



Victoria Soeder
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Your ref: CAF 19-183
Our ref: Gov/CAF 19-183

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11 November 2019

Dear Ms Soeder,

Re: Freedom of Information request

Thank you for your email of 19 October 2019. You made the following requests for information:

There now appears to be a systemic malfunction and conflict between CAF/CASS obligations under GDPR vs Family Law.

Family Law Rules say that 'All parties in proceedings receive copies of witness statements'.

CAF/CASS FCA Jodie Rees having now acted in a role only afforded to the Judiciary gathered witness statements but did not supply them to all parties.

Ms Rees admitting the Judge never ordered them agreed and information provided by Ms Walters to say Ms Rees would provide the witness statements : May 2019

Now in October 2019: 1 year after Ms Rees gathered witness statements, agreed 6 months ago to provide them CAF/CASS now say having withheld them in a SAR wrongly , and an internal review wrongly (which shows CAF/CASS knows fine well the FCA gathered witness statements)

"Under GDPR, you will only be entitled to your own personal data, and not information relating to other people you will need to contact the court for sight of the witness statements as part of the proceedings" therefore

1. Please provide information in Family Law rules where now a person has to contact the court for sight of witness statements

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Information about family law rules is not held by Cafcass.

2. GDPR then clearly conflicts with Family Law proceedings which say all parties should be provided copies but CAF/CASS are now using GDPR to withhold release of Witness statements gathered by CAF/CASS therefore please provide the information that enables GDPR regulations to override Family law rules procedures?

The information which may not be provided in responses to a Subject Access Request (SAR) will depend on whether the information is exempt from disclosure. For example, in certain limited circumstances information may be withheld on the grounds that it is exempt and third party information may also be withheld or redacted from a SAR response. As stated in Article 15 of the General Data Protection Regulation, the right of access shall not adversely affect the rights and freedoms of others.

Please see the below extract from our [Subject Access Request factsheet](#):

You will not be able to see information referring to someone else (a 'third party'). This will usually be redacted as it is personal information relating to someone else. If you are seeking a document in full where the contents relate to another person, it may be better to apply to the court for its disclosure, as it will not be disclosed under a SAR.

For more information about exemptions, please see section 10 of the [Subject Access Request Policy](#). Please also see section 5 of the [Subject Access Request Policy](#) for information about how third party information is handled.

Cafcass complies with data protection legislation including the General Data Protection Regulation (GDPR) and Data Protection Act 2018, and family law legislation, including the Family Procedure Rules. For more information about Cafcass' remit and the laws Cafcass complies with, please see the [Operating Framework](#) (section 1.8). It is not the responsibility of Cafcass to submit Witness Statements of parties to other parties and the court.

3. Provide the information that enables CAF/CASS under GDPR to provide release of data under SAR of character statements which includes information relating to other people but not witness statements as CAF/CASS appear to be using GDPR in arbitrary decision making processes?

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4. HMCTS and the family court have made it abundantly clear they do not provide witness statements and they did not order them therefore why are you providing information saying the court has to be contacted for sight of witness statements when the court say CAFCASS must provide them ? What guidance information is CAFCASS relying on to provide these 'inaccurate' responses.

Information about Cafcass' process regarding witness statements has been provided to you in previous responses to Freedom of Information requests.

5. The process of Ms Rees gathering witness statements is a sham creating legal and GDPR conflict of interest. How do CAFCASS procedurally intend to put matters right i.e impact assessment of the damage caused by this sham process and all the serious issues it raises ? I have asked this question to HMCTS and will ask the same to the ICO, MOJ and members of Parliament.

Instead of putting matters right CAFCASS appear to be only making matters worse to the point they have now created a 'systemic malfunction' where it needs to be legally ascertained if Family Law rules are struck out by new GDPR regulations.

The lengths CAFCASS have gone to here to cover up for a recalcitrant FCA: Ms Rees having the sheer audacity to assume she held powers available to a judge and acting with them beggars belief.

This leaves the public to draw their own conclusion: is this a pilot or trialling going in behind the scenes at CAFCASS. CAFCASS can not provide any reasonable lines of communication therefore instead of banging my head of a brick wall an open letter to the President of the family division seems the most expedient way forward.

This is a case specific question in regards to your case and is therefore not a valid Freedom of information request. Information about Cafcass' process regarding witness statements has been provided to you in previous responses to Freedom of Information requests.

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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/>):

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Information Commissioner's Office
Wycliffe House, Water Lane,
Wilmslow,
Cheshire
SK9 5AF

Fax

01625 524 510

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0303 123 1113

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casework@ico.org.uk

Yours sincerely,

Governance Team

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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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