



## CHILDREN AND FAMILY COURT ADVISORY AND SUPPORT SERVICE

Paper for the Performance Committee on 11 September 2017

### ANNUAL FREEDOM OF INFORMATION REPORT 2016-17

#### KEY POINTS

- *Cafcass received 143 requests for organisational information under the Freedom of Information Act during 2016/17; this represents a decrease of 30% from the previous year. The most frequently requested topics were Cafcass policy and statistics (44 requests each).*
- *Cafcass also responded to 86 requests for personal information held by Cafcass (subject access) under the Data Protection Act, which is a 7% reduction compared to 2015/16.*

#### 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 2016/17.

#### 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 a public authority by making a 'subject access request' (SAR). These are handled separately to FOI requests and are managed by the Customer Services Team.

#### 4. EXECUTIVE SUMMARY

FOI Measure	2016/17	2015/16	2014/15
Number of FOI requests	143	203	185
Most popular category of request	Policy and Statistics	Policy	Policy
Responses within the timescale	100%	99.5%	98%
Average response time	11 days	9 days	13 days
<b>Outcomes of requests</b>			
<ul style="list-style-type: none"> <li>Information fully provided</li> </ul>	62%	55%	56%
<ul style="list-style-type: none"> <li>Information partially provided</li> </ul>	25%	35%	28%
<ul style="list-style-type: none"> <li>Information fully withheld</li> </ul>	10%	6%	14%
<ul style="list-style-type: none"> <li>Information not held by Cafcass</li> </ul>	3%	3%	2%
Responses using exemptions or exceptions	29%	27%	25%
<b>Request for review</b>			
<ul style="list-style-type: none"> <li>Internal (Cafcass review)</li> </ul>	4%	4%	5%
<ul style="list-style-type: none"> <li>External (ICO appeal)</li> </ul>	1%	0%	0%

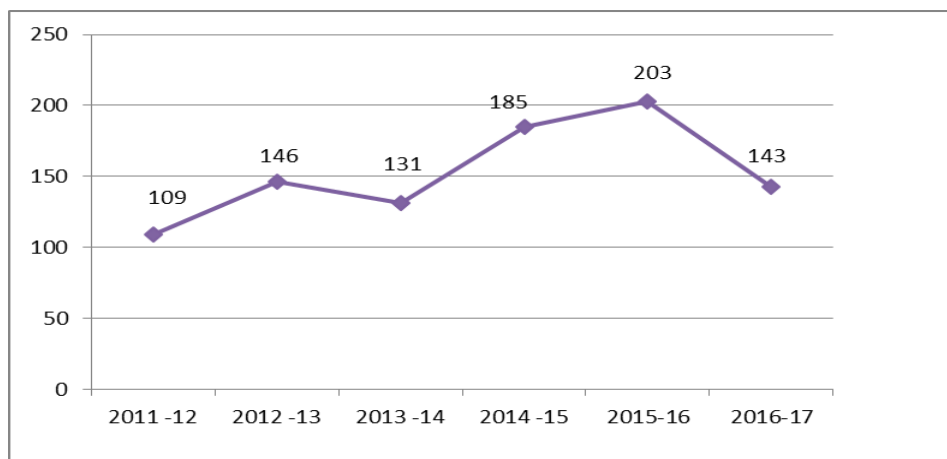
#### 5. ANALYSIS AND COMMENTARY

##### 5.1 Number and type of requests

**Key point 1:** Cafcass received a total of 143 requests in 2016/17 which is 30% less than the previous year.

The decline in requests could be partly due to the work being done to update the [Disclosure Log](#) which publishes on the Cafcass website all previous responses to FOI requests and the increased efforts to publish frequently requested information, such as [contract information](#).

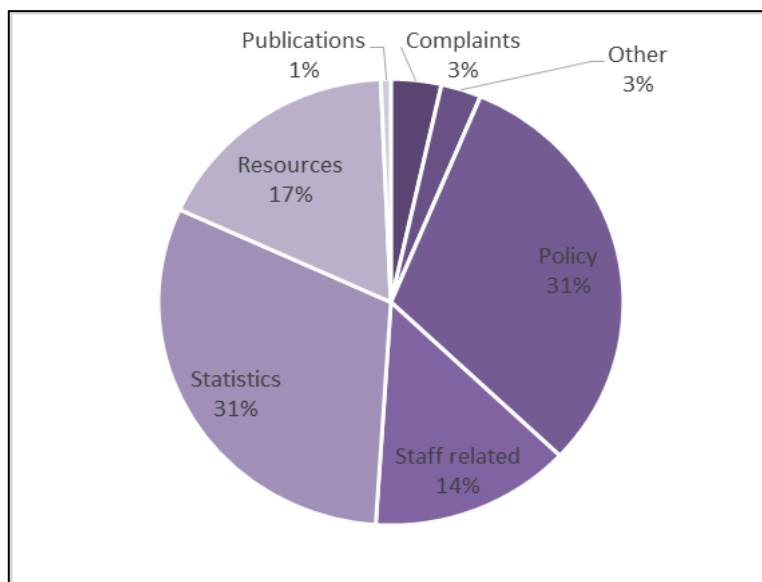
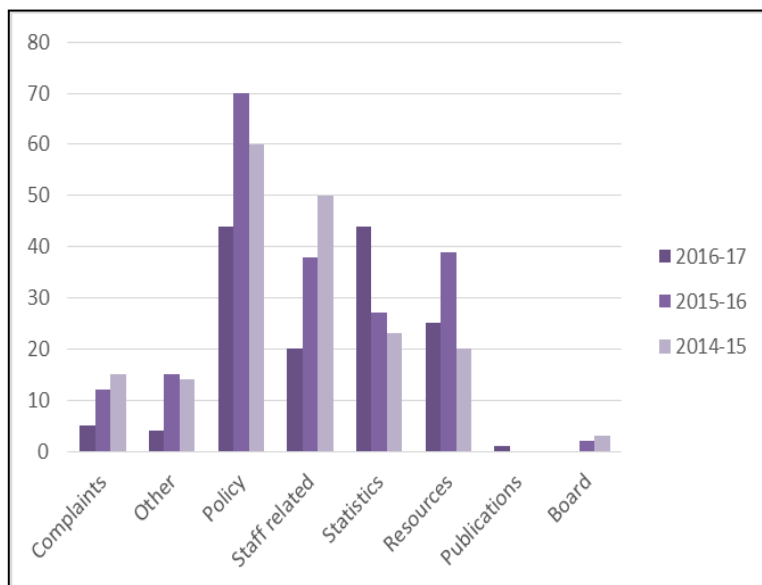
**Figure 1: number of requests received by Cafcass since 2011/12**



5.1.1 The Disclosure Log is now shown in categories for ease of reference. This allows quicker and easier access to this information.

5.1.2 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 2 below. A breakdown of the proportion of requests received per category in 2016/17 is illustrated in figure 3.

**Figures 2 and 3: number of requests received per category in the last three years; percentage of requests received per category.**



5.1.3 **Policy** (and training) requests remained one of the two most popular categories of request and accounted for 31% of all requests received.

- One reason for the continued frequency of these requests could be the number of litigants-in-person, with many requests from service users for policy and procedure documents in relation to the role of Cafcass and or work with children.

- A large number of requests made an assumption that Cafcass held a corporate view on issues such as parental conflict, implacable hostility and domestic abuse. There were also a number of requests seeking information about the training offered to practitioners on a range of topics.

5.1.4 **Statistics** was the other most frequent category of requests, also accounting for 31% of requests and 2016/17 saw a significant rise in these types of requests from previous years. Statistical information is often requested by journalists and researchers, as well as service users.

- The most common statistics requests were for care application figures, parental order application figures; and Domestic Violence Perpetrator Programme (DVPP) referral figures.
- Other requests related to data on the recommendations and outcomes of cases.

5.1.5 **Complaints** related requests are often combined with policy requests and requests concerning individual members of staff.

- There were requests which asked for the number of complaints in relation to a specific FCA or office, and the number of staff dismissals which had arisen from complaints.
- Those relating only to complaints generally asked for the numbers and type of complaints.

5.1.6 **Staff related** requests reduced by 5%; These were commonly requests from service users concerning practitioners 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 contact details of specific corporate teams and were combined with resource requests; as well as workforce information and diversity data.

5.1.7 **Resources** requests were frequent, although they made up a smaller proportion of requests than in previous years.

- The majority of these requests are commercial enquiries relating to services used by Cafcass, particularly asking for contract information for IT and software providers. These are often repeat requests seeking to confirm if our providers and suppliers have changed.
- Other requests related to how public money is allocated and spent in Cafcass and about commissioned services.

5.1.8 **Publications** are a new category of request and accounted for 1% of requests received.

- The request asked if Cafcass has any British Sign Language publications or resources for service users.

5.1.9 **Other** requests included: enquiries about the questions and methodology for the 2015 service user survey; the number of times the Cafcass email system was inoperable in the Manchester office between July 2015 and July 2016; details of an event held at a Cafcass office to mark a judge's retirement and details of Cafcass' commissioned research projects.

## 5.2 Applicant type

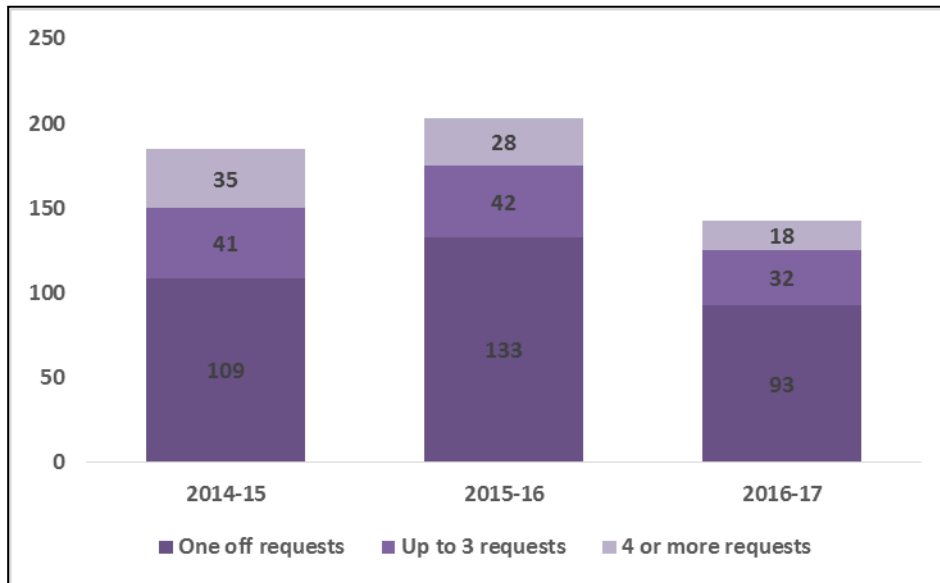
5.2.1 The 143 FOI requests received were made by 111 different applicants. The total number of applicants has decreased by 29% from 2015/16 when requests were received from 156 different applicants, however this is to be expected due to the overall decline in the number of requests.

5.2.2 One-off applicants made up 65% of the total requests, which is in keeping with previous years as in 2015/16 one-off applicants made up 66% of requests.

5.2.3 Two applicants made serial requests constituting 10% of the total. These were related to individual complaints. There is a reducing trend in serial requests, which constituted 14% of the total in 2015/16 and 19% in 2014/15.

5.2.4 The vast majority of FOI requests appear to be from service users, as they relate to policy or staff issues. A large 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, statistics or incidents within family court proceedings.

**Figure 4: number of requests received per applicant grouping**



### 5.3 Timeliness of responses to requests

**Key point 2:** 100% of requests were responded to within the statutory deadline of 20 working days, which is an improvement on previous years. The average response time was 11 working days, which is a slight increase compared to the previous year (9 working days) but is still well within the statutory deadline.

**Figure 5: percentage of FOI responses sent within the statutory time limit since 2014/15**

Year	Response within 20 working days
2014-15	98%
2015-16	99.5%
2016-17	100%

### 5.4 Outcomes of requests

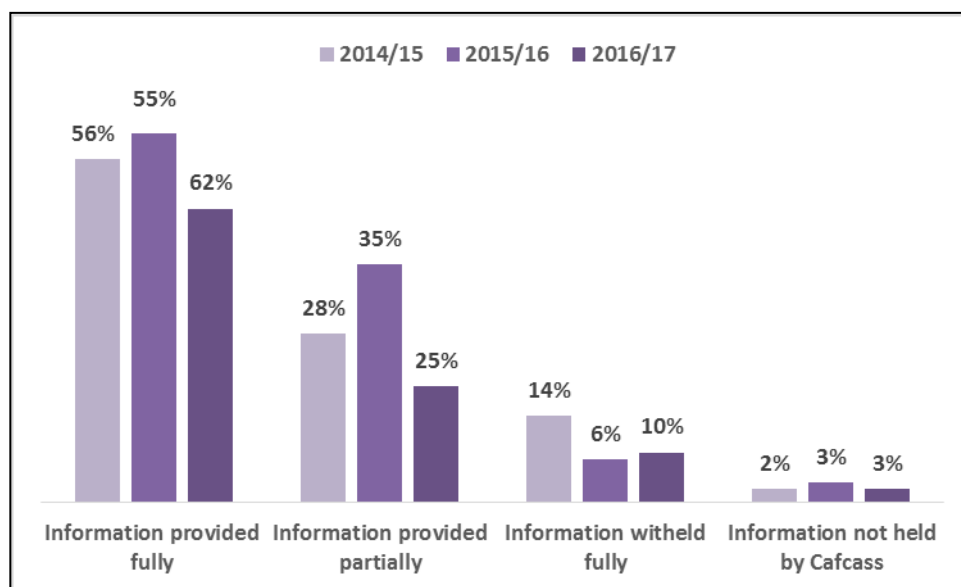
**Key point 3:** Of the 143 requests received:

- 62% were fully provided with information;
- 10% were not provided with any information as it was exempted from disclosure;
- 3% were not provided with any information as the information was not held by Cafcass;
- 25% were partially responded to, as part of the information requested was either exempted (19%) or not held (6%).

5.4.1 There has been a slight increase of 4% (2 requests) in the percentage of responses where information was fully withheld, and a 10% reduction in the percentage of responses where the information was partially provided.

5.4.2 There is a 7% increase in the number of requests where information was fully provided which demonstrates our commitment to transparency and providing full responses where possible.

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



#### 5.4.3 Use of exemptions or exceptions

**Key point 4:** Exemptions or exceptions were applied in 29% of responses which is similar to the previous year where exemptions were applied in 27% of requests in 2015/16. 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).

5.4.4 45 exemptions within 42 responses were used, as more than one exemption can apply within one response. There has been a continued 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.

5.4.5 The third-party personal information exemption (Section 40) was mainly applied to requests relating to specific practitioners' qualifications or requests for personal information. The exemption which

relates to the estimated cost of compliance was applied, mainly, where requests asked for information held within individual case files or reports, such as specific case recommendations, which would have to be manually extracted rather than by statistical reporting.

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

Exemptions/exceptions applied	2016/17	2015/16	2014/15
<b>Section 12:</b> Cost of compliance exceeds appropriate limit.	23	24	20
<b>Section 14:</b> Vexatious or repeated requests.	5	9	4
<b>Section 21:</b> Information accessible by other means.	0	3	0
<b>Section 22:</b> Information intended for future publication.	1	1	3
<b>Section 36:</b> Effective conduct of public affairs.	1	2	0
<b>Section 38:</b> Health and safety.	0	1	0
<b>Section 40:</b> Personal information.	14	21	23
<b>Section 42:</b> Legal professional privilege.	0	1	2
<b>Section 43:</b> Commercial interests.	1	3	0
<b>Total</b>	<b>45</b>	<b>65</b>	<b>52</b>

## 5.6 Appeals and reviews

**Key point 5:** There were five requests for internal reviews of the FOI response. This represented 4% of the total requests which is similar to the previous year and continues the overall trend of a reduction in internal reviews. There were two ICO investigations into potential non-compliance; which concluded that Cafcass had complied with the legislation.

5.6.1 The outcomes of the internal reviews in 2016/17 were:

- The initial handling of the requests under review was approved fully in all five of these cases.

5.6.2 Of the two complaints made to the Information Commissioner's Office, one was a request for statistics on the number of cases where Cafcass had recommended that the children should spend more time with their father than their mother and information on how Cafcass monitors its compliance with anti discrimination law. Cafcass applied the section 12 exemption, where the cost of compliance would exceed the reasonable limit and provided information on how Cafcass monitors casework. The ICO found that Cafcass was likely to have complied with the legislation.

5.6.3 The second complaint was a request for information on the costs of a particular court hearing. The Cafcass response initially, and within the internal review, stated that Cafcass does not hold the information requested. The ICO found that this complied with the legislation.

## 5.7 Requests for personal information: Subject Access Requests

5.7.1 In 2016/17, 86 SARs were received by Cafcass, and all were initially completed within the statutory timeframe (40 calendar days). This is a 7% reduction in numbers compared to the previous year (93 SARs).

5.7.2 There were 14 requests for internal reviews of responses, which were completed by a Head of Practice (HoP) This is a reduction compared to previous years (15 review requests in 2015/16 and 28 in 2014-15). The original response was upheld fully in 2 cases, partially upheld in 3 cases and additional information was provided in 9 cases.

- 5.7.3 At the beginning of 2017/18 the internal review process for SARs was changed so that they would be carried out by the Customer Service Team rather than a Head of Practice (HoP). This is because deadlines for internal reviews were being missed, as HoPs understandably need to prioritise front line operational work. By making the Customer Services Team responsible for the internal review process, deadlines are met and consistency is applied.
- 5.7.4 The ICO contacted Cafcass in relation to 4 SAR responses which were then reviewed by the Governance team. Cafcass was found to have complied with the relevant legislation in one case, but in two cases the ICO concluded that further information should be disclosed. One investigation is still ongoing.

## **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](#) includes organisational material and data.
- Some frequently requested information has now been published, including [contract information](#) which represented a large source of requests; it is hoped that by having this information readily available, this will contribute to a decrease in 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.
- Current trends for 2017/18 suggest that there will be an increase in the number of FOI requests for 2017/18 in comparison with 2016/17. This appears to be partly due to a small number of individuals making multiple requests.

## **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.



## Appendix 1

	2016-17		2015-16		2014-15	
<b>Total number of requests</b>	143		203		185	
<b>Type of information requested</b>						
Board related	0	0%	2	1%	3	2%
Complaints	5	3%	12	6%	15	8%
Policy (and training)	44	31%	70	34%	60	32%
Publications	1	1%	*		*	
Resources (previously Procurement)	25	17%	39	19%	20	11%
Staff related	20	14%	38	19%	50	27%
Statistics	44	31%	27	13%	23	12%
Other	4	3%	15	7%	14	8%
<b>Response time</b>						
Response within 20 working days	143	100%	202	99.5%	181	98%
Response after 20 working days	0	0	1	0.5%	4	2%
Average response time	11 days		9 days		13 days	
<b>Response outcome</b>						
Information provided fully	89	62%	112	55%	104	56%
Information provided partially	35	25%	72	35%	51	28%
Information withheld fully	15	10%	13	6%	26	14%
N/A: information not held by Cafcass	4	3%	6	3%	4	2%
<b>Number of responses containing exemptions</b>	42	29%	55	27%	47	25%
<b>Total number of exemptions applied</b>	45		65		52	
<b>Internal reviews</b>						
<b>Number of internal reviews</b>	5	4%	8	4%	9	5%
Fully upheld initial response	5	4%	5	2%	7	4%
Partially upheld initial response	0	0%	2	1%	2	1%
Overtaken initial response	0	0%	1	0%	0	0%
<b>ICO involvement</b>	2	1%	1	0%	0	0%
<b>Applicant type</b>						
One-off requests	93	65%	133	66%	109	59%
Requests from applicants who make up to 3 requests per person	32	22%	42	21%	41	22%
Requests from applicants who make 4 or more requests per person	18	13%	28	14%	35	19%
<b>Sourced from whatdotheyknow.com</b>	31	22%	47	23%	63	34%

<b>Most popular category of request</b>	<b>Policy &amp; Statistics</b>	<b>Policy</b>	<b>Policy</b>
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