate closely with the applicants if the deadline is not going to be met in order to explain the delay and give a new expected response date.

Figure 5: percentage of FOI responses sent within the statutory time limit since 2009/10



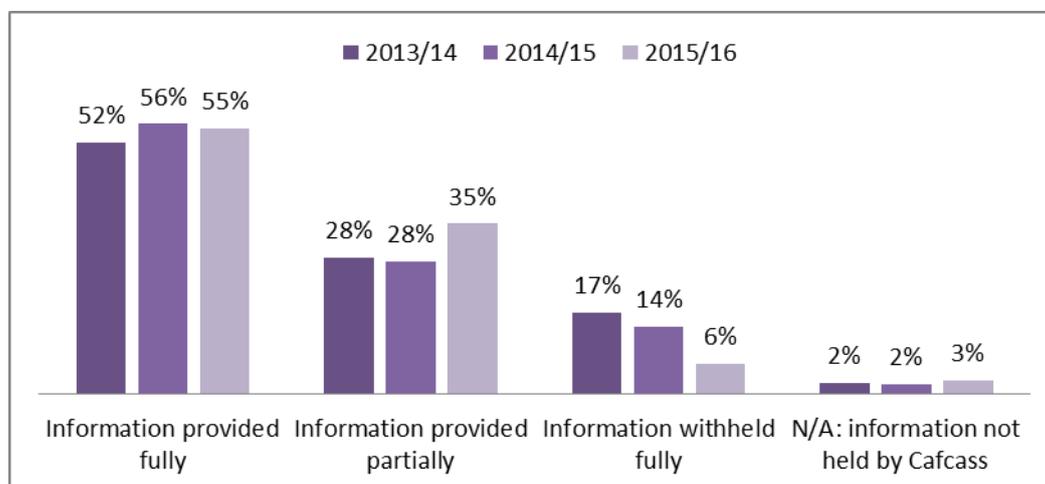
5.4 Outcomes of requests

Key point 3: Of the 203 requests received:

- 55% were fully provided with information;
- 9% were not provided with any information as it was either exempted from disclosure (6%) or was not held by Cafcass (3%) – this is a decrease compared to the year before;
- 35% were partially responded to, as part of the information requested was either exempted (20%) or not held (15%) – this is an increase compared to the year before.

5.4.1 There has been a decrease of 8% in the percentage of responses where information was fully withheld, and a corresponding increase in responses where information was partially provided; this demonstrates our commitment to provide some level of information even where a full response is not possible.

Figure 6: percentage of outcome of requests in the last three years



5.5 Use of exemptions or exceptions

Key point 4: Exemptions or exceptions were applied in 27% of responses which is similar to the previous year. The most common were for responses where the cost of compliance would exceed the reasonable limit (section 12 exception) or where the request was for personal information which should remain private (section 40 exemption).

5.5.1 65 exemptions within 55 responses were used, as more than one can apply within one response. There has been an increased use of the repeated/vexatious request exception (section 14) which reduces the time spent on these requests and discourages time-wasting requests which do not appear to have a serious purpose or wider public interest.

5.5.2 Third-party personal information exemptions (Section 40) were mainly applied to requests relating to specific practitioners' qualifications or personal information. Estimated exceeding of the appropriate cost of compliance exceptions (over £450 for Cafcass) were mainly applied where requests asked for information only held within individual case files or reports, such as specific case recommendations, which would have to be manually extracted rather than by using statistical reporting software.

Figure 7: number of exemptions or exceptions applied in the last three years

Exemptions/exceptions applied	2013/14	2014/15	2015/16
Section 12: Cost of compliance exceeds appropriate limit.	28	20	24
Section 14: Vexatious or repeated requests.	0	4	9
Section 21: Information accessible by other means.	0	0	3
Section 22: Information intended for future publication.	3	3	1
Section 36: Effective conduct of public affairs.	0	0	2
Section 38: Health and safety.	0	0	1
Section 40: Personal information.	19	23	21
Section 42: Legal professional privilege.	0	2	1
Section 43: Commercial interests.	2	0	3
Total	52	52	65

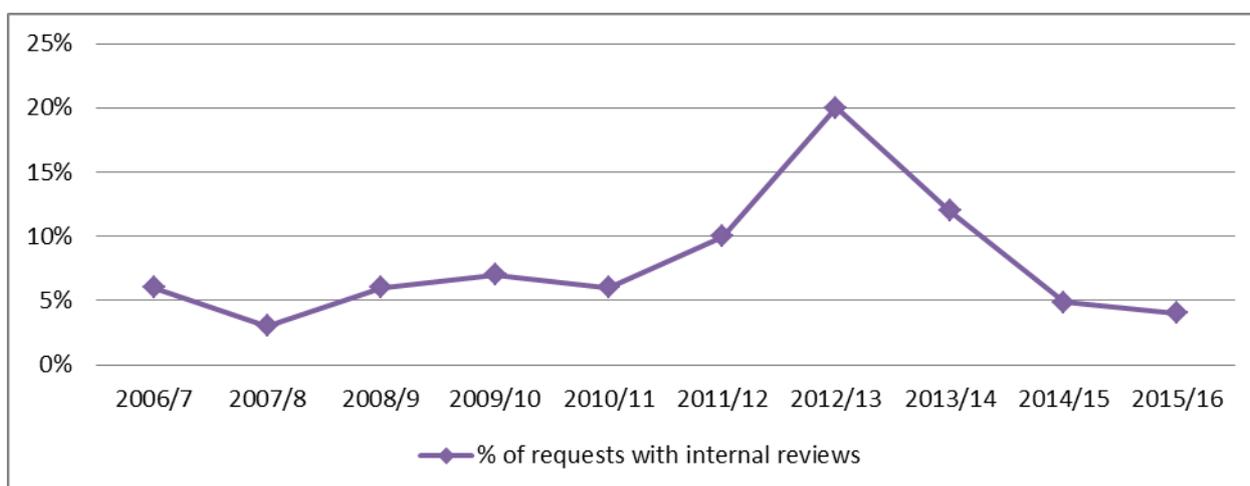
5.6 Appeals and reviews

Key point 5: There were eight requests for internal reviews of the FOI response. This represented 4% of the total requests which is similar to the previous year. There was one ICO investigation into potential non-compliance; this was found to have complied with the legislation.

5.6.1 The outcomes of the internal reviews in 2015/16 were:

- The initial handling of the requests under review was approved fully in five of these cases;
- The initial handling of the requests under review was partially approved in two of these cases, where it was considered that initial responses were correct but that further information could have also been disclosed.
- The initial decision was overturned in one case and the requested information was disclosed. This related to individual qualifications of specific practitioners.

Figure 8: percentage of responses with requests for internal reviews



5.6.2 One complaint was investigated by the Information Commissioner's Office (ICO) regarding a request for information relating to legal aid, court and judicial costs; the Cafcass response initially and within the internal review stated that Cafcass did not hold this information as Cafcass is not responsible for the matters it concerned. The ICO found that this was likely to have complied with the legislation.

5.7 Requests for personal information: Subject Access Requests

5.7.1 In 2015/16, 93 SARs were received by Cafcass, and all were initially completed within the statutory timeframe (40 calendar days). This is a 28% reduction in numbers compared to the previous year (129 SARs).

5.7.2 There were 15 requests for internal reviews of responses, which were completed by a Head of Service. The original response was upheld in six cases, and additional information was provided in eight cases. Similarly, this is a reduction compared to the previous year (28 review requests).

5.7.3 The ICO contacted Cafcass in relation to five cases which were then reviewed by the Governance team. Cafcass was found to have complied with the relevant legislation in three cases, but was found to have breached the legislation in two cases: one due to disclosing further information outside of the statutory timeframe, and one due to not disclosing all relevant information.

6 CURRENT AND FUTURE WORK

- The [Disclosure Log](#) contains published previous responses to enable public access to information disclosed to others; it is now displayed in categories for ease of reference. It is

hoped that this will ensure quicker and easier access to this information and decrease the number of repeated requests from different people; use of these pages is being monitored to help evaluate the impact of this.

- The [Publication Scheme](#) contains standard required transparency data and is annually updated.
- Some frequently requested information has now been published, including [contract information](#) which represented a large source of new requests; it is hoped that by having this information readily available, this will decrease new requests received.
- Cafcass will continue to aim to provide a first rate service for working transparently where appropriate and disclosing information as set out in the FOI Act.

7 BENEFITS FOR CHILDREN

- 7.1 Cafcass' promotion of transparency and commitment to sound information management signifies that we are committed to responding to requests in ways that appropriately meet the interests of both adult and child service users.

8 FINANCIAL ANALYSIS

- 8.1 Responses to FOI requests have been contained within existing budgets and the workloads of the Head of Legal Services, Information Assurance Officer and contacts within the relevant departments.

9 RISK ANALYSIS

- 9.1 The potential reputational damage that would arise from significant non-compliance with the requirements of the Freedom of Information Act 2000 means that Cafcass needs to continue to be diligent in responding to FOI requests in a timely and proper way.

10 DIVERSITY ANALYSIS

- 10.1 The methods of accessibility for the public to the information maintained by Cafcass are varied; the publication scheme and website, hard paper copies, and emailed information in several formats are available. Members of the public have the right to express a preference for different methods of communication as set out in Section 11 of the FOI Act.

Emily Halliday, Information Assurance Officer
18 August 2016

	2015-16		2014-15		2013-14	
Total number of requests	203		185		130	
Type of information requested						
Board related	2	1%	3	2%	3	2%
Complaints	12	6%	15	8%	8	6%
Policy (and training)	70	34%	60	32%	24	19%
Publications	*		*		2	2%
Resources (previously Procurement)	39	19%	20	11%	16	12%
Staff related	38	19%	50	27%	38	29%
Statistics	27	13%	23	12%	30	23%
Other	15	7%	14	8%	9	7%
Response time						
Response within 20 working days	202	99.5%	181	98%	129	99%
Response after 20 working days	1	0.5%	4	2%	1	1%
Average response time	9 days		13 days		14 days	
Response outcome						
Information provided fully	112	55%	104	56%	68	52%
Information provided partially	72	35%	51	28%	37	28%
Information withheld fully	13	6%	26	14%	22	17%
N/A: information not held by Cafcass	6	3%	4	2%	3	2%
Number of responses containing exemptions	55	27%	47	25%	46	35%
Total number of exemptions applied	65		52		52	
Internal reviews						
Number of internal reviews	8	4%	9	5%	15	12%
Fully upheld initial response	5	2%	7	4%	14	11%
Partially upheld initial response	2	1%	2	1%	1	1%
Overtaken initial response	1	0%	0	0%	0	0%
ICO involvement	1	0%	0	0%	1	1%
Applicant type						
One-off requests	133	66%	109	59%	65	50%
Requests from applicants who make up to 3 requests per person	42	21%	41	22%	35	27%
Requests from applicants who make 4 or more requests per person	28	14%	35	19%	30	23%
Sourced from whatdotheyknow.com	47	23%	63	34%	45	35%

Most popular category of request	Policy	Policy	Staff related
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