



## Child safeguarding policy

### Why this is important for children

Cafcass has a duty to safeguard children and promote their welfare through their proceedings. This policy sets out what Family Court Advisers (FCAs) must do when they are concerned about a child's welfare or safety.

### Overview

While Cafcass is not a primary child protection agency, it has a statutory duty to promote and safeguard the welfare of any child it is concerned about, and not just those children who are the subject of family law proceedings. This means FCAs and Children's Guardians working together with others to identify harm and risk of future harm, and to take appropriate and prompt action when there is concern about the safety of a child, including any children who are 'connected' to the child(ren) who is subject to the proceedings.

Cafcass is required by [Working Together 2018](#)<sup>1</sup> to contribute to strong and effective multi-agency child protection arrangements. Children who need protecting may include those who experience harm in their own family and those who are harmed or exploited by others in their community. Suffering or being likely to suffer significant harm is the threshold for child protection enquiries and such harm can take different forms, including sexual, physical, or emotional abuse; neglect or domestic abuse, including controlling or coercive behaviour; exploitation by criminal gangs or organised crime groups; trafficking; online abuse; sexual exploitation; and the influences of extremism which could lead to radicalisation.

This policy sets out the mandatory requirements of managers, Children's Guardians and FCAs, including locums and contractors, in accordance with the statutory function of Cafcass to fulfil their professional and statutory duty to safeguard and promote the welfare of children.

The policy covers all family law and application types, where a practitioner is appointed to provide advice and assistance to the child, their family, and the court. The policy is underpinned by guidance to support social work managers and practitioners to fulfil their duties to safeguard and promote the welfare of children.

Nationally, Cafcass follows the statutory guidance set out in [Working Together \(2018\)](#) and, locally, the policies, protocols and procedures agreed by the Local Safeguarding Children Partnership for the area where the child lives. Managers and practitioners are required to familiarise themselves with the national guidance and local arrangements, to refer to them when they identify harm or risk of future harm and to act in accordance with them when they are concerned about the welfare or safety of a child.

The policy includes the duty of managers and practitioners to be alert and to take action to safeguard a child when they suspect abuse by a person who works with children or contextual risks including child exploitation and radicalisation.

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<sup>1</sup> Consultation on Working Together 2023 is pending.

## Specific requirements

### 1. Making a report to the police

- 1.1 If a practitioner believes a child is being harmed or is in danger of immediate harm, **they must make a report to the police.**

### 2. Situational case supervision

- 2.1 Practitioners **must seek situational case supervision when they have concerns about the welfare or safety of a child.** This supervision should be reflective with the intention of seeking agreement about the nature of harm or risk of future harm and the most appropriate action necessary to safeguard the child(ren). **Managers are required to record the issues and outcome of situational case supervision in the child's record, including agreed actions and to follow up in the timeframe that is agreed.**

### 3. Making a referral to local authority children's social care services

- 3.1 When a practitioner becomes concerned about the welfare or safety of a child, **they must request situational case supervision with a manager about whether a referral to the child's local authority children's services should be made.** The manager is responsible for recording the situational case supervision on the child's record, with any actions clearly recorded, a timeframe agreed and followed up.
- 3.2 If a referral is required, it must clearly set out the details of the concern by providing evidence of harm, or the risk of future harm. The referral must provide the information and analysis required to assist the local authority to decide whether to pursue the referral and make further enquiries. The referral must be made initially by telephone, followed by a written referral on the same day. There is a requirement on local authorities to provide an outcome to the referrer within 24 hours. **If a decision is not received within that timescale, the practitioner must follow up with an email/phone call and record that they have done so.** The practitioner must alert their manager if there is a significant delay in receiving a decision. For all children subject to the application, the court must be informed that a referral was made via the submission of a 16A Risk Assessment, which will include the outcome of that referral. The 16A report should be clear about the risks identified, the evidence that is available to substantiate the identified harm or risks, the action taken to seek protection for the child and the action being requested by the FCA to the court – including seeking an urgent hearing if that is required.
- 3.3 While the consent of a parent/carer is not required before making a referral about the safety of a child, it is good practice to inform a parent/carer beforehand, when it is judged safe to do so. Where a decision is taken not to inform a parent/carer, the rationale must be recorded in the child's file. Referrals for family support services do require the consent of the parent/carer.
- 3.4 When there are concerns about the child subject of the proceedings, **consideration must also be given to whether a referral should be made for any connected children,** such as brothers and sisters, or other children who may be at risk of harm. Practitioners must seek situational supervision when they are concerned about the safety of connected children.

## **Finding of Fact hearings**

- 3.5 A referral to the local authority should always be considered when the concerns are such that a recommendation is made for a Finding of Fact hearing because risks to children can continue and even increase in the period between the court directing a Finding of Fact hearing and the Finding of Fact hearing taking place.

## **Professional differences – using the local escalation procedure**

- 3.6 When the local authority decides not to make additional enquiries following a referral about the safety of a child(ren), the practitioner must be provided with sufficient information from the local authority to satisfy themselves about the rationale for this decision and to make a judgement that this is a safe enough outcome for the child. This should be recorded on the child's file with an analysis provided by the practitioner about the local authority's decision.
- 3.7 If the practitioner is not satisfied with the decision and is of the view the local authority should undertake a child protection enquiry because in their view the child is suffering harm or is at risk of significant harm, **they must seek situational case supervision with their manager in the first instance**, to resolve the issue with the local authority. If a resolution is not achieved, the Head of Practice must be alerted who will communicate with the Head of Service for the local authority. If the matter remains unresolved, the Assistant Director should liaise with the Assistant Director, or Director of Children's Services. **This process of escalation must be made and completed quickly if the child has suffered or is at risk of significant harm.**

## **Local authorities seeking information from Cafcass**

- 3.8 In circumstances where the local authority approaches Cafcass for information about a child with whom we have worked or are working with, the practitioner can share information to support a local authority child protection investigation. This is only permitted when there is a section 47 investigation, or when the local authority has invoked child protection processes following an investigation or the child is already or has been the subject of a child protection plan. Any requests outside of this requires the permission of the court to disclose information.

## **MARAC (Multi-agency risk assessment conference) & MAPPA (Multi-agency public protection arrangements)**

- 3.9 Information can be shared with the local authority children's social care service if it is fulfilling a child protection function. Information from proceedings cannot be shared directly with MARAC and MAPPA as these are multi-disciplinary forums not carrying out a child protection responsibility directly. The children's social care service will attend a MARAC or MAPPA meeting and will be able to share the information that Cafcass has shared into the meeting, if that information pertains to harm or risk of future harm for a child/ren.
- 3.10 **Permission of the court must be obtained to disclose information from proceedings to any third party not acting under child protection procedures.**

#### 4. Section 16A risk assessments and report to court

- 4.1 As court appointed officers, under Section 16A of the Children Act 1989, FCAs must undertake a risk assessment and inform the court of the outcome of the risk assessment when they have reasonable cause to believe that a child has been harmed or is at risk of harm. **The child's FCA must seek situational case supervision with a manager and complete a 16A risk assessment for the court.**
- 4.2 The 16A risk assessment should be specific about the concerns, any substantiating evidence to support the concerns and the action that the court is being asked to take, such as setting an urgent hearing to consider changing arrangements for the child to safeguard their welfare, to direct the local authority to undertake urgent enquiries or, for awareness in alerting the court to the risks which may have been resolved, following a referral to the child's local authority children's services.

Section 16A of the Children Act 1989 states that: *If ... an officer of the Service ... is given cause to suspect that the child concerned is at risk of harm, he must a) make a risk assessment in relation to that child and b) provide the risk assessment to the court.*

- 4.3 This duty requires the practitioner to extend their enquiries beyond the specific requirements of the application and court order to gain the perspectives and insights of those who know the child(ren) and/or parents/carers.
- 4.4 When a referral to the local authority has been made, and it relates to harm or risk of significant harm, **a 16A risk assessment must be completed and submitted to court.** For all children subject to the application, the court must be informed that a referral was made via the submission of a 16A Risk Assessment, which will include the outcome of that referral, the Cafcass assessment of harm and risk of harm, and subsequent actions and recommendations to safeguard the child.
- 4.5 **A 16A risk assessment report is a separate document and must not be incorporated into a safeguarding letter or Section 7 report** (unless ordered by the court), due to the different rules on disclosing the reports to parties. The practitioner should clearly state that the risk assessment has been undertaken in accordance with the requirements of section 16A Children Act 1989, clearly setting out details of the harm the child is suffering or at risk of suffering and what action they have taken to safeguard the child. The assessment should explain to the court, the action that they recommend the court should consider taking.

#### 5. Section 37 recommendations

- 5.1 In private law proceedings, if the child is experiencing harm or there is risk of future significant harm such that a practitioner believes the threshold is met to consider either a Care Order or Supervision Order, **the practitioner must consult with a manager** and appropriate advice should be provided to the court, setting out the rationale for this advice.

- 5.2 Before advising the court, the relevant local authority must be informed by the practitioner that they are advising the court that a Section 37 report is required, along with a referral and 16A risk assessment report outlining their concerns and why a Section 37 report will be advised. In such instances, it is likely that the 16A risk assessment will require the court to list an earlier hearing.
- 5.3 If the court agrees, it will direct the local authority to undertake an investigation of the child's circumstances and report its findings to the court. The practitioner must confirm with the local authority in writing that the order has been made and the timescales agreed.
- 5.4 As part of their enquiry the local authority social worker will need to consider if the local authority should consider applying for a Care Order or for a Supervision Order, if the local authority should provide services or assistance for the child and their family or take any other action to protect the child from harm.

## 6. Elective Home Education

- 6.1 If a practitioner becomes aware that a child with whom they are working has been removed from school and/or is being electively home educated, or is not attending, they **must check whether the local authority is aware of the child**, with the child known on the database as home-schooled and having been visited to assess their needs and to offer support.
- 6.2 A child being home-educated is not a risk of itself. However, when there are concerns about the child's welfare or safety, which are increased by their lack of contact with other professionals, **situational case supervision must be sought to consider making a referral to the child's local authority and making the court aware via a 16A risk assessment**. This is particularly the case, if the child not attending school or being home educated is or has been the subject of a child protection plan.

## 7. Private fostering

- 7.1 If a practitioner becomes aware that a child is living with an adult, who is not a close relative, for twenty-eight days or more, **they must notify the local authority**, to check whether the arrangement is known and has been assessed as suitable to meet the needs of the child or, if not, to enable an assessment under private fostering regulations. When notifying the local authority, details should be provided of who lives in the household and who holds parental responsibility and has been able to agree to this arrangement.
- 7.2 Where there are concerns about the welfare or safety of a child living under a private fostering arrangement, a referral to the local authority must also be submitted.

## 8. Vulnerable adults

- 8.1 When a practitioner becomes concerned about the welfare or safety of an adult, **they must seek situational case supervision from a manager to consider whether an adult safeguarding referral should be made**, in accordance with local arrangements and adult

protection procedures. Referrals must set out details about the nature of harm experienced by the person and/or the risk of harm. The adult concerned and their family should be made aware unless in so doing, harm or further harm is a likely outcome.

8.2 In the event of an immediate risk to a vulnerable adult, such as self-harming or violent domestic abuse, **a report must be made to the police.**

## 9. Orders that leave or place a child at risk of harm

9.1 Where a court order has been made in live proceedings that leaves or places a child at risk of harm or further harm, practitioners **must seek situational case supervision with a manager to determine what steps are required to safeguard the child.** At the minimum, the court will need to be alerted via a 16A risk assessment and a referral made to the child's local authority children's services. In the interim, it is reasonable to ask a parent/carer to exercise their parental responsibility and suspend any arrangements if that will safeguard the child.

9.2 In the event of a final order that leaves or places a child at risk of harm or further harm, a referral to the local authority children's services must be made, alerting the local authority to the evidence of risk and a letter should be sent to court outlining the risks, inviting the court to reconsider the final order made.

## 10. Children experiencing harm outside the family

10.1 Children experiencing harm or a risk of harm outside of their family is sometimes referred to as **contextual or extra-familial harm.** This is harm that is attributable to behaviour associated with criminal or sexual exploitation of children, including county lines, radicalisation, trafficking, 'honour-based' abuse, female genital mutilation, and gang activity. Children who may be causing harm to others, should receive a safeguarding response in the first instance as well as action being taken appropriately to protect any other children whom they are causing harm or risk of future harm.

10.2 If contextual safeguarding concerns are known or suspected, practitioners **must immediately seek situational case supervision with a manager to consider whether a safeguarding referral is required.** In instances of Female Genital Mutilation (FGM) or Forced Marriage, practitioners have a duty to report this to the police. This is an explicit requirement and the procedure to be followed is set out on [gov.uk](https://www.gov.uk) and should be discussed with the line manager/supervisor.

10.3 If modern slavery or human trafficking is known or suspected (including through county lines), the local authority must be asked, as soon as this information is known to Cafcass, in accordance with its first responder status, to refer the child to the National Referral Mechanism (NRM).

The NRM is part of the UK Human Trafficking Centre. Referrals to it can only be made by first responders which include local authorities and the police. Cafcass is not a first responder.

## 11. **Concerns about a professional who works with children**

- 11.1 When a practitioner has concerns about the behaviour of a person who works with children. (which can include a party to proceedings, a colleague, or another professional) they must make a referral to the Local Authority Designated Officer (LADO) via the referral arrangements for the local authority. They should stipulate that the referral includes a referral to the LADO, setting out what type of behaviour has been identified that is harming or represents a risk of harm to the child(ren) about whom they work or know. Information should not be shared about these concerns with any party outside of Cafcass except the local authority LADO or the police if there is an immediate risk of harm or injury to a child or other adult. The LADO will make any decisions at the initial meeting (if the decision is to make further enquiries) about what information can be shared and with whom.
- 11.2 **Situational case supervision must be sought by a manager prior to making a referral to the LADO.** A record must be made on the case file regarding any such referral.

## 12. **Special Guardianship and Disclosure and Barring Scheme (DBS) checks**

- 12.1 In public law cases, the child's guardian **must have sight of the completed DBS checks of prospective special guardians, prior** to supporting a Special Guardianship (SG) assessment. The outcome of any such checks needs to be clearly recorded on the child's file. Whilst waiting for checks to complete before supporting any SG application, it is important to factor this into the timetable for the child and to continue all other work in parallel to minimise any potential delay in the decision making.

## 13. **Registered sex offenders**

- 13.1 Practitioners **must urgently seek the views of a probation officer or risk offender manager if they become aware that a registered sex offender is in contact with a child.** Action must be taken to protect the child from contact and the child's parents need to be informed (unless the offender is a parent in which case, the local authority will need to intervene). A full record should be kept about decisions, rationales, and the safety of the child/ren. Practitioners must consider how the information can be shared in the proceedings, consult with internal legal advisers, and consider what action to take in respect of the proceedings for that child. Situational supervision must be sought in line with section 2.1.

## 14. **Recording**

- 14.1 Practitioners **must record any safeguarding concerns**, the action they have taken to safeguard the child and the outcome of that action in line with the case recording policy and our expectation that all actions must be followed through to secure the child's safety.

## 15. **Standard safeguarding checks and scrutiny of police information to inform analysis of harm and risk of harm**

- 15.1 In private law C100 applications, Cafcass undertakes police and local authority checks in relation to both applicants and respondents. Consideration must be given as to whether level 2 police checks are required.
- 15.2 In all other non C100 applications and in respect of third parties, Cafcass practitioners must exercise their professional judgment as to whether safeguarding checks, including level 2 police checks are required. The rationale must be recorded on the child’s file.
- 15.3 International police checks can be requested by a practitioner if a domestic PNC check indicates that relevant information is held by a police force in another country, or the practitioner has reason to believe relevant conviction information may be held by a police force outside of England. Each country will adhere to its own national laws in providing information so responses may vary or be denied.
- 15.4 In public law applications, a child’s guardian can make enquiries of anyone who may have relevant information to support their safeguarding assessment of the child’s circumstances. Police records must be reviewed and used to inform analysis of harm and risk of future harm, for example if unification or reunification is being considered.

<b>Owned by</b>	Jack Cordery
<b>Approved by</b>	National Director of Operations
<b>Approved on</b>	1 October 2023
<b>Implemented</b>	11 December 2023
<b>Version</b>	1.13 – replaces Cafcass Child Protection Policy (December 2020)
	1.14 – reflects changes to practice framework (October 2021)
	1.15 – reflects learning from case reviews (May 2022)
	1.16 – reflects learning from case reviews (October 2023)
<b>Next Review</b>	October 2026