



Cafcass National Office
3rd Floor
21 Bloomsbury Street
London
WC1B 3HF

Your ref: CAF 15-116
Our ref: Gov/CAF 15-116

Tel 0300 456 4000

25 June 2015

Re: Freedom of Information Request

Thank you for your email of 16 June 2015. You made the following requests for information:

Please give details as to as and when typically an FCA would refer back to old case logs and similar? eg. In a case previously dismissed that was deemed as high risk by the original FCA, when new court applications were submitted and a new case underway, an FCA (same FCA as before or new different one) would refer to the original FCA's old case logs yes? Especially if those perceived risks weren't addressed or resolved?

Also an FCA will refer to case logs in on going cases as part of their on going case management and also in the sense of quality of their own professional judgement, integrity and as such all round conduct?

Please note that Freedom of Information responses cannot give views or opinions which are not already recorded. Please see below for recorded information which is relevant to your queries about reference to old case files, use of case files, risk assessment and case management. Please note that these may not answer your specific questions.

As confirmed in response to your previous request (CAF 15-88), practitioners may refer to previous case files where relevant to the current application. Please see section 4.21 of the Cafcass [Operating Framework](#) which sets out those things which practitioners should do when working on a private law case. This includes guidance to:

- *“Think in terms of a root cause analysis of the nature and trend line of the dispute, reading all relevant past court papers, to be able to project the most likely scenarios in the future e.g. non-molestation orders;*

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injunctions; and earlier Cafcass, local authority or child care agency records of involvement.”

Please also see section 2.33 and the Glossary of the Cafcass [Operating Framework](#) which sets out how the case record (including the contact log) is used as a record of work completed throughout the case.

- *“The [case recording policy](#) sets out how, when and where to record, as well as policy on the retention and destruction of records. The case record, though recorded proportionately, must contain an adequate audit trail of work done, including notes of interviews and the inclusion of other relevant information.”*
- *“The contact log is used by practitioners and business support staff to record important events and information, in particular so that the current status of the case is easily identifiable.”* The information contained within the contact log is supplemented by evidence obtained from parties and third-parties.

Cafcass practitioners are required to assess risk in two ways: when the court orders a risk assessment as part of a Section 7 report if it feels that there is some risk to any child subject to proceedings; and under [s16A](#) of the Children Act 1989 Cafcass practitioners are under a duty to undertake a risk assessment whenever they have cause to suspect a child subject to proceedings is at risk of harm and to pass this information to the court. Set out below is a relevant section of the Cafcass [Operating Framework](#); for more information please also see our [Child Protection Policy](#).

Operating Framework Extract

2.40 Throughout our work, Cafcass has a duty to assess risk, under s16A of the Children Act 1989. In our private law work, we may consider it necessary, as a result of our involvement in cases, to pass information about children to local authority children’s services, where it appears that their duty (under s47(1) Children Act 1989) to investigate child protection concerns appears to be engaged. These steps are set out in the Cafcass Child Protection Policy, and in the guidance document on our 16A duty. In our public law work, we analyse whether the risks to a child who is the subject of care proceedings have been appropriately managed. In some cases, the court itself, exercising its s37 Children Act 1989 power, directs a local authority to undertake and provide to the court a welfare investigation report

2.41 The risk of harm to a child, including but not restricted to harm arising from seeing or hearing the ill-treatment of another, should be considered in cases where domestic violence is identified. The direct and indirect impact of





domestic violence on individual children should be addressed. Static and dynamic risk factors should be taken into account, such as whether the violence is 'separation-specific' or endemic and showing itself in behaviours such as post-separation control. In all cases involving acute concerns about domestic violence, the practitioner should consider the need for a child protection referral, police referral, or a multi-agency risk assessment conference (MARAC.) It is difficult to differentiate between past risk and future risk, so caution is needed before concluding that a proven level of domestic violence will not recur and was situational at the time of the separation only. However, this can be a sound evidence-based conclusion in some cases.

2.42 A MARAC is a non-statutory meeting of local agencies whose purpose is to identify the highest-risk victims of domestic violence, and to produce a safety plan to reduce the risk to victims, their children, and any other vulnerable person in the household. Participants at a MARAC do not all come within the categories of people specified in the Family Procedure Rules (FPR) 2010, to whom disclosure can be made without the court's permission. Cafcass will therefore not routinely participate in MARAC discussions, nor will it sign MARAC information sharing protocols. Guidance is available to practitioners in 'MARACs and disclosure from Family Court Proceedings' (2013) on the Safeguarding intranet page. Where a child is suffering, or is likely to suffer, significant harm, the practitioner must ensure that relevant referrals are made to local authorities or to the police.

For more information about 'case management work' please see the role of the Family Court Advisor as set out in the Cafcass [Operating Framework](#):

- For public law cases, the main tasks of the Children's Guardian can be seen in Section 3.
- For private law cases, the role of the practitioner can be seen in Section 4.

We hope that you feel your question has been answered effectively. If you are unhappy with the decisions made in relation to your request, you may ask for an internal review to be undertaken. If you are dissatisfied with the way the internal review is handled or with the final decision made at that review about the information released, you are free to contact the Information Commissioner's office (www.informationcommissioner.gov.uk):

Post
Information Commissioner's Office
Wycliffe House, Water Lane,
Wilmslow,
Cheshire
SK9 5AF

Fax
01625 524 510
Tel
0303 123 1113
E-mail
casework@ico.org.uk

Baroness Tyler of Enfield Chair
Anthony Douglas CBE Chief Executive





Yours sincerely,

Governance Team

Cafcass

Governance@cafcass.gsi.gov.uk

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Cafcass, the Children and Family Court Advisory and Support Service, is a non-departmental body of the Ministry of Justice
Cafcass National Office, 3rd Floor, 21 Bloomsbury Street, London, WC1B 3HF | DX Cafcass 310101 Bloomsbury 11