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Your ref: CAF 15-78
Our ref: Gov/CAF 15-78

Tel 0300 456 4000

11 May 2015

Re: Freedom of Information Request

Thank you for your email of 29 April 2015 which was received by our office on 5 May 2015. Please see below for responses to your requests for information:

1. When CAF/CASS do an initial safeguarding report. They make contact with the police. What information comes back
 - a. This person is known victim, aggrieved.
 - b. This person has convictions.
 - c. This person has convictions for and lists them.

Basically what depth of information comes back?

Cafcass undertake police checks are set out in paragraph 4.7 of the [Operating Framework](#). There are two levels of police checks available to Family Court Advisers (FCAs). Level 1 police checks are of the Police National Computer, which contains information on cautions, convictions and any recent arrests/impending offences. Level 2 checks are of the Police National Database, providing records held by local police forces, such as call out logs.

2. Linked to above. If a person had a conviction for minor assault or similar non serious crime that was a spent conviction i.e. 5, 7 or 10 years previous and not considered relevant in a criminal court. What weight would CAF/CASS put on it in a contact application?

Recommendations are specific to the circumstances of the individual case. Please see the following sections of the Cafcass [Operating Framework](#) which are relevant to considerations relating to past convictions:

- Work to first hearing, 4.7: *In reporting to court, past convictions or offending behaviour should be scrutinised for relevance and reported accordingly.*

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- Work after first hearing, 4.21: *When working on a private law case, practitioners should:*
 - *Decide on the need for wider safeguarding checks with relevant agencies other than the police and local authority (e.g. schools, health visitors, probation). The prior consent of the subject of the wider check should be obtained and, if refused, a court direction sought. If the wider check relates to a child who is not of sufficient age or level of understanding to give informed consent, the practitioner should obtain the consent of a person with parental responsibility for the child and, if this is refused, should seek a court direction.*
 - *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; injunctions; and earlier Cafcass, local authority or child care agency records of involvement.*
 - *Explore with individual parties the results from checks and what they mean for the child now, e.g. analyse the current relevance and impact of historic convictions.*
 - *Make clear to the court which factual issues are disputed or unclear and their potential relevance to the case. The emphasis is always on relevance and vulnerability. It is for the court to determine whether or not to convene a fact finding hearing.*
 - *Focus on what advice/recommendations can and should be given to the court in order to keep the child safe and promote her/his welfare, and what action has been taken if necessary to protect the child from short or long-term damage to wellbeing that may result from actions or omissions by specific adults. Use the Framework for a case analysis in a private law case (see the diagram in the Operating Framework page 29).*

3. The rights to a fair trial. Article 6 HRA ‘Civil rights and obligations’ extend to cover private law. Fairness is fundamental and described by reference to as the ‘equality of arms principle’. This includes disclosure of notes of all interviews, enquires a Court reporter makes in preparing a report that contains recommendations. Without this disclosure the Court reporter cannot be fully cross examined as to how the recommendations were made from the recorded information. The courts will order disclosure if a party asks. Stating a fair trial will not take place without it. Why do CAF/CASS never disclose notes of all material referring to a court report? Thus breaching the HRA Article 6.

Cafcass complies with orders from the court; the court orders Cafcass to file a report, rather than a report plus all notes of interviews. If parties make a request for disclosure of our interview notes and the court orders the notes to be disclosed then they will be. The duties of members of the service (Cafcass practitioners) are



exercised in accordance with the Family Procedure Rules 2010 (r16) and Practice Direction 16A.

Cafcass also complies with Data Protection Act legislation and therefore all personal information belonging to the subject of the information can be accessed via a Subject Access Request, where this information is not exempt under the Act.

4. Two years ago CAFCASS visiting FNF Leicester confirmed denial of court ordered contact would be emotional abuse on the parent being denied contact (normally father). The perpetrator would be the parent breaching the order (normally mother). Last year 2014 Cafcass visiting FNF Leicester stated they had seen one report that reported this behavior as emotional abuse. However numerous parents attending FNF Leicester meetings were reporting many breaches every month and reporting it to the CAFCASS officer.

a. How many cases's this year going through Cafcass Leicester have reported denial of contact as emotional abuse?

Cafcass does not collect information on the issue of individual case assessments within reports centrally. In order to provide a response, each case file would need to be checked individually; as Cafcass handles tens of thousands of cases annually, the cost of compliance would exceed the appropriate limit which for Cafcass is £450. In our estimation the cost (a flat rate of £25 per hour provided by the FOI Act) would exceed the appropriate limit which is 18 hours for Cafcass, in order to complete one or more of the following activities permitted to be accounted for, which are:

- Determining whether the information is held;
- Locating the information, or a document containing it;
- Retrieving the information, or a document containing it; and
- Extracting the information from a document containing it.

A response to this request is therefore exempt under Section 12 of the Freedom of Information Act.

[12 Exemption where cost of compliance exceeds appropriate limit.](#)

1. Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit. .
2. Subsection (1) does not exempt the public authority from its obligation to comply with paragraph (a) of section 1(1) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit. .
3. In subsections (1) and (2) "the appropriate limit" means such amount as may be prescribed, and different amounts may be prescribed in relation to different cases.

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4. *The Secretary of State may by regulations provide that, in such circumstances as may be prescribed, where two or more requests for information are made to a public authority— .
 - (a) by one person, or .
 - (b) by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign,the estimated cost of complying with any of the requests is to be taken to be the estimated total cost of complying with all of them.*
5. *The Secretary of State may by regulations make provision for the purposes of this section as to the costs to be estimated and as to the manner in which they are to be estimated.*

b. Why are Cafcass court reporters failing to report this emotional abuse?

Cafcass has a [Child Protection Policy](#) that sets out how we will respond to allegations of significant harm in order to safeguard and promote the welfare of children.

The Operating Framework sets out, in paragraph 1.25 that it is the role of the FCA to assess the emotional and psychological impact of proceedings on the child. This includes, as referenced in paragraph 4.19, instances of implacable hostility that can be emotionally harmful to a child. The Operating Framework also references the Welfare Checklist, which FCAs will use to assess the needs of the child and how they might best be met. FCAs will include analysis of the child's circumstances taking account of the relevant welfare checklist as part of their case analysis for court. The Checklist includes specific reference to the emotional needs of the child.

5. [Linked to above. Emotional Abuse. Controlling and coercive behavior \(this includes social isolation and denial of access to family is now a criminal offence.\) When access to children is denied. This is following separation prior to court proceedings and also breach of court orders. What actions are CAFCASS going to recommend against these perpetrator parents?](#)

Cafcass can only become involved and complete work on a case at the request of the court. Compliance with court orders in relation to contact is a matter for the court.

When Cafcass is involved in a case, as detailed above, the [Child Protection Policy](#) sets out how we will respond to allegations of significant harm in order to safeguard and promote the welfare of children. Any recommendations to the court are based on what the FCA assesses is in the child's best interests in that specific case. In accordance with Government policy, Cafcass supports children maintaining a meaningful relationship with both parents, where it is safe and in the best interests of the child to do so.





6. Lord Justice Munby. Head of the Family division. Sitting in the Courts of Appeal (April 2015) re Children refusing contact is reported “There are many things which children may not want to do or even refuse to do: going to the dentist, going to visit some ‘boring’ elderly relative, going to school, doing homework or sitting an examination, the list is endless. The parent’s job, exercising all their parental skills, techniques and stratagems – which may include the use of both the carrot and the stick and, in the case of older of the older child, reason and argument -, is to get the child to do what it does not want to do. That the child refusal cannot as such be a justification for parental failure is clear: after all children whose education or health is prejudiced by parental shortcomings may be taken away from their parents and put into public care.”

Do Cafcass support this view that when a child refuse to go to contact. There is no justification for the parent to accept this. The parent must ensure contact takes place? When a parent fails to ensure contact takes place. Will CAF/CASS now report this accurately as a failing of the parent? What action will CAF/CASS recommend happens to a parent who fails to ensure contact takes place?

Cafcass can only become involved in cases when directed to do so by the court. Compliance with court orders is a matter for the court.

When Cafcass is involved in a case we look at issues as directed by the court and report on any impact to the child, and what is assessed to be in the child’s best interests. As detailed above, the [Child Protection Policy](#) sets out how we will respond to allegations of significant harm in order to safeguard and promote the welfare of children.

Any recommendations to the court are based on what the Cafcass officer assesses is in the child’s best interests in that specific case. In accordance with Government policy, Cafcass supports children maintaining a meaningful relationship with both parents, where it is safe and in the best interests of the child to do so.

7. A freedom of information request was made to CAF/CASS to supply all the training and information available on CAF/CASS internal systems to Court Reports on Domestic Abuse with special reference to Emotional abuse. The request resulted in over 500 pages of material. Mostly template forms. There was not a single example of what constitutes Emotional Abuse. When FNF Leicester first asked CAF/CASS for an example of Emotional Abuse, neither the local manager nor court reporter could give one. It took several months for CAF/CASS to accept the example FNF Leicester gave

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that denial of court ordered contact would be emotional abuse. This evidence that CAF/CASS reporters get no internal training on what Emotional abuse is. That none is being reported proves the reporters don't have this knowledge prior to being employed.

What are CAF/CASS going to do to ensure that every denial of contact, pre court, during proceedings and breach of court orders (controlling and coercive behavior) is correctly reported as Emotional abuse? What actions will CAF/CASS be recommending the perpetrators of Emotion abuse undergo?

Any recommendations to the court are based on what the FCA assesses is in the child's best interests in that specific case. Compliance with court orders is a matter for the court. The [Child Protection Policy](#) sets out how we will respond to allegations of significant harm in order to safeguard and promote the welfare of children and the [Operating Framework](#), paragraph 1.25, explains that it is the role of the FCA to assess the emotional and psychological impact of proceedings on the child.

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):

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Yours sincerely,

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