



## **CHILDREN AND FAMILY COURT ADVISORY AND SUPPORT SERVICE**

### **Discussion Paper for the Board Meeting on 7 February 2014**

### **RESPONSE TO THE PROPOSED CHILD ARRANGEMENTS PROGRAMME**

#### **KEY POINTS**

- The aspiration of the Private Law Working Group (PLWG) is to complete a draft Child Arrangements Programme (CAP) for approval by the Family Procedure Rules Committee meeting on 3 March, with implementation of the CAP to take place from 22 April. This will then replace the current Private Law Programme.
- A consultation process was carried out and the responses were considered at the meeting on 23 January 2014.
- A further draft will be prepared by Mr Justice Cobb and a final version will be made available at a further meeting (probably in February) for final sign off.
- Cafcass will see a copy of the final version before that meeting in order to make any necessary further amendments.
- Our response to the draft CAP is appended to this paper.

#### **1. AIM AND PURPOSE**

- 1.1 To provide the Board with a summary of progress with the new Child Arrangements Programme, several provisions of which are contained in the Children and Families Act 2014.

#### **2. RECOMMENDATIONS/ACTION FOR THE BOARD**

- 2.1 To note and discuss the progress of the Child Arrangements Programme.

#### **3. BACKGROUND**

- 3.1 The significant areas of improvement on the PLP are as follows

- 3.1.1 The PLWG agreed that the C100 application form needed to be updated and improved, particularly taking into account the needs of the litigant in person. The PLWG also agreed that this form needs to be integrated with the (currently separate) FM1 form, which is completed by providers of Mediation and Information Assessment Meetings (MIAMs). It is anticipated that Cafcass will be involved in this work, which is unlikely to be completed until after April 2014.

- 3.1.2 The time scale for the provision by Cafcass of the "schedule 2 letter" with the safeguarding information to the court. This is to be renamed as the 'safeguarding letter', which will in future be provided within 17 working days of receipt by Cafcass of the application form and at least 3 working days before the date of the first hearing. Cafcass, in consultation with Cafcass Cymru, will draft a form of words to be inserted into the CAP which, will provide the legal authority for obtaining police checks which is currently in the PLP ( The Head of Legal Services is to provide a draft form of words).

- 3.1.3 At the First hearing there will continue to be an expectation that efforts will be made by the parties, with the assistance of Cafcass and the encouragement of the court, to explore dispute resolution and conciliation. The focus of the CAP is to attempt to divert parties away from court and, where court applications are made, away from contested hearings. Dispute resolution interventions should be considered by the court **before** ordering reports under section 7 of the Children Act 1989.
- 3.1.4 If the court concludes that there are welfare issues which need to be addressed in a report from Cafcass or a local authority the court should state in the order what issues need to be addressed and avoid general requests. The Head of Legal Services is to draft a form of words which will identify examples of the issues that a court might specify are to be addressed when requesting the preparation of a s7 report.
- 3.1.5 There is a section in the CAP on the wishes and feelings of the child and the current version echoes what is in the PLP. Cafcass has been asked to draft a revised form of words that makes more explicit the need to consider 'the Voice of the Child' as an important factor in proceedings. The Head of Legal Services is to draft.
- 3.1.6 There is currently a gap in the draft CAP relating to capacity. Cobb J was keen to draft some guidance on the issue of capacity of litigants, similar to that which exists in public law proceedings. Judge Raeside and the Head of Legal Services were asked to come up with draft guidance to submit to Cobb J in the next few weeks.
- 3.1.7 The reference to the appointment of 16.4 guardians is to be clarified to set out very clearly the options that exist other than appointing officers of Cafcass. We have been asked to re draft that section.
- 3.2 In part in the light of the disparate range of views provided in consultation responses, there was no strong appetite on the part of PLWG members to specify a time limit for private law proceedings ( Cafcass had proposed a possible 20 weeks)
- 3.3 There is an expectation that Cafcass will be asked to contribute to the judicial training on the CAP in the future: Bruce Clark, former Director of Policy, is due to be contacted by the Judicial College about this issue and suitable Heads of Service/Assistant Directors are being identified to participate in the 14 planned one-day events.

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