

Safeguarding and Child Protection Policy

OVERVIEW

This policy sets out the requirements placed by Cafcass, on its staff and contractors, relating to its statutory function of safeguarding and promoting the welfare of children. It details the procedures to be followed when completing a section 16A risk assessment; making a referral to children's services; taking urgent action to protect a child; and responding to an allegation made against a person who works with children. The policy also sets out the thresholds for S17, S47 and S37. It alerts staff to the requirements placed upon them in respect of complex safeguarding and child protection matters, for example child exploitation, radicalisation and female genital mutilation, and the resources available to support staff in this area of work.

1. INTRODUCTION

- 1.1 The policy **must** be complied with by all family court advisers, practice supervisors and their line managers. Where a practitioner determines that circumstances in a specific instance justify a variation from the policy, this decision should be discussed with a manager, and a note made on the case record, immediately setting out the rationale.
- 1.2 Practitioners must familiarise themselves with local protocols for assessment and the threshold document of the Local Safeguarding Partnerships in whose area the team provides a service, as stipulated by [Working Together \(2018\)](#). Although Cafcass is not legally bound by Working Together, it is Cafcass policy to adhere to it wherever appropriate in the light of Cafcass' statutory functions.
- 1.3 It is the responsibility of all practitioners to act on concerns about risk of harm to a child. For guidance on risk assessment, refer to the risk and impact course in [CafcassLearning](#).

2. SECTION 16A RISK ASSESSMENTS

Section 16A of the Children Act 1989 states that: *If ... an officer of the Service ... is given cause to suspect that the child concerned is at risk of harm, he must a) make a risk assessment in relation to that child and b) provide the risk assessment to the court.*

- 2.1 Section 16A means that the practitioner should first consider whether the child is at risk of harm. The section imposes a duty upon the practitioner to provide a risk assessment, so it is important to be clear about what "harm" has been identified. The practitioner may not consider that the child is at risk of harm if there are already protective factors in place as a result of the proceedings. This section makes reference to current rather than future harm. Long term risks would be addressed in a section 7 report.
- 2.2 If a child is at risk of harm, a referral to children's services must be considered (section 3 below).

- 2.3 Only registered and qualified practitioners undertake the statutory duty of conducting s16A risk assessments. Newly qualified social workers (NQSWs) exercise sole case responsibility for this work only when they have been deemed competent through the process of confirmation in post. Students on practice placements do not conduct s16A risk assessments.
- 2.4 A s16A risk assessment report should not be incorporated into a s7 report, due to the different rules on disclosing the reports to parties. The practitioner should clearly state that the risk assessment has been undertaken in accordance with the requirements of section 16A Children Act 1989, clearly setting out what type of harm the child is at risk of suffering.
- 2.5 The s16A risk assessment report should not be shared by Cafcass with the parties. The court will make directions about the service of the report on the parties and it may be appropriate to comment on any risks associated with disclosure of the report. The provision of the s16A report only to the court enables the practitioner to alert the court to any serious concerns, whilst ensuring the distribution of sensitive material does not place a child or vulnerable adult at risk. The duty to file a report with the court extends to circumstances where the practitioner concludes, following assessment, that there is no risk.

3. CHILD PROTECTION REFERRALS (s47 CHILDREN ACT 1989) AND CHILD IN NEED REFERRALS (s17 CHILDREN ACT 1989)

- 3.1 A child protection referral should only be made by registered and qualified practitioners. Paragraph 2.3 about NQSWs applies. If staff who are not registered or newly qualified practitioners have a concern about a child, they should bring this immediately to the attention of the allocated practitioner, Practice Supervisor or a Service Manager.
- 3.2 The practitioner should make a referral under section 47 to local authority children's services where s/he believes that a child is suffering, or is likely to suffer, significant harm. The practitioner should refer under section 17 if the child is considered in need of support or services to safeguard and promote their welfare. Consideration for a referral applies to:
- All children with whom practitioners come into contact through their work, not just those who are subject to court proceedings.
 - All types of risk of significant harm to children, including any current risk of self-harm or suicide.
 - All children, regardless of whether they are open to CSC already and even if they are already the subject of CP plans.
- 3.3 Under s47, local authorities have a duty to make necessary enquiries where they have reasonable cause to suspect that a child who lives, or is found, in their area is suffering, or is likely to suffer, significant harm. Under S17 local authorities have a general duty to safeguard and promote the welfare of children within their area who are in need by providing a range and level of services appropriate to those children's needs.

- 3.4 Whilst it is not generally lawful to disclose information relating to proceedings, rule 12.73 of the Family Procedure Rules 2010 permits information relating to proceedings to be communicated to a professional acting in furtherance of the protection of children.¹ This allows Cafcass to share information from the family proceedings to an officer of the local authority exercising child protection functions without the prior permission of the court. However, the court should always be informed at the earliest opportunity of any such action taken.
- 3.5 The consent of a child or parent/s is not required where a child protection referral is being made under S47, but the child and parent/s should be kept informed unless doing so would place the child or a potentially vulnerable adult at increased risk of significant harm or prejudice a police enquiry. Where a decision is taken not to inform the parent/s of the making of a child protection referral, the professional assessment for not doing so must be recorded on the contact log, and the court informed via 16A.
- 3.6 A referral made under S17 needs to be discussed and agreed with those with parental responsibility. If there is resistance to the referral consideration needs to be given as to the potential impact on the child.
- 3.7 Consent from the parties is required if you need to obtain information from third parties, including schools, health practitioners or employers. You should not share information about proceedings with any third party unless they come within the definition of professional in furtherance of the protection of children or you have permission from the court. This does not mean you cannot seek information, but you should be aware of the need for confidentiality. If in doubt advice should be obtained from Cafcass Legal if required.

4. SECTION 37 RECOMMENDATIONS

- 4.1 In private law proceedings, if the risks to a child are assessed as so significant that the threshold is met to consider either a Care Order or Supervision Order, appropriate advice should be provided to the court setting out the rationale for this advice. The relevant local authority must be informed by the practitioner that they are advising the court that a S37 report is required.
- 4.2 A Child Protection referral should also be made if the threshold is met for consideration of a S37.
- 4.3 If the court agrees, it will direct a local authority to undertake an investigation of the child's circumstances and report to the court its findings, the practitioner should confirm with the local authority that the order has been made.
- 4.4 During the investigation, the social worker conducting the investigation will need to consider:
- If the local authority should consider applying for a Care Order or for a Supervision Order;

¹ See [Information sharing: Advice for practitioners providing safeguarding services to children, young people, parents and carers \(HM Government, July 2018\)](#).

- If the local authority should provide services or assistance for the child and her/his family;
- or take any other action.

5. MARAC

When Cafcass is made aware that parents or carers are involved with a Multi-Agency Risk Assessment Conference (MARAC), the practitioner must conduct a 16A risk assessment to court and share information with the local authority, informing them of the application and any ongoing safeguarding issues relating to the case.

6. DECIDING IF A CHILD PROTECTION REFERRAL IS REQUIRED

- 6.1 Identifying the threshold for a child protection referral requires skilled professional judgment. There are three types of concern, which should prompt the practitioner to consider the need for a child protection referral:
- **Unknown:** a 'new' concern relating to current or recent events.
 - **Unresolved:** a concern already referred to the local authority, but where the child remains at risk of significant harm, for example contact is taking place with a person who presents a risk e.g. a registered sex offender.
 - **Unreported:** concerns relating to events in the more distant past (but not reported to the local authority at the time) that pose a current risk of significant harm to a child. These are to be distinguished from 'historical concerns' which may not pose a current risk.
- 6.2 Where the practitioner becomes aware of 'historical concerns' derived from domestic abuse, s/he should exercise professional judgment as to whether this information should be shared with the local authority.
- 6.3 The Family Procedure Rules 2010 permit the sharing of any information relating to proceedings to a 'professional acting in furtherance of the protection of children' and this includes the sharing of relevant information with a local authority, about a family which is known to them. Information can therefore be shared with an officer of a local authority exercising child protection functions without making a formal child protection referral. Therefore practitioners have to be clear whether they are sharing relevant information with a local authority under the Family Procedure Rules 2010, or there is a need to make a formal child protection referral because information has already been shared with the local authority and action has not been taken to safeguard the child.

7. MAKING A SAFEGUARDING OR CHILD PROTECTION REFERRAL

- 7.1 Having discussed the situation with a Service Manager or Practice Supervisor the practitioner should:
- Make the referral by phone at the earliest opportunity to the local authority where the child lives or is found, to the contact number stipulated within local safeguarding partnership procedures.
 - Inform any other relevant local authority that the referral has been made.

- Inform the Service Manager or Practice Supervisor, and record on the contact log the fact that a referral was made by generating the Cafcass safeguarding/child protection referral form template. This will automatically update the child record and the contact log and will set a two day follow up flag on the system.
- Confirm the referral in writing on the same day by completing the relevant local authority referral form (or in its absence the Cafcass referral form) and save a copy to the case file.
- Inform the child's parents/carers that a referral to the local authority has been made, unless doing so causes further risk of harm to the child. The rationale for the referral should be clearly explained to the parent and a record of that discussion should be made on the case record at the time.
- If any referral is made about a child, consideration must be given to their brothers and sisters, and other children in the household, and the extent to which they are considered to be exposed to the same risk of harm as the child about whom we are making a referral.
- Inform the court of the referral and of the outcome at the earliest opportunity.
- Contact the local authority within one working day of the written referral being sent if receipt of the referral has not been acknowledged by them.
- Contact the local authority within two working days to establish what decision has been made in respect of the referral.
- Respond to any invitation to a strategy discussion/child protection conference/child in need meeting and decide on attendance in line with local safeguarding partnership procedures and discussion with a service manager. Establish the outcome of any investigation by the local authority within the timescale that has been agreed with the local authority in each specific case.
- Notify the local authority when Cafcass work in the case ends and provide details about the outcome.
- On any occasion of referral to the local authority or recommendation for a S37 Report, good communication with the local authority should be established.

7.2 If a referral is not considered to meet the threshold for assessment by children's social care, and there is disagreement as to whether child protection or child in need procedures should be invoked; then the practitioner should liaise with their Service Manager and consider using the Local Safeguarding Partnership escalation procedures.

8. ESCALATION

- 8.1 Following a discussion with their manager, if the practitioner is still of the view that a referral merits further assessment by the local authority but the manager does not agree, the practitioner must escalate their concerns to the relevant Cafcass Assistant Director. The practitioner must consult with a manager or Head of Practice/Assistant Director until their concerns are addressed to their satisfaction. All professionals have a duty to raise and share their concerns and if their concerns are not allayed, they need to be escalated with the Assistant Director and local authority.
- 8.2 In the case that a practitioner and the manager agrees a referral should be made to the local authority but the response of the local authority is that it does not meet the threshold for referral the case must be escalated to a Cafcass Assistant Director who will be expected to speak to the local authority Assistant Director responsible for the

protection of children to establish and record their rationale. Full notes should be retained on the case record and if a satisfactory outcome regarding the referral is not achieved, then the Director, Operational Service Delivery will take responsibility for further escalating to the local authority Director of Children's Services and securing a satisfactory outcome that protects the child/ren from harm or further harm.

- 8.3 Where a safeguarding/child protection referral is made for a child who is not the subject of proceedings (private or public law) the local team will add the child as a connected child to the case record, using the '[non-case related child safeguarding enquires/referrals](#)' guidance available on the intranet, and the referral should be stored under the risk and safety folder within the case file. The referral process noted above should be followed and the case file should be updated when the manager is satisfied that the work is complete, and the referral has been accepted by the local authority.

9. TAKING URGENT ACTION TO PROTECT A CHILD

If a child is in imminent danger, action should be taken to secure the safety of the child. This involves, depending on the circumstances:

- Seeking medical attention immediately and directly from the emergency services. Parents/carers, if available, should be kept fully informed.
- Seeking police assistance if a child is at imminent risk and making a child protection referral to the local authority following the above procedure.
- Remaining with a child who has been left alone (depending on their age and capacity) and contacting the police.
- Notifying a Cafcass manager as soon as possible, in all of the above cases.

10. SIGNPOSTING AND WELFARE REFERRALS

Where the practitioner believes a child's welfare would be promoted by the provision of support (but the significant threshold – see 3.2 – is not met) the practitioner should signpost the family to services. Where appropriate, for example when a child/family need local support to prevent their difficulties from escalating, the practitioner should consider referring the family to the local services (e.g. early help/support services), having received parental consent to do so.

11. COMPLEX SAFEGUARDING

- 11.1 Complex safeguarding (also known as 'contextual safeguarding'²) is a term that is used to describe criminal activity (often organised) or behaviour associated with criminality, involving children and adults, where there is exploitation and/or a clear or implied safeguarding concern. This includes sexual exploitation, county lines, radicalisation, trafficking, so-called "honour-based" violence, female genital mutilation, gang activity and criminal exploitation. Guidance, including the support available to

² Working Together 2018, Chapter 1-
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779401/Working_Together_to_Safeguard-Children.pdf

practitioners, is set out in the Operating Framework and Working Together 2018.³ Specific requirements are set out below relating to trafficking and female genital mutilation.

11.2 In all complex safeguarding cases practitioners are required to:

- Make a child protection referral, in line with section 3 above, where the practitioner is concerned a child is suffering, or is likely to suffer, significant harm as a consequence of exploitation.
- Indicate on ECMS that a case is known, or suspected, to feature an element of exploitation.

11.3 Another complex, and growing, area of work is cases that have an international element. Detailed guidance is available in the [Operating Framework](#).

12. CHILD TRAFFICKING

It is important to note that child trafficking can be from one end of a street to another. There does not have to be an international element to child trafficking.

Where a practitioner believes that a child has been trafficked - moved from one place to another into conditions of exploitation (for example sexual, forced labour) by deception, coercion or the abuse of power - they should:

- Have a discussion with a manager prior to the referral.
- Make a referral to the local authority in line with section 3 above.
- Ask the local authority, in accordance with its first responder status, to refer the child to the National Referral Mechanism (NRM). The NRM is part of the UK Human Trafficking Centre. Referrals to it can only be made by first responders which include local authorities and the police. Cafcass is not a first responder.

13. FEMALE GENITAL MUTILATION

Practitioners have a mandatory duty to report to the police known cases of female genital mutilation (FGM) in under 18s, identified in the course of their professional work. The procedure to be followed is set out in Annex 1 and should be discussed with a service manager.

If a practitioner has a concern that a child is at risk of female genital mutilation a referral to the local authority should be made in line with section 3.

14. ALLEGATIONS AGAINST PEOPLE WHO WORK WITH CHILDREN

14.1 This section applies to people who work with children irrespective of whether they are:

- Current or former employees of Cafcass.

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779401/Working_Together_to_Safeguard-Children.pdf

- Other professionals or adults with whom Cafcass is working who also work with children as e.g. teacher, youth worker, social worker, nurse.

14.2 Local authorities have a designated officer, or team of officers, who manage and have oversight of allegations against people who work with children. The local authority should be informed when allegations are made against a person who works with children and who has:

- Behaved in a way that has harmed a child, or may have harmed a child;
- Possibly committed a criminal offence against or related to a child; or
- Behaved towards a child or children in a way that indicates they may pose a risk of harm to children.

14.3 In respect of a concern about an adult with whom we are working the fact that they are a professional (e.g. a teacher or social worker) may not, of itself, merit a referral. The practitioner should consider whether the behaviour that has caused concern in one context (typically disputes over child arrangements) gives rise to concern about behaviour in other contexts (e.g. typically their workplace). A child protection referral should be made alongside the local authority referral if a specific child is at risk of harm or has been harmed. Referrals or discussions should not be made directly to the person's employer. Referrals to the local authority about an adult with whom we are working must be agreed by a manager and the rationale recorded on the case record. If in doubt as to whether a referral should be made please contact Cafcass legal for advice.

14.4 In respect of a concern about a member of staff, the operational Head of Practice/Assistant Director and Cafcass HR should be notified as soon as possible, who will decide whether to make a local authority referral. There are three potential strands to enquiries into an allegation about a member of staff:

- A police investigation into an alleged offence.
- Enquiries by the local authority about whether a child is in need of protection and whether an individual is considered to present a risk to children.
- An internal investigation, including a potential referral to the regulatory body.

14.5 A Cafcass Serious Incident Notification should be made in all instances where we make a referral or where there is an investigation in respect of a member of staff or a Cafcass associate.

15. SAFEGUARDING OF VULNERABLE ADULTS

15.1 It is important for practitioners to consider the impact of proceedings on parents and carers, especially in relation to adults with mental health concerns or who are at risk of suicide.

15.2 There are few known suicides of parents known to Cafcass, but they do occur, albeit rarely, in or after both public and private law cases. A legal outcome that is considered adverse by the parent (notably the 'loss' of the child) is a risk factor. Other factors include: a history of self-harm; previous suicide attempts; suicidal thoughts or expressions.

- 15.3 If the practitioner reaches a professional view that the child is suffering, or is likely to suffer, significant harm, they should make a child protection referral to the local authority as detailed in section 7, and there is no limit on information sharing for this purpose.
- 15.4 However, if the practitioner is concerned about the parent harming themselves but not a child, they should consider the following:
- Requesting situational supervision to discuss their concerns.
 - Encouraging the parent to obtain support from their GP, or other agency with which they are engaged (e.g. mental health services, counsellor). This is likely the best option as the parent is more likely to benefit from support they have actively sought.
 - Seeking the parent's consent to contact the GP or other agency and advise them that the proceedings or outcome may result in significant stresses for the parent.
 - If the parent is unwilling to give such consent, and the level of concern is high, the practitioner should seek an order from the court to disclose to a GP or any other health professional the details of the family proceedings, in order to alert them to the need for support.
 - If the practitioner assesses that there is an immediate risk of a vulnerable parent self-harming, they should alert the police or adult services of that concern.
- 15.5 The parent can share information about proceedings for the purpose of obtaining support and advice without breaching the court rules (Practice Direction 12G).
- 15.6 The practitioner is permitted to share some information with a health professional if it does not fall within the definition of "information relating to proceedings" ([Section 12 Administration of Justice Act 1960](#)). This includes the fact that a child is the subject of proceedings and a general description of the nature of the dispute. It is also permitted to share a summary of a court order.
- 15.7 If the information required to be shared does not fall within the above definition, the practitioner can seek permission from the court to disclose specific information from the proceedings to a named individual with the intention of alerting them to risk.
- 15.8 Practitioners should seek advice from Cafcass legal if they have any doubts about whether they are permitted to share information when they have concerns about a vulnerable adult.

Owned by	Claudia Megele, Assistant Director
Approved by	Cafcass Operational Management Team
Approved on	18 March 2020
Implemented	18 March 2020
Version	1.13 – replaces Cafcass Child Protection Policy (December 2019)
Amended	March 2021 - changes following a technical issue identified. Updates made, resulted in connected child cases linked to the original case. Following legal briefing, minor update to LADO, legal advice can be sought if needed to discuss as there can be consequences regarding employment; section added on safeguarding concerns about adults.
Next Review	December 2021

ANNEX 1: Female Genital Mutilation (FGM): Mandatory Reporting

The procedure to be followed is set out in [Mandatory Reporting of Female Genital Mutilation – procedural information](#) (Home Office; 2016).

A failure to comply with the duty may be considered through fitness-to-practise proceedings conducted by Social Work England.

What the section 5B duty to report means for Cafcass practitioners:

- A failure to comply with the duty may be considered through fitness-to-practise proceedings conducted by Social Work England.
- There is a personal duty to report known FGM to the police. The duty cannot be transferred to another member of staff.
- The duty is engaged when the social worker is 'informed by a girl under 18 that an act of FGM has been carried out on her'.
- The duty does not apply if a report is made by another individual e.g. a family member. In these circumstances the Safeguarding Policy should be followed, specifically with reference to making a child protection referral to the local authority.
- There is no duty to report if another social worker has made a report to the police.
- It is the age at disclosure/identification – under 18 – which dictates whether a report is to be made to the police, not the age of the child when the FGM occurred.
- The mandatory report to the police should be made within one working day to the 101 number, unless there is a risk to life or a risk of immediate serious harm, in which case a 999 call should be made.
- The Assistant Director should be informed of the report and identified as the 'Head of Safeguarding' when the police request this information.
- A child protection referral should be made to the local authority in line with the Cafcass Safeguarding Policy.
- A record should be made on the contact log, within ECMS, including the reference number that the police provide. FGM should also be added to the child needs section on the child's person record in ECMS.

Non-social work staff should raise a concern about FGM with the service manager.

Resources to support staff are available on [CafcassLearning](#).