

Ms Victoria Soeder

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data.access@justice.gov.uk

Date: 16 September 2019

Dear Ms Soeder,

Freedom of Information Act (FOIA) Request – 190830021

Thank you for your request received on the 30 August 2019, in which you asked for the following information from the Ministry of Justice (MoJ):

1. CAF/CASS state in their principle underlying private law that: “ All adult behaviours should be defined and described as ‘behaviours’ not classifications, DIAGNOSIS, jargon. *This PCP/rule/principle is Indirect Discrimination* which may have affected groups of disadvantaged people with a health or Mental Health DIAGNOSIS where under 2010 Equality Act (which CAF/CASS do not apply) DIAGNOSIS ‘Matters’ to them and behaviour through no fault of their own ‘arise in consequence of DIAGNOSIS. Caf/CASS PCP for this practice policy or rule that applies to everyone as it states all ‘adult behaviour’ shows Caf/CASS is applying it to all adults in the same way but this has a worse effect on some people/groups than others. The equality act says it puts people with a ‘diagnosis’ at a disadvantage as certain adult ‘behaviours arise in consequence of health/disability that calls for special provisions for their protected characteristics under the provisions of the equality act under which they are afforded safeguards rights and protection in law which Caf/CASS are NOT fulfilling in their statutory obligations. Can the Ministry of Justice being their sponsor provide information as to how this principle is in operation and shed light on what Equality measures NEED to be applied in tandem because as this stands it is Indirect Discrimination

2. Can the Ministry of Justice please provide the information obtained in the development and consultation of this principle/PCP rule to justify WHY Caf/CASS have adopted and maintained this provision which excludes from the ambit of the protection of the equality act some adult behaviours which are a manifestation of adults health/mental health conditions to include but not limited to specific behaviour arising in consequence of: Autism , Asperger syndrome Multiple Sclerosis epilepsy, Dementia, Post Traumatic Stress disorder, Huntington’s disease, Stroke, Brain injury, Tourette’s Disorder, Eating Disorders where ‘behaviours’ are not a choice for adults in these groups and their behaviour is a manifestation of the very DIAGNOSIS /condition under the provisions of the Equality Act - ‘behaviour’ through which no fault of their own manifests itself so as to ‘justify’ treating them differently: NOT ALL the same as CAF/CASS rule states.

3. Can the Ministry of Justice, as CAF/CASS sponsor please provide all information CAF/CASS hold showing ‘WHO authored this principle/rule/PCP and which experts support it, which source it was obtained or borrowed from or which book, journal,

source or school or belief CAFCASS have relied upon for this principle and please reference clearly the source this rule was taken from or point to where this information is available to the public as CAFCASS refuse to reveal this ? As this principle stands it appears to have no 'source' and may have been developed internally by the CAFCASS brand only peer reviewed which is deeply disconcerting as it appears not to be a medically recognised or cogent belief. The public have the right to 'Transparency' of any methodologies being applied to them yet CAFCASS refuse Transparency. There is a moral and ethical responsibility to provide this information and the information in the public domain

4. Can the Ministry of Justice as a responsible sponsor please provide the public all the information CAFCASS holds that demonstrates this principle in its entirety about "All adult behaviour" and information held validating it is worthy of respect and not conflicting with the fundamental rights of service users whose behaviour arises in consequence of DIAGNOSIS and what information Cafcass holds which demonstrates it has weighed or assessed the potential equality impact upon adult service users with behaviours that arise in consequence of disability. Please provide information Cafcass hold to demonstrate the principle was weighed against the Equality Act and EHRA as Cafcass refuse to provide this information. Ms Parsons made a public reassurance that CAFCASS wanted to be 'absolutely transparent yet they refuse to provide this basic transparent information.

5. Can the Ministry of Justice please provide The information Cafcass holds showing which policies and guidance CAFCASS used in the process of developing this principle and provide the documents that show Cafcass considered the Equality impact on service users human rights and how these were considered in the planning stages of the development and implementation of this Cafcass principle as CAFCASS refuse to make this information available to the public?

6. a. Can the Ministry of Justice provide information as to why CAFCASS are working with disabled Grand parents with 'NO tools in their matrix' related to grand parents and further why CAFCASS tools are unvalidated? b. Why CAFCASS do not apply 2010 Equality Act to disabled Grandparents

7. Can the Ministry of Justice please provide information as to why CAFCASS in the CIAF, again in principle underlying private law: Anti Discriminatory Practice CAFCASS do not include DISABILITY; which is one of the 9 'protected characteristics' DISABILITY is INVISIBLE to CAFCASS both in policy and in frontline practice ? Do the Ministry of Justice hold any information as to why DISABILITY has been omitted ? Do CAFCASS have to have disability in their anti discriminatory practice and who ensures they do this ? Judicial Review?

8. Can the Ministry of Justice provide any information as to why CAFCASS are routinely and repeatedly ignoring their obligations under 2010 Equality Act ? Also operating a 'one step complaints procedure' allowing 'one complaint' then no 'fresh' complaints which EASS say is unacceptable as a SU should be able to access a complaints procedure 'as many times as they need to as discrimination does 'not stop and start' with one complaint therefore why are vulnerable adults including grand parents only able to make 'one' complaint only because the CAFCASS complaints procedure 'closes' and CAFCASS freely discriminate in many strands of discrimination for the following months leaving vulnerable disabled complainants with 'protected characteristics: UNPROTECTED unable to submit fresh complaints ? Do the Ministry of Justice have any plans remedy discrimination matters rife in CAFCASS ? n.b their complaints procedure is designed; not to take complaints.

9. Can the Ministry of Justice provide any information as to why added to all aforementioned that CAF/CASS 'Diversity and inclusion' module when requested 'had as they stated 'not yet available to staff on their e-learning system ?

10. As you can see the above is a bureaucratic shambles and without any of the above the Equality Act and EHRA breached repeatedly and a complete and utter disregard for disability which is INVISIBLE within policy, procedure, training and in practice. With no external scrutiny happening and INVISIBILITY of disability as outlined with no application of the Equality Act CAF/CASS are blatantly and freely discriminating seemingly accountable none of this said lightly. I fail to understand how a National Organisation who 'omit disability' Can deny discrimination of varying strands which cascades through this organisation like a cancer. Their PSED expects 'due regard' for disability but as policy stands its 'no regard'

11. CAF/CASS refuse to provide this information therefore in the public interest could The Ministry of Justice who sponsor them provide the information as it is in the public interest as would be an inquiry to assess the negative impact upon disabled service users and children associated to their protected characteristics 'adversely affected'. If not can you provide information as to who exactly regulates them and holds them accountable for 'no regard and INVISIBILITY of disability'?

12. I trust the Ministry of Justice can see that any reasonable person concerned with Equality should when asking for this information in good faith be supplied with it. The Ministry of Justice will recognise the wide ranging ramifications if CAF/CASS continue to operate with disability invisible in policy and practice.

13. Essentially CAF/CASS are saying disabled grandparents with symptoms of Dementia, Huntington's disease, Parkinson's disease, Frailty, Depression, Post traumatic stress disorder, Multiple sclerosis, Brain injury, malnutrition, and any elderly health or mental health condition who have 'emotional outbursts' symptoms of all afore listed are potentially and 'could in the future be 'harmful' to Grand children going against medical opinion. CAF/CASS are a sheer and utter untrained disgrace making 2 hour rushed in rushed out reports that amount to no more than a literary device with fictitious plot twists which they will defend, at all costs rather than admit wrong doing with impunity. They've destroyed families for years but now they're unleashed on grandparents 'with no tools' nor Equality Act application which places groups of people with protected characteristics and people associated including children at harm; discrimination. There is serious Equality breaches and EHR breaches in CAF/CASS. This a National disgrace and I should hope regulators intervene.

14. There were concerns raise prior to this CIAF published in the Guardian Newspaper and reassurances from Sarah Parsons CAF/CASS saying any developments in CAF/CASS would not be 'DRACONIAN'. CAF/CASS was described as not being centre ground or nuanced at all but instead it was recorded they sounded "Draconian and rather frightening". This was in response to CAF/CASS seemingly having powers to remove children from a parent; it could never have been imagined such 'draconian 'principles would be rolled out in their new development to stop disabled grandparents from seeing children; where CAF/CASS elevate themselves above medical clinicians. There are serious legal and ethical problems in CAF/CASS now purporting to have medical powers that they simply do not have and it appears CAF/CASS are unscrutinised by experts in health, mental health disability therefore Ministry of Justice now know CAF/CASS need to urgently deploy experts in these areas to scrutinise these draconian principles. It's wholly unacceptable.

15. Lastly can the Ministry of Justice provide any information as to why CAF/CASS are not only assuming the roles of psychologists and medical experts they are indeed acting with powers; not afforded to them, only Judges ? Ms Parsons made a statement assuring the public that CAF/CASS 'would not overstep the Mark in court'. Only a judge can order 'witness statements' but CAF/CASS are obtaining them 'without judge or court ordering them? CAF/CASS governance are saying that their FCA's don't obtain witness statements but they are Again I don't say this lightly I have permitted audio of CAF/CASS admitting to this, after lying and making excuses? FCA's acting with powers only afforded to judges is completely unacceptable. What information does the Ministry of Justice hold on FCA's gathering witness statements and making analysis of them without judges/court orders? Again Ms Parsons assured the public that CAF/CASS developments would not involve them 'overstepping the Mark in court' BUT I can assure the Ministry of Justice with evidence they are and it's simply not acceptable and an inquiry as to the extent of this and damages to families affected needs to happen. The ramifications of this irrevocably damaging and breaches of Article 6 and 8 to say the least? Where this happens and irrevocable damage happens how is damage repaired?

16. I sincerely hope The Ministry of Justice being the sponsor can provide information as CAF/CASS are breaching the Equality Act in Multiple strands, EHR Act, Mental health Act and other legislation. Breaching the Equality Act as outlines is not providing Equality to children who they are misrepresenting by discriminating which until disability is VISIBLE in policy they are in fact doing.

17. With the current inquiry spotlight on the Family court have the Ministry of Justice any plans to hold an inquiry into CAF/CASS procedural impropriety and unlawfulness i.e. breaches of Equality Act?

Your request has been handled under the FOIA.

The MoJ does not hold any information in the scope of your request. This is because we are not the appropriate authority to contact on this subject. CAF/CASS responds to their own information requests, and are responsible for the information they hold.

The FOIA does not oblige a public authority to provide information held by a different public authority, or an independent organisation. Neither does it require a public authority to create information to answer an FOI request, if the requested information is not held. The MoJ duty under the FOIA, is only to provide any recorded information held by MoJ, which is not exempt from disclosure.

As the information you have requested is Cafcass information, it will need to be requested from them. If you are not content with any reply provided to your FOI requests by CAF/CASS, then you should request an internal review. If you are not content with the result of any internal review Cafcass provide, then you can appeal to the ICO.

You can contact Cafcass at the below link

<https://www.cafcass.gov.uk/contact-us/>

Appeal Rights

If you are not satisfied with this response you have the right to request an internal review by responding in writing to one of the addresses below within two months of the date of this response.

data.access@justice.gov.uk

Disclosure Team, MoJ, 10.25, 102 Petty France, London, SW1H 9AJ

You do have the right to ask the Information Commissioner's Office (ICO) to investigate any aspect of your complaint. However, please note that the ICO is likely to expect internal complaints procedures to have been exhausted before beginning their investigation.

Yours sincerely

The Disclosure Team