

Cafcass submission to the Knowledge Inquiry on children who come into the care system under a voluntary arrangement

Cafcass (the Children and Family Court Advisory and Support Service) is a non-departmental public body sponsored by the Ministry of Justice. The role of Cafcass within the family court is to: safeguard and promote the welfare of children; provide advice to the court; make provision for children to be represented; and provide information and support to children and families. We represent the child's best interests in court proceedings when a s31 care application is issued by the local authority, which may follow a period where the child has been 'looked after' under a s20 arrangement.

As our involvement is limited to those cases that become s31 applications, we have not responded to the full questionnaire created by the Inquiry. We instead wish to draw the Inquiry's attention to a [joint guidance document](#) issued by Cafcass, ADCS and ADSS Cymru in April 2016. This guidance confirms that being looked after under s20 remains a viable option for many children. We worked with ADCS and ADSS Cymru to create this document as there is no statutory or judicial guidance on the use of s20, and concerns had been raised within the sector of children being left to 'drift' without decent care plans in place.

Our view, expressed in the guidance document, is that s20 should be used to look after children when parents are unable to do so, either on a single occasion or periodically, through no fault of their own. In the majority of cases, we see the main purpose of s20 as being to support families to stay together, with best practice hinging on a relationship of trust between the family and the local authority. It is not appropriate to use s20 as an alternative to public law proceedings, or to delay the issue of such proceedings where a child is at risk.

We agree with the President's view that s20 is not a long-term prelude to care proceedings (Re N (2015) EWCS Civ1112). Local authorities should be clear about the care plan for the child, and this plan should be regularly reviewed. The guidance was issued out of concern that local authorities may misinterpret the case law and conclude that s20 requires care proceedings to be issued in most (if not all) cases where a child becomes looked after by the local authority. We advised local authorities to review all open s20 cases to ensure that s20 status remains the appropriate legal option for the child.

We also reminded professionals of the duties and responsibilities of the local authority towards all children in its care. Paragraphs 7-14 of the joint guidance give examples of the positive use of s20, which includes:

- Short breaks for children with additional needs, to provide respite care
- When the relationship between the child and their parent(s) has broken down and the family is working with the local authority to secure a safe return home
- Unaccompanied asylum seeking children or a young person requiring accommodation in circumstances where the s31 threshold is not met
- A shared care arrangement between the family and local authority where the s31 threshold is not met but intensive support is needed periodically

For many such children, s20 remains an appropriate legal option.

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Chief Executive of Cafcass

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