



Eva Nagy
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Your ref: CAF 18-101
Our ref: Gov/CAF 18-101

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10 October 2018

Dear Ms Nagy,

Re: Freedom of Information Request

Thank you for your email of 21 September 2018. You made the following requests for information:

1. How do you differentiate between:

a, complaints relating to the performance or conduct of the officer that may be relevant to court proceedings therefore will be referred to court?

In dealing with complaints, Cafcass will distinguish between complaints which are about professional judgement in the case, which is a matter for the courts, and those which allege professional misconduct by the Cafcass worker.

Complaints about the performance or conduct of a Cafcass worker may be drawn to the court's attention by Cafcass where Cafcass considers that they are relevant to the proceedings as they will have an impact on the proceedings. The Customer Service Team will identify such complaints and decide whether they are drawn to the attention of the court.

b, complaints relating to the performance or conduct of the officer that may be referred to the officer's manager?

As stated in the [Complaints and Compliments Procedure](#), the Customer Service Team will assess which aspects of the complaint relate to:

- The professional judgement of a Cafcass officer

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- Factual errors within a report or other communication to the court
- How the case has been managed and administered by Cafcass
- The performance or conduct of a Cafcass employee
- The actions of a Cafcass commissioned service provider

Where a complaint alleges professional misconduct, the Customer Service Team will send a copy of the response (i.e. the response to the complainant) to the line manager of the employee concerned, and a copy of the complaint file including details of the assessment, in order that the line manager may take appropriate further action if required; this could include a formal investigation under the [Employee Relation Policy](#).

c, complaints which raise serious concerns about the conduct of a Cafcass officer that will be referred to the relevant Head of Practice/Assistant Director?

Where there are serious concerns about the worker's conduct these may be referred to the relevant senior manager in order to consider whether informal or formal action is required under Cafcass' [Employee Relation Policy](#).

All complaint responses are reviewed by either an Assistant Director or a Head of Practice before being sent to the complainant. This ensures a senior manager will review the content of the complaint and be made aware of any issues raised by the Customer Services Manager regarding the professional conduct of the FCA. The Assistant Director or a Head of Practice can then consider whether informal or formal action is required under Cafcass' [Employee Relation Policy](#).

2. Do you classify a complaint regarding a FCA's discriminative, judgmental, intimidating and bullying behaviour as a serious concerns about the conduct of a Cafcass officer?

Whether a complaint is in relation to serious concerns about the FCA's conduct will depend on the nature of the complaint and the individual circumstances of the complaint and the case.

3. Is it a fair expectation of a FCA to recognise signs of DV and /or emotional abuse and/ or coercive control over a parent (the other parent being the perpetrator) even if the court did not ask Cafcass to investigate the possibility of it?

Cafcass practitioners are required to assess risk, including that arising from domestic abuse, 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

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[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. Please see the Cafcass [Operating Framework](#) section 5.41 and our [Child Protection Policy](#) for more information on our assessment of risk.

4. If the FCA suspects the possibility of a parent being a victim of DV and /or emotional abuse and/ or coercive control (the other parent being the perpetrator) then would the FCA be expected to use tools (i.e. 'Assessment of coercive control', 'Domestic Abuse Practice Pathway' etc) to assess the situation even if the court did not specifically directed Cafcass to do so?

The court does not order Cafcass to use certain tools in our assessment of a case.

Cafcass has [evidence informed tools](#) which have been developed to support practitioners in their direct work with adults and children in order to improve the quality of evidence informed analysis in our reports. Practitioners use appropriate tools, matched to the identified needs in the case, and the use of tools is a matter of discretion by the practitioner.

5. Every FCA is a member of HCPC and should meet their standards. It is the FCA's duty to work within the limits of their knowledge and skills, delegate appropriately etc. I imagine this overlaps with Cafcass's requirement of its own employee. In what circumstance should a service user raise complain to Cafcass about its FCA not meeting those standards and in what circumstances should the service user raise a complaint to HCPC?

Anyone can contact the HCPC to raise a concern about a professional on the Health & Care Professionals Council (HCPC) Register, including Cafcass service users. Cafcass does not have guidance or a position on when a service user should raise complain to Cafcass about its FCA and in what circumstances should the service user raise a complaint to HCPC. The Cafcass [Complaints and Compliments Procedure](#) sets out how service users can make a complaint to Cafcass.

Cafcass' [Employee Relations Policy](#) (paragraph 5.21) sets out the circumstances in which it might be necessary for Cafcass to notify the Health and Care Professions Council (HCPC) of a practitioner's fitness and ability to practice.

6. What is the complaint procedure when a service user is raising a complaint about a FCA's fitness to practise and for not keeping within his/her scope of practice? At what point will the parent have access to the FCA's qualifications and training?

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Please see here for our [Cafcass Complaints Policy and Procedure](#) which sets out the procedure Cafcass follows when responding to a complaint made about an FCA, including their fitness to practice.

Complaints about the performance or conduct of a Cafcass worker may be referred to the worker's line manager for information or action. Where there are serious concerns about the worker's conduct these may be referred to the relevant senior manager to consider whether informal or formal action is required under Cafcass' [Employee Relations Policy](#). These complaints may also be drawn to the court's attention where Cafcass considers that they are relevant to the proceedings.

All Cafcass Family Court Advisers (which includes those acting as Children's Guardians) are qualified social workers with a Diploma in Social Work (or recognised equivalent) and at least three years post qualifying experience in social work with children and families at risk. As a condition of employment, Family Court Advisers must maintain their registration with the Health and Care Professions Council (HCPC).

Further to experience in social work, our Family Court Advisers receive training while at Cafcass in order to assist with their continued professional development; as part of registration with the HCPC, all social workers on a biennial basis must provide evidence of their professional development.

All social work staff are required to complete six core in-house training modules upon joining the organisation, which will be completed within the first six months:

- Risk and Harm in Cafcass;
 - Legal Context and Court Skills;
 - Case Work Start to Finish;
 - Interviewing Skills in Cafcass;
 - Child Sexual Exploitation;
 - Introduction to Private Law/Public Law.
- Basic training is complemented by other training events available throughout the year for both social work and non-social work staff.
 - Cafcass have an internal National Improvement Service (NIS) who run workshops across the country tailored to local training needs analysis.
 - mySkills, an online eLearning platform, offers learning on a range of social work and non-social work topics.
 - All FCAs are registered with the HCPC and subscribe to the [professional capabilities](#) (section 5) in accordance with this registration.

Cafcass does not disclose the qualifications and training of individual FCA's as this is personal information belonging to an individual staff member. The information is personal data relating to an employee to whom Cafcass owes a duty of confidence.

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7. Does the service user have to take Cafcass to court in order to obtain that information (FCA's qualifications and training)?

Whether the court would order Cafcass to disclose the qualifications and training of an individual FCA is a matter for the court.

Cafcass does not disclose the qualifications and training of individual FCA's as this is personal information belonging to an individual staff member. The information is personal data relating to an employee to whom Cafcass owes a duty of confidence.

Disclosure is therefore exempt under Section 40 of the Freedom of Information Act 2000. The exemption from the duty to disclose third party personal data where to do so would breach a data protection principle is an absolute exemption.

[Section 40 of the Freedom of Information Act](#) provides that:

1. Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.
2. Any information to which a request for information relates is also exempt information if-
 - a. it constitutes personal data which do not fall within subsection (1), and
 - b. either the first or the second condition below is satisfied.
3. The first condition is-
 - a. in a case where the information falls within any of paragraphs (a) to (d) of the definition of "data" in section 1(1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under this Act would contravene-
 - (i) any of the data protection principles, or
 - (ii) section 10 of that Act (right to prevent processing likely to cause damage or distress), and
 - b. in any other case, that the disclosure of the information to a member of the public otherwise than under this Act would contravene any of the data protection principles if the exemptions in section 33A(1) of the Data Protection Act 1998 (which relate to manual data held by public authorities) were disregarded.

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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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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