



A Marfo  
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Your ref: CAF 20-010  
Our ref: Gov/CAF 20-010

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27 January 2020

Dear Ms Marfo,

**Re: Freedom of Information request**

Thank you for your email of 21 January 2020. You made the following requests for information:

1. Can you tell me a reason as to why a Cafcass advisor/employer is not always attached to a family case?

Cafcass can only become involved in cases when directed to do so by the court and when we are ordered by the court to complete work with families. Whether Cafcass is required to complete work on a family court case is a matter for the court.

Please see our [Operating Framework](#) for information on the type of family court cases Cafcass becomes involved with.

2. What is Cafcass stance on non- molestation/restraining orders? According to your database how many women/families has there been and what are the reasons; does this require factual evidence?

Cafcass does not have a stance on non-molestation or restraining orders.

Cafcass does not collect or collate data or statistics centrally on cases which involve non-molestation/restraining orders. This information if it is held will only be held in each individual case file. In order to provide a response, each case file would need to be checked individually; as Cafcass handles tens of thousands of cases annually, the cost of compliance would exceed the appropriate limit which for Cafcass is £450. In our estimation the cost (a flat rate of £25 per hour provided by the FOI Act) would exceed the appropriate limit which is

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18 hours for Cafcass, in order to complete one or more of the following activities permitted to be accounted for, which are:

- Determining whether the information is held;
- Locating the information, or a document containing it;
- Retrieving the information, or a document containing it; and
- Extracting the information from a document containing it.

A response to this request is therefore exempt under Section 12 of the Freedom of Information Act.

[12 Exemption where cost of compliance exceeds appropriate limit.](#)

1. *Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.*
2. *Subsection (1) does not exempt the public authority from its obligation to comply with paragraph (a) of section 1(1) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit.*
3. *In subsections (1) and (2) “the appropriate limit” means such amount as may be prescribed, and different amounts may be prescribed in relation to different cases.*
4. *The Secretary of State may by regulations provide that, in such circumstances as may be prescribed, where two or more requests for information are made to a public authority—*
  - (a) by one person, or*
  - (b) by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign,**the estimated cost of complying with any of the requests is to be taken to be the estimated total cost of complying with all of them.*
5. *The Secretary of State may by regulations make provision for the purposes of this section as to the costs to be estimated and as to the manner in which they are to be estimated.*

3. Can a Cafcass advisor/employee work with a family/Carer outside of court?

Cafcass can only become involved in cases when directed to do so by the court and when we are ordered by the court to complete work with families.

Cafcass has a [Conflict of Interests Policy](#) which outlines Cafcass’ policy on conflicts of interest as they arise both in terms of case work and any independent work carried out by Cafcass employees. This includes instances where the Cafcass practitioner or someone close to the practitioner knows a member of the family personally in the case concerned.

Please see sections 3.1 and 3.2 of the policy for detail of the procedure followed if a conflict of interest is identified.



#### 4. Can you tell me in what circumstances a Cafcass employee/advisor would advise the court to do a section 91 (Children Act 1989) ?

There is no specific set of circumstances in which an FCA would advise the court for a s91(14) order. All recommendations to court will be based on what the Cafcass officer assesses is in the child's best interests in that specific case, which will be influenced by a number of different factors. Please see the below extract from our [Operating Framework](#) on s91(14) orders (section 5.32):

*The impact on the child of long-running family court proceedings is rarely positive so cases should normally be concluded within six months of the first application being made. Options such as a court order for no contact or a s91(14) order being made to prevent future applications for a defined period time can enable the child's daily lived experience to improve, thereby minimising the risk to the child of developing significant emotional, psychological or mental health problems developing as a result of living in a situation of harmful conflict without being protected over a long period of time. Other options to consider are a change in who the child lives with, unpaid work or imprisonment. The preferred option should flow from an evaluation of those realistic options which help the child, in a balancing exercise. The assessment of the risk to the child of spending no time with a parent is crucial if these more restrictive orders are to be based upon helping the child, rather than leading to them or leaving them conflicted in a different way.*

#### 5. Can the Cafcass employee/advisor ban parents/carers and guardians from seeing their child or love ones? And for how long? What measures are put in place to prevent the child from harm?

Cafcass does not 'ban' parents and guardians from seeing their children or loved ones. Cafcass makes recommendations to the court for how a child's welfare and best interests can be promoted and safeguarded. When considering how much time a child should spend with each parent, Cafcass' recommendation to the court will be based on what the Cafcass officer assesses is in the child's best interests in that specific case. This will be based on their professional judgement and will be specific to each case. It is the court, and not Cafcass, that makes decisions about contact. In accordance with Government policy, Cafcass supports children maintaining a meaningful relationship with both parents, where it is safe and in the best interests of the child to do so.

The role of Cafcass is to safeguard and promote the welfare of children and we have a [Child Protection Policy](#) that sets out how we will respond to allegations of significant harm. As stated in our [Operating Framework](#), FCAs should demonstrate zero tolerance of safeguarding risks and threats when there is evidence of continuing child impact.

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Cafcass practitioners are required to assess risk in two ways: when the court orders a risk assessment as part of a Section 7 report if it feels that there is some risk to any child subject to proceedings; and under [s16A](#) of the Children Act 1989 Cafcass practitioners are under a duty to undertake a risk assessment whenever they have cause to suspect a child subject to proceedings is at current risk of harm and to pass this information to the court.

Set out below is a relevant section of the Cafcass [Operating Framework](#); for more information please also see our [Child Protection Policy](#).

#### *Risk assessment*

*5.42 Cafcass has a duty to assess risk, under s16A of the Children Act 1989. In our private law work, we may consider it necessary, as a result of our involvement in cases, to pass information about children to local authority children's services, where it appears that their duty (under s47(1) Children Act 1989) to investigate child protection concerns appears to be engaged. These steps are set out in the Cafcass Child Protection policy, and in the guidance document on our 16A duty. In our public law work, we analyse whether the risks to a child who is the subject of care proceedings have been appropriately managed. In some cases, the court itself, exercising its s37 Children Act 1989 power, directs a local authority to undertake and provide to the court a welfare investigation report. In private law cases, we have the duty to carry out a s16A risk assessment and to return the case to court if we feel a court has made an unsafe decision which has placed a child at risk. The court must then re-consider.*

*5.43 A MARAC is a non-statutory meeting of local agencies whose purpose is to identify the highest-risk victims of domestic violence, and to produce a safety plan to reduce the risk to victims, their children, and any other vulnerable person in the household. Participants at a MARAC do not all come within the categories of people specified in the Family Procedure Rules (FPR) 2010, to whom disclosure can be made without the court's permission. Cafcass will therefore not routinely participate in MARAC discussions, nor will it sign MARAC information sharing protocols. We do work with MARACs on cases where we hold important information. Guidance is available to FCAs in 'MARACs and disclosure from Family Court Proceedings' (2013). Where a child is suffering, or is likely to suffer, significant harm, the FCA must ensure that relevant referrals are made to local authorities or to the police.*

Cafcass is a non-departmental public body accountable to Wendy Morton, Parliamentary Under Secretary of State at the Ministry of Justice.

Cafcass is therefore independent of the courts, local authorities, the national health service and education authorities. The work of Cafcass is reviewed by Ofsted and Cafcass is inspected by Ofsted. Please see our website for the most recent [Ofsted inspection results](#).

External independent assurance is provided by Ofsted, the Parliamentary and Health Service Ombudsman who may investigate complaints about Cafcass and Local Children's Safeguarding Boards. Feedback is also received from our key stakeholders such as judges,

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courts, key interest groups and local Family Justice Boards, as well as from service users and children.

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**

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

**Fax**

01625 524 510

**Tel**

0303 123 1113

**E-mail**

[casework@ico.org.uk](mailto:casework@ico.org.uk)

Yours sincerely,

Governance Team

Cafcass

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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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