



CHILDREN AND FAMILY COURT ADVISORY AND SUPPORT SERVICE

CODE OF CONDUCT FOR BOARD MEMBERS

1. INTRODUCTION

- 1.1. As public office-holders, Board members' behaviour and actions must be governed by the principles set out in this Code of Conduct. It is Board members' responsibility to ensure that they are familiar with, and comply with, all the relevant provisions of the Code.
- 1.2. In addition to the principles set out in this Code of Conduct, Board members must comply with the provisions relating to Board members contained in the Cafcass Framework Document drawn up by the Secretary of State.

2. KEY PRINCIPLES OF PUBLIC LIFE

- 2.1. The Code of Conduct for Board Members is based on the Cabinet Office Code of Conduct for Board Members of Public Bodies and the Seven Principle of Public Life¹ which are:

Selflessness

Board members should act solely in terms of the public interest.

Integrity

Board members must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity

Board members must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Board members are accountable for their decisions and actions to the public and must submit themselves to scrutiny necessary to ensure this.

Openness

Board members should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Board members should be truthful.

Leadership

Board members should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

¹ <https://www.gov.uk/government/publications/the-7-principles-of-public-life>

- 2.2. These principles should inform Board members' actions and decisions as Board members.

3. GENERAL CONDUCT

Use of Public Funds²

- 3.1. Board members have a duty to ensure the safeguarding of public funds³ and the proper custody of assets which have been publicly funded.
- 3.2. Board members must carry out these obligations responsibly – that is, take appropriate measures to ensure that Cafcass uses resources efficiently, economically, and effectively, avoiding waste and extravagance. It will always be an improper use of public funds for public bodies to employ consultants or other companies to lobby Parliament, Government, or political parties.

Allowances

- 3.3. Board members must comply with the rules set by Cafcass regarding remuneration, allowances, and expenses. It is Board members' responsibility to ensure compliance with all relevant HM Revenue and Customs' requirements concerning payments, including expenses.

Gifts and Hospitality

- 3.4. Board members must not accept, any gifts or hospitality which might, or might reasonably appear to, compromise their personal judgement or integrity, or place them under an improper obligation.
- 3.5. Board members must comply with the rules set by Cafcass on the acceptance of gifts and hospitality. They should inform the Chief Executive of any offer of gifts or hospitality received in relation to their duties as a Board member and ensure that, where a gift or hospitality is accepted, this is recorded in a public register in line with the rules set by Cafcass.
- 3.6. Board members are responsible for their decisions on the acceptance of gifts or hospitality and for ensuring that any gifts or hospitality accepted can stand up to public scrutiny and do not bring Cafcass into disrepute.

Use of Official Resources

- 3.7. Board members must not misuse official resource⁴ for personal gain or for political purposes. Deployment of such resources must be in line with Cafcass' rules on their usage.

Use of Official Information

- 3.8. Board members must not misuse information gained in the course of their public service for personal gain or for political purpose.⁵

² For more guidance on how to handle public funds, please refer to Managing Public Money <https://www.gov.uk/government/publications/managing-public-money>

³ This should be taken to include all forms of receipts from fees, charges, and other sources.

⁴ This includes facilities, equipment, stationery, telephony, and other services.

⁵ Board members who misuse information gained by virtue of their position may be liable for breach of confidence under common law or may commit a criminal offence under insider dealing legislation

- 3.9. Board members must not disclose any information which is confidential in nature or which is provided in confidence without authority. This duty continues to apply after Board members have left the board.

Political Activity

- 3.10. In Board members' public role, they should be, and be seen to be, politically impartial. They should not occupy a paid party political post or hold a particularly sensitive or high-profile role in a political party. Board members should abstain from all controversial political activity and comply with Cabinet Office rules on attendance at party conferences⁶ and on conduct during the period prior to elections and referendums, whether local or national.⁷
- 3.11. On matters directly related to the work of Cafcass, Board members should not make political statements or engage in any other political activity.
- 3.12. Board Members should inform the Chair, Chief Executive and/or the parent Department before undertaking any significant political activity. Subject to the above, Board members may engage in political activity but should, at all times, remain conscious of their responsibilities as a Board member and exercise proper discretion.
- 3.13. If Board Members are an MP, member of the House of Lords, member of a devolved legislature, directly elected mayor, local councillor or police and crime commissioner, you are exempt from these requirements. There is no bar on such representatives taking a political party whip relating to their political role. Board Members must exercise discretion on matters directly related to the work of Cafcass and recognise that certain political activities may be incompatible with the role as a Board member. Board Members should not allow themselves to become embroiled in matters of political controversy.
- 3.14. In Board members' official capacity, they should be even-handed in all dealings with political parties.

Employment and Appointments

- 3.15. If Board members wish to take up new employment or appointments during their term of office, they must inform the Chair and/or the sponsor Department in advance and allow them the opportunity to comment. Care should be taken if you accept additional public appointments to ensure that you are not being paid twice from the public purse for the same time.
- 3.16. On leaving office, Board members must comply with Cafcass rules on the acceptance of future employment or appointments.

4. CONFLICTS OF INTEREST

- 4.1. When accepting an appointment to the public body Board Members should consider if any conflicts of interest arise from their private interests or by virtue of any other roles they hold and consider, with advice from the appointing department, how these should best be managed, and agree these with the organisation.
- 4.2. Board Members must ensure that no conflict arises, or could reasonably be perceived to arise, between their public duties and their private interests, financial or otherwise

⁶ www.gov.uk/government/publications/civil-servants-and-party-conferences-guidance

⁷ www.gov.uk/government/publications/election-guidance-for-civil-servants

- 4.3. It is Board members' responsibility to ensure that they are familiar with Cafcass' rules on handling conflicts of interests, as set out in the Standing Orders, that they comply with these rules and that their entry in Cafcass' register of Board members' interests is accurate and up-to-date.
- 4.4. The Chair and other Board members should declare any "relevant and material" personal or business interests which may conflict with their responsibilities as Board members. Such conflicts should be identified at any early stage so that appropriate action can be taken to resolve them.
- 4.5. Interests that should be regarded as "relevant and material" are:
- Directorships, including non-executive directorships held in private companies or PLCs (with the exception of those of dormant companies)
 - Ownership or part ownership of private companies, businesses, or consultancies likely or possibly seeking to do business with Cafcass or its sponsor Department
 - Majority or controlling shareholdings in organisations likely or possibly seeking to do business with Cafcass or its sponsor Department
 - A position of authority in a charity or voluntary organisation involving children and families
 - Any connection with a voluntary or other organisation that may contract with Cafcass
 - Any professional interests in other public bodies with a link to Cafcass' business
- 4.6. If Board members have any doubt about the relevance of an interest, this should be discussed with the Chair and/or Chief Executive.
- 4.7. A register of interests appropriate to Cafcass' activities will be kept and will, as a minimum, list direct or indirect pecuniary interests⁸ that Board members might reasonably think could influence a Board member's judgment. Board members are also strongly encouraged to register non-pecuniary interests that relate closely to Cafcass activities, and interests of close family members and persons living in the same household as the Board member. Board members are responsible for ensuring that these details are updated as their circumstances change by notifying the Governance team, in writing within 28 days of any such change, of the nature of the change of interest.
- 4.8. The Register of Interests will be reviewed annually to ensure it is up to date and will be open to public inspection upon request and information about access will be included in the Cafcass annual report and on the Cafcass website.
- 4.9. Board members' directorships of companies likely or possibly seeking to do business with Cafcass or its sponsor department should be published in the Cafcass Annual Report. The information should be kept up to date for inclusion in succeeding annual reports.
- 4.10. In the absence of specific statutory provisions, the common law requires:
- that Board members should not participate in the discussion or determination of matters in which they have a direct pecuniary interest
 - that when an interest is not of a direct pecuniary kind, Board members should consider whether participation in the discussion or determination of a matter would suggest a real danger of bias. This should be interpreted in the sense that Board members might either unwittingly or otherwise unfairly regard with favour or disfavour, the case of a party to the matter under consideration. In considering whether a real danger of bias exists in relation to

⁸ Indirect pecuniary interests arise from connections with bodies that have a direct pecuniary interest or from being a business partner of, or being employed by, a person with such an interest. Non – pecuniary interests include those arising from Board membership of clubs and / or other organisations. Close family Board members include personal partners, parents, children (adult and minor), brothers, sisters, and the personal partners of any of these.)

a particular decision, Board members should assess whether they, a close family member, a person living in the same household as the Board member, or a firm, business or organisation with which the Board member is connected are likely to be affected more than the generality of those affected by the decision in question.

- 4.11. For the avoidance of doubt, this paragraph does necessitate any remuneration, compensation, or allowances payable to the Chair or Board members by virtue of paragraph 3 of Schedule 2 to the Criminal Justice and Court Services Act 2000 being treated as a pecuniary interest for the purpose of this Code.
- 4.12. Whether or not Board members are able in the light of the considerations above to participate in the discussion or determination of a matter, they should declare as soon as practicable after a meeting begins if they have an interest, pecuniary or other, in a matter being considered. They should also disclose any interests in it of which they are aware on the part of close family members and persons living in the same households as them. In addition, Board members should consider whether they need to disclose relevant interests of other persons or organisations, which Board members of the public might reasonably think, could influence the Board member's judgment.
- 4.13. During the course of a Board meeting, if a conflict of interest is established, the Chair or the Board member concerned shall declare his/her interest; and where in accordance with the above Board members do not participate in the discussion or determination of a matter, they should normally withdraw from the meeting even if it is held in public. This is because the continued presence of someone who has declared an interest might be thought likely to influence the judgment of the other Board members present. The declaration of interest shall be recorded in the Minutes of the meeting.
- 4.14. In the case of married persons or persons living together as partners, the interest of a Board member's spouse shall, if known, be deemed to be the interest of the and should be declared.
- 4.15. The Board should obtain legal advice on the effect of any specific statutory provisions applying to Cafcass. In cases where Board members are authorised by law to represent a group likely to be affected by Cafcass' decisions, the relevant statutory framework may permit Board members to be involved, notwithstanding any direct pecuniary interest that they may have in the decision. However specific statutory provisions may also impose stricter restrictions in respect of non-pecuniary interests than those set out at paragraph 4.6 above.
- 4.16. Board members must facilitate compliance with generally accepted accounting practice and specifically Financial Reporting Standard 8 (FRS8) on "Related Party Relationships and Transactions" for material transactions with related parties to be disclosed in financial statements. "Related Parties" in FRS8 include (in addition to business contacts) close members of the family of an individual, who are defined for the purposes of the standard as those family members, or Board members of the same household, who may be expected to influence, or be influenced by, that person in their dealings with Cafcass.

5. RESPONSIBILITIES AS A BOARD MEMBER, INCLUDING NON-EXECUTIVE CHAIRS

- 5.1. Board members should play a full and active role in the work of Cafcass. They should fulfil their duties and responsibilities responsibly and, at all times, act in good faith and in the best interests of Cafcass.
- 5.2. Board members should promote an inclusive and diverse culture in Cafcass, and your actions should help create an environment where different perspectives and backgrounds are encouraged and valued.
- 5.3. Board members should deal with the public and their affairs fairly, efficiently, promptly, effectively, and sensitively, to the best of their ability. They must not act in a way that unjustifiably favours or discriminates against particular individuals or interests.

- 5.4. Board members must not harass, bully or act inappropriately towards or discriminate towards others. Such behaviour is not consistent with what is expected of you as a board member and will not be tolerated.
- 5.5. Board members must comply with any statutory or administrative requirements relating to their post.⁹
- 5.6. Board members should respect the principle of collective decision-making and corporate responsibility. This means that, once the board has decided, members should support that decision.¹⁰
- 5.7. Board members must not use, or attempt to use, the opportunity of public service to promote their personal interests or those of any connected person, firm, business, or other organisation.
- 5.8. Board members must inform the sponsor department of Cafcass of any bankruptcy, current police investigation, unspent criminal conviction, or disqualification as a company director in advance of appointment or should any such instances occur during your appointment.
- 5.9. Board members must also inform the sponsor department of Cafcass of any change in your circumstances which results in you become bankrupt, subject to a police investigation, convicted of a criminal offence, or disqualified from being a company director.
- 5.10. The Chair of the Board has additional responsibilities in leading the Board and Cafcass and in ensuring that the principles covered in the Codes of Conduct for Board Members and Staff (where applicable) are upheld.

6. RESPONSIBILITIES TOWARDS EMPLOYEES

- 6.1. Board members will treat any staff employed by Cafcass with courtesy and respect. It is expected that employees will show members the same consideration in return.
- 6.2. Board members will not ask or encourage employees to act in any way which would conflict with their own duties to Cafcass.

7. SOCIAL MEDIA

- 7.1. Social media is a public forum and the same considerations, including the provisions of this Code, apply as would to speaking in public or writing something for publication, either officially or in a personal capacity. When engaging with social media you should at all times respect confidentiality, financial, legal, and personal information.
- 7.2. Where any personal social media accounts used by a Board Member refer or link to your public role, you should take care to ensure that it is clear in what capacity Board Members are acting.

8. RAISING CONCERNS

- 8.1. Board Members should ensure that Cafcass has an open, transparent, and safe working environment where employees feel able to speak up and raise concerns, and complaints procedures are clearly communicated to them.

⁹ In the case of a body incorporated under the Companies Act <https://www.legislation.gov.uk/ukpga/2006/46> contents or the Companies (Northern Ireland) Order <http://www.legislation.gov.uk/nisi/1986/1032>, you will also be subject to the duties of directors under company law. In the case of a body that has charitable status, you will also be subject to the duties of trustees under charities law.

¹⁰ This does not apply to departmental non-executive Board members; whose role is to advise and challenge the board and department.

- 8.2. If Board Members have a concern about a possible breach of this Code, a concern that they or any staff of Cafcass are being asked to act in contravention of their own code of conduct, or a concern about misconduct or wrongdoing in any other areas, then they have a responsibility to raise that internally with the Chair of Cafcass or the Permanent Secretary of the sponsor department as appropriate.

9. PERSONAL LIABILITY OF BOARD MEMBERS

- 9.1. Although any legal proceedings initiated by a third party are likely to be brought against the Board, in exceptional cases proceedings (civil, or in certain cases, criminal) may be brought against the Chair or other individual Board members. For example, a Board member may be personally liable if he or she makes a fraudulent or negligent statement which results in a loss to a third party. Board members who misuse information gained by virtue of their position may be liable for breach of confidence under common law or may commit a criminal offence under insider dealing legislation.
- 9.2. However, the Government has indicated that individual Board members who have acted honestly, reasonably, in good faith and without negligence will not have to meet out of their own personal resources any personal civil liability which is incurred in execution or purported execution of their board functions save where that individual has acted recklessly.
- 9.3. Board members who need further advice should seek legal advice through the Chair and / or Chief Executive.

10. DUTY TO ENSURE THAT CAFCASS DOES NOT ACT IN EXCESS

- 10.1. Board members are responsible for ensuring that Cafcass does not exceed its powers or functions, whether defined in statute or otherwise, or through any limitations on its authority to incur expenditure. They will normally be advised on these matters by the Chief Executive who will take legal advice where necessary.

11. THE BOARD AS AN EMPLOYER

- 11.1. The Board should ensure:
- that it complies with all relevant legislation and that it employs suitably qualified staff who will discharge their responsibilities in accordance with the high standards expected of staff employed by such bodies. All staff should be familiar with Cafcass' main aims and objectives.
 - that Cafcass adopts management practices which use resources in the most economical, efficient, and effective manner.
 - that Cafcass' rules for the recruitment and management of staff provide for appointment and advancement on merit on the basis of equal opportunity for applicants and staff.
 - that its staff and the Board's own Board members have appropriate access to advice and training opportunities in order to enable them to exercise their responsibilities effectively.
- 11.2. The Board has a responsibility to monitor the performance of the Chief Executive and other senior staff. Where the terms and conditions of employment of the Chief Executive and other senior staff include an entitlement to be considered for performance-related pay, and where Board members assess such payments, the Board should ensure that they have access to the information and advice required to make the necessary judgments.

12. CANVASSING

- 12.1. Canvassing of the Chair and Board members of the Board or Board members of any committee/subcommittee of the Board, directly or indirectly, for any appointment In Cafcass, will disqualify the candidate for such appointment. The contents of this paragraph of this Code will be included in application forms or otherwise brought to the attention of candidates.
- 12.2. The Chair or a Board member of the Board must not solicit for any person any appointment in Cafcass or recommend any person for such appointment. However, this paragraph of this Code will not preclude the Chair or a Board member from giving written testimonial of a candidate's ability, experience, or character for submission to the Board or Executive.
- 12.3. Informal discussions outside appointment panels or committees, whether solicited or unsolicited, should be declared to the panel or committee.
- 12.4. Candidates for any staff appointment shall when making an application disclose in writing whether they are related to the Chair or any Board member or the holder of any office in Cafcass. Failure to disclose such a relationship shall disqualify a candidate and, if appointed, render him/her liable to instant dismissal.
- 12.5. The Chair, Board members and every officer of Cafcass shall disclose to the Chief Executive any relationship with a candidate of whose candidature he or she is aware. It shall be the duty of the Chief Executive to report to the Chair any such disclosure made.
- 12.6. On appointment, the Chair and Board members should disclose to Cafcass whether they are related to any other Board member or holder of any office in Cafcass.

13. WORKING PRACTICE BETWEEN THE BOARD AND THE EXECUTIVE

- 13.1. Board members must comply with the working practice between the Board and the Executive set out in the Appendix to this Code.

APPENDIX A –STATEMENT OF WORKING PRACTICE BETWEEN BOARD AND EXECUTIVE

OVERVIEW OF WORKING PRACTICE	
<p>The Board</p> <ul style="list-style-type: none"> ▪ establishes the strategic direction of Cafcass ▪ decides strategic policies ▪ monitors organisational performance to account for overall outcomes <p>The Executive</p> <ul style="list-style-type: none"> ▪ advises the Board on proposed strategic direction, ▪ decides operational strategies and policies to carry out the overall strategic direction set by the Board. ▪ devises and adopts procedures to carry out the functions of Cafcass ▪ is responsible for reporting to the Board on performance, governance, and evaluation of outcomes 	
THE ROLE OF THE BOARD IS	THE ROLE OF THE EXECUTIVE IS
In relation to Cafcass planning systems:	
<ul style="list-style-type: none"> ▪ To <u>approve / sign off</u> the following: <ul style="list-style-type: none"> - The Cafcass Risk Appetite and Risk Registers - Strategic Delivery Plans - National Key Performance Indicators - Annual budget - Annual Report and Accounts 	<ul style="list-style-type: none"> ▪ To <u>develop and present</u> to the Board proposals for approval in relation to the Strategic Delivery Plan, annual budget and annual report and accounts ▪ To <u>manage</u> the operational systems and procedures ▪ To <u>adopt and implement</u> plans, <u>monitor</u> performance and <u>be accountable</u> for outcomes ▪ To <u>manage risks</u> ▪ To <u>adopt and implement</u> performance management framework and targets ▪ To <u>make decisions</u> on internal financial allocations.

THE ROLE OF THE BOARD IS	THE ROLE OF THE EXECUTIVE IS
In relation to Cafcass governance framework and systems:	
<p>To <u>approve</u> governance framework and systems including:</p> <ul style="list-style-type: none"> ▪ Standing Orders ▪ The Framework Document (subject to agreement with the Secretary of State) ▪ Reservations and delegations ▪ Audit requirements <p>To <u>comply</u> with the governance framework and procedures</p>	<p>To <u>propose</u> new systems and changes to existing governance framework systems and practice</p> <p>To <u>comply and report / account</u> for executive compliance with the governance framework and systems</p> <p>To <u>approve estates business cases</u> prior, where necessary under the Financial Memorandum, to their submission to the sponsor department for authorisation</p>

THE ROLE OF THE BOARD IS	THE ROLE OF THE EXECUTIVE IS
In relation to executive actions:	
<p>To <u>appoint</u> the Chief Executive and any other appointments specified in governance documents</p>	<p>Unless specified otherwise in the governance documents / legislation, operational actions will be the responsibility of the executive who will be <u>accountable</u> to the Board for the action taken / decision made. The executive will provide quarterly reports on service delivery performance; human resources; financial management, risks, and infrastructure.</p>