



Eva Nagy
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Your ref: CAF 18-087
Our ref: Gov/CAF 18-087

Tel 0300 456 4000

11 September 2018

Dear Ms Nagy,

Re: Freedom of Information Request

Thank you for your email of 23 August 2018. You made the following requests for information:

On 18th Dec 2017 Cafcass amended its 'Cafcass complaints and compliments procedure' and added "including audio recordings made covertly" to point 3.2 and changed it as per below:

3.3 Evidence submitted by the complainant is considered by the Customer Service Team where it is proportionate and necessary to address the issues raised. Evidence obtained by deception, including audio recordings made covertly, or where to consider it would place an excessive burden on staff time without making a significant contribution to the resolution of the complaint, will not be accepted.

This is directly contradicting to Cafcass' OF policy as per below:

"OPERATING FRAMEWORK

2.27 We should have nothing to fear from covert recording. Our attitude should be, "I am doing my job and I have nothing to hide. I can explain why I said what I said or why I did what I did". This is within the spirit of transparency in the family courts. We should always be transparent in our work, to meet contemporary expectations, including being able to defend whatever we say or write in a court under cross-examination, because we are working to a professional standard on behalf of a child. In this sense, we should expect that everything we say or write could become public knowledge"

1. Does Cafcass acknowledge the fact that this change in its 'Cafcass complaints and compliments procedure' contradicts its own OF policy?

Edward Timpson CBE Chair
Anthony Douglas CBE Chief Executive





The Cafcass Complaints and Compliments procedure does not contradict the Cafcass Operating Framework.

The [Operating Framework](#), recognises that there will be cases in which service users may record a telephone call or an interview with an FCA and these recordings may be made covertly. The Cafcass [Complaints and Compliments procedure](#) does not comment on whether covert recording of interactions with an FCA should arise but confirms that if there are recordings made covertly they would not be considered as part of the complaints investigation. Service users can apply to the court for covert recordings to be listened to and considered as evidence in their family court proceedings.

2. Does Cafcass acknowledge the fact that this change made its own activities less transparent and made it more difficult for the service user to provide evidence during a complaint procedure?

As stated in the [Complaints and Compliments procedure](#), service users are able to submit evidence as part of their complaint, and this will be considered by the Customer Service Team where it is proportionate and necessary to address the issues raised in the complaint. Cafcass encourages complaints to be made in writing, for clarity and this includes any evidence submitted. Complaints about an FCA's professional opinion and judgement are sent to the court by Cafcass and the court can take this into account in the decisions it makes in the proceedings. Service users are also able, subject to the judge's agreement, to tell the court about what they think about the work of Cafcass.

There are many legit reasons why someone is choosing recording as a record keeping option. The law does not prohibit covert recordings for personal or family use. It is legal.

This comment is not directly relevant to a Freedom of Information request.

3. Does Cafcass acknowledge the fact that recording (covert or not) an interview is legal?

This is not a valid Freedom of Information Request.

4. Why did Cafcass made this particular change in its 'Cafcass complaints and compliments procedure' policy?

The Cafcass [Complaints and Compliments procedure](#) was updated to clarify the position of Cafcass in regards to supporting evidence, which is that evidence obtained by deception will not be accepted. The explicit reference in the procedure to "audio recording made covertly" was added to ensure clarity in regards to this position.

Edward Timpson CBE Chair
Anthony Douglas CBE Chief Executive





As stated in the [Operating Framework](#) in relation to covert recordings, 'there is a possibility that recordings may not be authentic, accurate or complete'. Cafcass would be unable to verify the authenticity of a covert recording submitted as evidence as part of a complaint.

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 (<https://ico.org.uk/>):

Post

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Wycliffe House, Water Lane,
Wilmslow,
Cheshire
SK9 5AF

Fax

01625 524 510

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0303 123 1113

E-mail

casework@ico.org.uk

Yours sincerely,

Governance Team

Cafcass

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Edward Timpson CBE Chair
Anthony Douglas CBE Chief Executive





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Cafcass, the Children and Family Court Advisory and Support Service, is a non-departmental body of the Ministry of Justice
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