

# HM Inspectorate of Court Administration

An inspection undertaken between October 2005 and March 2006 of the Children and Family Court Advisory and Support Service (CAFCASS) concerning private law front-line practice

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**HMICA**  
HM Inspectorate of Court Administration



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In April 2001, the Children and Family Court Advisory and Support Service (CAFCASS) was established under the Criminal Justice and Court Services Act 2000 as a non-departmental public body (NDPB) covering England and Wales. The Act also placed a duty on Her Majesty's Courts Service Inspectorate (MCSI) to inspect CAFCASS.

The Courts Act 2003 established both Her Majesty's Inspectorate of Courts Administration (HMICA) and Her Majesty's Court Service (HMCS) in April 2005. MCSI ceased to exist and became HMICA with wider duties, namely to:

- inspect and report to the Lord Chancellor on the systems that support the carrying on of the business of the courts
- inspect and report to the Secretary of State on the performance of CAFCASS functions
- discharge any other particular functions which may be specified in connection with the courts or CAFCASS functions or related functions.

HMICA reports to the Department for Constitutional Affairs (DCA) Ministers on HMCS and to the Department for Education and Skills (DfES) Ministers on CAFCASS.

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# Chief Inspector's foreword

During the last year, issues concerning the family justice system have had a high public and political profile. That is likely to continue. When courts dealing with family proceedings consider contested applications, they turn to CAFCASS for detailed social work advice to aid their decision-making. This occurs most frequently about contact and residence. CAFCASS 'front-line' practitioners undertake case planning, interviews and assessments, and prepare reports to court based on those assessments. It is demanding, difficult and skilled social work.

Most of what happens in CAFCASS interviews is not seen by others. With the agreement of families, Inspectors observed interviews undertaken by CAFCASS staff from the start to the end of the case. Direct observation is a powerful tool and provided telling evidence for Inspectors. In bringing this information together, HMICA has been able to evaluate the quality of CAFCASS front-line practice in its private law work.

I am pleased that HMICA's report identifies examples of good practice. But I am also concerned that too many of our findings echo key messages from our previous reports. In particular:

- There is still a strong culture of localised custom and practice
- CAFCASS' new quality assurance mechanisms, introduced in 2005, have not yet made a real impact on front-line practice
- Scarce resources are being wasted when reports are prepared, even though there are no significant child welfare issues
- Assessments, including those focused on the risk of domestic violence, are weak.

I conclude that CAFCASS urgently needs to strengthen the effectiveness of its efforts to drive both change and higher standards of front-line practice. Our recommendations aim to help CAFCASS achieve tangible improvements in the quality and consistency of its services to children and families.



**Eddie Bloomfield**

*HM Chief Inspector of Court Administration*

August 2006





# Summary, recommendations and suggested actions

## Focus

The report evaluates the work of CAFCASS practitioners in private law proceedings. Usually, the court is involved when parents or other adults cannot agree on matters such as where the child should live, the contact the child should have with the parents, if the child may move abroad and other issues. The CAFCASS practitioner is asked to prepare a report to advise the court on what would be in the best interests of the child.

This inspection focused on the:

- quality of practitioners' work with children and families
- experience of service users during these proceedings
- organisational accountability for the quality of practitioners' work
- arrangements to develop best practice and compliance with policies and procedures.

## The wider context

The work of CAFCASS practitioners is a core business activity of CAFCASS and the subject of considerable Government attention. Private law proceedings often involve critical and far-reaching decisions about children's lives. However, the purpose of the work and how it should be carried out have not been clearly defined by CAFCASS.

## Key findings

### Quality of practitioners' work in interviews

There are some examples of good or excellent work with children and families but, overall, practitioners often have deficits in basic interviewing skills. CAFCASS has not produced for practitioners guidance on the standards expected of them, what the focus of the work should be, how the work should be planned or how the work should be carried out. Consequently, practitioners often work in very individual ways. Many interviews are not organised well and much information is gathered which is not relevant to the task.

There are often vital issues of whether domestic violence has occurred and what the effect on the children has been. This part of the assessment is of particular significance when the dispute is regarding where the child should live or what contact, if any, the child should have with specific adults. Recent policies, procedures and training are of a high quality and, if implemented effectively, are likely to improve standards substantially. However, currently practitioners usually assess domestic violence unsatisfactorily which, on occasions, creates or sustains unacceptable risk to children and adults.

## Quality of practitioners' work in reports

CAFCASS has taken some steps to improve the consistency and quality of reports but, at this time, practitioners often rely for their recommendations on their individual views and experience. The making of a Court Order in private law proceedings is a powerful intervention by the State in family life. However, CAFCASS has little research regarding the effectiveness of its work or the value of particular recommendations. Practitioners pay insufficient attention to the 'no Order principle'; this requires that Orders should only be made where doing so would be better for the child than making no Order at all.

Reports are often over-lengthy and include a substantial amount of historical information, which is not always relevant to the dispute. Where, as is often the case, the adults have conflicting views, practitioners frequently report these without evaluating the information. Domestic violence is often inadequately addressed.

## Case management

Service users are nearly always seen in comfortable offices. They are treated with politeness and punctuality. There continue to be weaknesses in how the safety of staff and service users regarding the risk of violence is safeguarded. Service users do not receive consistent information or explanation about the role of CAFCASS in private law. The management of files, including case recording, varies widely.

## Organisational accountability for practitioners' work

CAFCASS has created a helpful new framework for managers to ensure that the performance of practitioners is effectively managed. Currently, however, arrangements in CAFCASS to ensure accountability remain unacceptably weak. Managers have insufficient knowledge of the actual practice of practitioners and whether reports are reliably based on sound assessments. There are significant amounts of waste in practitioners' work because of inefficient methods. There are few arrangements to identify or share best practice and, where these do exist, they are local, which limits their usefulness.

# Recommendations and suggestions

In order to improve the quality and effectiveness of its front-line practice in private law, HMICA recommends that CAFCASS should:

- 1 clarify its functions in private law proceedings and the associated range of practitioner roles
- 2 publish national standards and supporting private law practice guidance
- 3 develop and implement a strategy to deliver agreed changes in front-line practice
- 4 take further steps to ensure quality assurance is effectively undertaken in local area teams and local accountability is improved
- 5 develop and implement a strategy to address the assessed training needs of staff undertaking private law work.

In order to help improve the wider effectiveness of its front-line services in private law, HMICA also suggests that CAFCASS should:

- 6 continue to work with relevant organisations, Judiciary and Departments to agree and implement protocols covering new referrals to CAFCASS
- 7 develop a framework to help assess how effectively its work with families contributes to improved outcomes for children, as defined in *Every Child Matters*<sup>1</sup>
- 8 develop a longer term research strategy with a clear child focus outcome, in partnership with other family justice agencies, relevant organisations and Departments.

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<sup>1</sup> *Every Child Matters: Delivering Change for Children* and related reports were published by DfES in 2004.



# 1 The wider context

## The scope of this inspection

- 1.1 CAFCASS' main functions are set out in Section 12 of the Criminal Justice and Court Services Act 2000. These are, when the welfare of the child is or may be in question, to:
- safeguard and promote the welfare of children
  - give advice to any court about any application made to it in family proceedings
  - make provision for the children to be represented in family proceedings
  - provide information, advice and other support for the children and their families.
- 1.2 This inspection focused on the work of CAFCASS practitioners in private law proceedings when CAFCASS had been asked by the court to prepare a report. CAFCASS' work includes case planning, interviews and assessments, and reports to courts based on those assessments. This inspection focuses on those processes that are relevant to all four of the above statutory functions.
- 1.3 All of the above is a core business of CAFCASS. However, the number of reports has dropped by 7.2% from 28,166 to 26,144 in the year 2005/06. This reflects the national context of change in private law referred to below.

## The wider policy context

- 1.4 Family justice – its effectiveness, costs and the increasing volumes of referrals – and the need to improve public confidence in the family justice system are all high on the Government's agenda. These concerns have been reflected in range of policy and practice developments, reports, consultation papers, legal changes and new structures, including:
- *Parental Separation: Children's Needs and Parents' Responsibilities* (July 2004)
  - *Parental Separation: Children's Needs and Parents' Responsibilities – Next Steps* (January 2005)
  - *the Private Law Programme* (January 2005)
  - DCA Select Committee: *Family Justice: the operation of the family court* (2005 and 2006)
  - DCA *Confidence and Confidentiality – Improving transparency and privacy in family courts* (July 2005).

CAFCASS has a part to play in delivering some of the key changes designed to improve services to children and families.

- 1.5 CAFCASS provides advice to the court, typically at a critical juncture in the lives of children. Applications often concern some of the most far-reaching decisions that can be taken about children's lives. These include:
- a Section 8 Order as to where, after the separation or divorce of its parents, a child should reside or with whom the child should have contact (which is the subject of this inspection report)
  - a Care Order, usually placing a child away from the family (the subject of a forthcoming inspection in autumn 2006)
  - more specialist and complex cases, such as international abduction and ethical/medical cases concerning children with life-threatening conditions.
- 1.6 Some of these children are 'children in need'<sup>2</sup> as defined by the Children Act 1989 and such children are vulnerable, due to a history of abuse and neglect, witnessing domestic abuse, family breakdown and other factors such as young age.

## The legal framework

- 1.7 When courts dealing with family proceedings are considering contested applications – usually regarding contact, residence, specific issues or prohibited steps – they may request a report from CAFCASS under Section 7 of the Children Act 1989. Such reports relate to the welfare of the child where it is, or may be, in question.
- 1.8 The courts must have regard to the Welfare Checklist<sup>3</sup>. The Checklist refers to:
- the wishes and feelings of the child
  - their emotional, physical and educational needs
  - the likely effect on the child of any change in circumstances
  - the child's age, sex, background and relevant characteristics including race, ethnicity and religion
  - any harm the child has suffered or is at risk of suffering (and amended by s120 of the Adoption and Children Act 2002 to include impairment suffered from seeing or hearing the ill-treatment of others)
  - the capability of parents or others in meeting the child's needs
  - the range of powers available to the court.
- 1.9 The Act does not define the term 'welfare'. Case law clarifies this as "*a process whereby when all the relevant facts, relationships, claims and wishes of parents, risks, choices and*

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<sup>2</sup> Section 17(10) of the Children Act 1989 defines a child in need if:

- (a) he is unlikely to achieve or maintain, or have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for him of services by a local authority under this Part;
- (b) his health or development is likely to be significantly impaired, or further impaired, without the provision for him of such services; or
- (c) he is disabled.

'development' means physical, intellectual, emotional, social or behavioural development; and 'health' means physical or mental health.

<sup>3</sup> CA 1989 Section 1(3).

*other circumstances are taken into account and weighed, the course to be followed will be that which is most in the interests of the child's welfare as that term has now to be understood. That is the first consideration because it rules upon or determines the course to be followed.*"<sup>4</sup> The Checklist is not exhaustive and might properly be regarded as the minimum to be considered by a court when deciding on child welfare matters.

- 1.10 Court rules also require CAFCASS officers to have regard to the Welfare Checklist when carrying out many of their duties.<sup>5</sup>

## Defining the Section 7 task

- 1.11 As noted above, the Criminal Justice and Court Services Act 2000 provides a broad list of statutory functions for CAFCASS but, for good reasons, the Act does not clarify how those tasks should be carried out. Typically, the Section 7 task comprises a range of activities such as a series of interviews with adults and/or children, interviews with professionals, document reading, viewing accommodation for children and report writing. Often adults will have long-standing disagreements and hostility. The children, as noted above, may well be vulnerable.
- 1.12 In these circumstances, HMICA takes the view that, in carrying out complex social work tasks, CAFCASS practitioners need a framework, standards, practice guidance and assessment tools to assist them. Similarly, the Department of Health provides such a systematic way of '*analysing, understanding and recording what is happening to children and young people*' who may be children in need.<sup>6</sup>
- 1.13 CAFCASS has issued some guidance relating to some of its activities, such as its Child Protection and Domestic Violence Policies and Procedures, including interviewing in cases where domestic abuse is suspected.<sup>7</sup> Inspectors reported that the CAFCASS Domestic Violence Policy and Procedures, in particular, provides guidance of a high standard. CAFCASS has usefully also issued a template for report writing, which includes the recommended structure for Section 7 (S7) reports.
- 1.14 However, there has been a lack of authoritative guidance from CAFCASS to Family Court Advisers (referred to as FCAs) regarding key aspects of their work, such as:
- the extent to which CAFCASS' statutory role is only to work with children '*where their welfare is or may be in question*'
  - how CAFCASS should '*safeguard and promote the welfare of children*'<sup>8</sup>
  - planning an assessment process
  - planning interviews
  - undertaking interviews
  - recording interviews and other tasks

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<sup>4</sup> Lord McDermott in *J v C* [1970] AC 668.

<sup>5</sup> *Re K* 1999 & *FPR* 1991 r .11(1).

<sup>6</sup> Framework for the Assessment of Children in Need and their Families, Department of Health, 2000.

<sup>7</sup> Redrafted CAFCASS policies currently out for consultation.

<sup>8</sup> Currently out for consultation by CAFCASS.

- assessment tools
- the role of FCAs and particularly whether their task in giving advice to the court is simply to report the conflicts, or to go on to assess them fully.<sup>9</sup>

1.15 Inspectors consider that this lack of guidance needs to be addressed by CAFCASS through improved practice guidance. **A recommendation is made to this effect.** The remainder of this report examines in further detail a number of these issues.

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<sup>9</sup> *Domestic violence, safety and family proceedings* (October 2005), para 3.6.



## 2 Quality of practitioners' work – interviews

In this chapter, HMICA assesses the degree to which competent interviewing promotes the welfare of children and adults. HMICA expects that CAFCASS practitioners will competently:

- assess children's wider environment
- plan for, and work with, children
- plan for, and work with, adults.

### Overall assessment

The quality of much practitioner private law work in interview is varied; there is high quality practice with both children and adults but some evidence of unsatisfactory standards. The reasons for this have been documented in previous Inspectorate reports. Key concerns include:

- inappropriate reliance on the preferred methods of individual practitioners
- the absence of systematic use of relevant knowledge, research and case law
- gaps in the coverage provided by CAFCASS practice guidance
- the lack of agreed national standards.

Some practitioners need to improve their basic interviewing skills. The information-gathering techniques commonly used are not well suited as a tool for undertaking an assessment. Many service users typically experience CAFCASS as a courteous, timely and caring service. Inspectors understand why others feel aggrieved about their perception that CAFCASS lacks clarity of purpose in its interventions and in the basis on which it makes its assessments, judgements and recommendations.

### The task

2.1 Inspectors expect the practice of FCAs to show an appropriate approach to carrying out assessments. Whilst there are various definitions of assessment in social work type settings, there is broad agreement that core elements should usually include an evidence based, widely accepted framework and a process which includes:

- establishing what the purpose and the limits of the task are
- information collection
- weighing the information
- analysing the information
- utilising the analysis.

## Initiating and preparing for interviews

- 2.2 When allocated the case, FCAs will have information from the court regarding the case and a date by which their report must be filed at court. Important information concerning the adults and the children is sought from the police and Social Services. In almost all<sup>10</sup> cases, this happens very soon after the report is ordered and CAFCASS invariably acts in a timely manner in seeking this information.
- 2.3 Family Court Advisers have to make a decision about when they start the process of interviews, given that it may be some time before the information from the agencies is provided. Inspectors take the view that the assessment process should start at the point at which the FCA has sufficient information to make the interviews effective. HMICA has previously reported on the atmosphere of hurry and rush, which characterises some S7 work<sup>11</sup>. In this inspection, Inspectors usually agreed with the practitioner's decision regarding when to start the assessment process. In one case, a Finding of Fact Hearing was scheduled for the following week; Inspectors considered that the FCA should have delayed starting the assessment until the Hearing outcome was known.<sup>12</sup> FCAs nearly always initiated the sequence of interviews before all information from checks was received back. This sometimes hampered adequate interviewing.
- 2.4 CAFCASS gives adequate notice of interviews. Practitioners usually time interviews carefully – for instance, ensuring that there are gaps between the ending of an interview with a service user and the start of the next interview with the other party.
- 2.5 When preparing for interviews, very few FCAs created a case plan, an interview plan or a chronology of significant events from the information they had received. The lack of clarity regarding the purpose of the work and how it is carried out was observed to affect the FCAs' work at this early stage, so that the purpose of interviews as expressed by FCAs was often vague. For example, one practitioner said they were '*going to have a chat*' with the adult service user; another said '*the purpose of this is to get to hear your wishes and concerns set out in the referral.*' Usually, FCAs had a mental picture of what they would do and this was based around the 'narrative approach', that is, service users are invited to tell their own version of their relationship. This narrative approach has significant weaknesses and is discussed later.

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<sup>10</sup> In this report, HMICA uses terminology taken from *Every child matters – Inspection of children's services: grade descriptors*, OFSTED, (February 2006) where, 'almost all' means 80% plus; 'most' 65% plus; 'majority' 51% plus; 'few' less than 20%.

<sup>11</sup> *Domestic violence, safety and family proceedings* (October 2005), para 3.17.

<sup>12</sup> The Lord Chancellor's *Guidelines for Good Practice on Parental Contact in cases where there is Domestic Violence* states that in every case in which domestic violence is put forward as a reason for refusing or limiting contact the court should at the earliest opportunity consider the allegations made (and any answer to them) and decide whether the nature and effect of the violence alleged by the complainant (or admitted by the respondent) is such as to make it likely that the Order of the court for contact will be affected if the allegations are proved.

## Introductory phase of interviews

- 2.6 Regarding punctuality, CAFCASS staff were responsive to service user needs. FCAs were usually ready to start interviews on time. FCAs were flexible if service users were late. All CAFCASS staff were seen to greet service users politely.
- 2.7 In a few cases, FCAs were not adequately prepared for interviews in respect of:
- the names of children and other relatives
  - significant dates and events
  - information sent to CAFCASS, for instance in statements written for the court.
- 2.8 Family Court Advisers usually took the file into the interview. On a few occasions, the flow of the interview was interrupted as the FCA looked up information, even though this had been received beforehand. In some cases, such lack of preparation became evident to service users and some pointedly commented that the FCA already had this information. These deficits have been reported on previously by HMICA and consistent improvement was not seen during this inspection.<sup>13</sup> Where there is a lack of preparedness in starting some interviews, this may be experienced by service users as a lack of respect for their needs.

## Care of service users

- 2.9 Recent research<sup>14</sup> has indicated that parents often come to interviews with CAFCASS with hopes, fears, and significant levels of stress. They often believe that the first meeting with the FCA heavily influences the court's decision, and worry about whether they will make a good impression. In the wider context, although the family justice system promotes the use of negotiation and agreement-seeking, it still remains at root an adversarial system.
- 2.10 Against this background, FCAs rarely asked about, or acknowledged, these feelings. However, examples of good practice were seen:



The FCA carefully checked with the service user *'When we are talking about the past – if it upsets you we can leave it to another time – or they may be some things that you don't want to discuss. If there is anything you don't want to answer – just say.... I can always come back to see you later.'*

- 2.11 Service users often discussed distressing events such as domestic abuse. While in some cases Inspectors observed appropriate responses to adult distress, in other interviews there was a marked lack of reaction by the FCA:

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<sup>13</sup> *Domestic violence, safety and family proceedings* (October 2005), para 2.15.

<sup>14</sup> Buchanan et al, *Families in Conflict*, p31.

The FCA asked how the child reacts to contact and if he is unhappy.

SU: 'Yes – sometimes he refuses – I say you have to go.'

The SU became distressed.

The FCA made no comment, nor responded to the SU's distress.

## Ensuring that adults understand the CAFCASS procedures

2.12 CAFCASS is attempting to ensure that FCAs always complete the diversity monitoring form at first interview. These forms collect important information about service user profiles and needs that CAFCASS will use to ensure the provision of appropriate services. In some cases, the diversity monitoring form was not completed at all, or there were unclear explanations given about its purpose. One FCA conveyed to the service user that monitoring was a waste of time ('from a bureaucratic organisation'). Where FCAs dealt with the diversity monitoring forms in a straightforward, clear way, they quickly gained the necessary information and without any observed difficulties for the service users.



The FCA brought out the diversity forms and said 'Let me explain why we ask you to complete these. It helps us be sure that, if there are any issues about race or religion that we need to consider, then we can get a handle on them.'

2.13 The FCAs' approach to explaining the CAFCASS complaints policy also varied. As reported in previous inspection reports, the main variations were:

- whether the complaints process was mentioned at all
- if it was referred to, whether a distinction was made between the conduct of the case by CAFCASS (which could be complained about) and the contents of the report (which should be challenged at court).

Some FCAs obtained written consent from service users to the seeking of information from other agencies while others only gained verbal consent.

## Explaining the FCA role and the assessment

2.14 HMICA expects FCAs to ensure that service users understand the role of the FCA and how the assessment will be conducted. Some FCAs checked that written leaflets about CAFCASS had been received, while others did not. Most FCAs appropriately started interviews with a statement regarding their role, made it clear that the court had ordered their work and that their job was to report to the court. One FCA commented that, while he would report, 'judges decide who is telling the truth'. In many observed interviews, there was either no description of the purpose of the first interview or a vague description was given such as: 'I want to get the background' or 'I want to understand about the problems'.



FCA: *'So what's happening is – he wants to see the children. My role is to talk to him – see why he wants to see them and understand what the problems have been. Then I'll see the respondents and get their feelings and views. I then file a report to the court and make recommendations on the basis of the best interests of the children.'*

- 2.15 A few FCAs did not explain their role, but instead started interviews with statements such as *'you are clear about my role, aren't you?'*. In the following example, the role of the FCA regarding the court is not explored and there is considerable vagueness in some of the FCA's statements.

FCA: *Have you had chance to read the information we sent you and do you have any questions?*

SU: *No*

FCA: *The purpose of this is to get to hear your wishes and concerns set out in the referral. We'll have a chat about what should be happening; get information about the child and the applicant's views. Then have a discussion about your concerns and reasons and how things have happened. We'll look at if there is anything secure you could have a go at while I'm on hand. Then look at a plan. Obviously I'll need to talk to the applicant also.*

SU: *So we have to see you until the court case?*

FCA: *I will need to discuss things with the applicant and child – because she is six and will have opinions and views. Sometimes this can lead to an observed contact, but we will discuss this. If we did this, it could happen here in the playroom with the applicant. But this is only a possibility. It may be that we get you and the applicant together – I can see you are smiling – but this is something we may try. If you have any queries please ask me – so we are clear. I'll do the same and clarify where necessary. Could you give me some information of the history with the applicant? When you got together?*

- 2.16 In explaining the assessment itself, FCAs had significantly different practices so that service users often either were not given important information or the information given depended on which FCA the service user saw. FCAs were often weak in explaining:

- a theoretical or practice basis, which would underpin their judgements. One service user pertinently asked *'so what are the rules, how am I going to be judged?'* to which the FCA struggled to reply
- how the Welfare Checklist would be used
- the purpose of observed contact between adults and children
- timescales
- the weight given to children's wishes and feelings
- how long interviews would take
- the purpose of subsequent interviews
- why information from other agencies (such as schools) was being sought, how this information would be used, and how it would be shared with the service user
- that the FCA would make a recommendation to the court.

For example, one FCA explained why they were contacting the child's school by saying *'I'll need to contact the school regarding the children's attendance and I'd like to get their comments'*.

2.17 Inspectors take the view that such vagueness is a source of confusion and potential stress to service users who are already often under strain. Service users have commented in previous inspections “*I didn’t know what the point of the meeting was*”<sup>15</sup>.

2.18 Inspectors consider that such individualised and inconsistent practice needs to be addressed by CAFCASS through improved practice guidance. **A recommendation is made to this effect.**

## Case law and CAFCASS’ statutory function

2.19 The work of FCAs has importantly been influenced by case law, including the:

- presumption of contact <sup>16</sup>
- *status quo* <sup>17</sup>
- no order principle<sup>18</sup>
- paramountcy principle.<sup>19</sup>

2.20 In the observed interviews, Inspectors considered that FCAs could have better explained how case law influences the assessment, recommendation and court decision. Further, because the likely outcomes of the process were not always explained by FCAs, some service users were left with an inaccurate view of the chances of success of the application.

2.21 In some cases, Inspectors observed that in first interviews, especially with applicants, FCAs did not explore and challenge weak applications for changes of residence or refusal of contact by reference to case law. For example, applications for change of residence were occasionally based on minor differences of parenting style.

2.22 In other observed interviews, Inspectors considered that FCAs did not pay sufficient attention to CAFCASS’ primary statutory functions, (see paragraph 1.1). Inspectors take the view that on occasions, FCAs should have advised the court that there were no child welfare issues. Although some FCAs recognised this, they rarely raised the matter with their managers or returned to court. Inspectors found that these cases were essentially where the dispute was between the adults and usually relating to past events, as shown in the following example:

The parents had separated about three months before the application.  
The applicant was applying for contact and accepted that this should be in a Contact Centre.  
The respondent accepted that contact should take place.  
There was no evidence that the child’s welfare was at risk.

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<sup>15</sup> *Domestic violence, safety and family proceedings* (October 2005 para 2.8

<sup>16</sup> Re O [1995] 2 FLR 124 ‘where parents are separated and the child is in the day to day care of one of them, it is almost always in the interests of the child that he or she should have contact with the other parent ‘.

<sup>17</sup> Re B [1998].

<sup>18</sup> Children Act Section 1(5). ‘the court shall not make any Order unless it considers that doing so would be better for the child than making no Order at all.’

<sup>19</sup> CA 1989 S1(1) the child’s welfare shall be the court’s paramount consideration when it determines any question with respect to the upbringing of the child’.

2.23 Overall, Inspectors observed that FCAs often:

- relied on the courts to make decisions about whether CAFCASS' involvement was appropriate
- continued with their assessment, even though there was no child welfare issue
- maintained their view that they should broker agreements between parties.

These issues have important implications regarding the appropriate use of CAFCASS resources. This is discussed later in this report.

## The narrative approach

2.24 Family Court Advisers report within CAFCASS the lack of a strong theoretical framework to enable their work to be carried out systematically. This absence significantly affects the way FCAs approach these tasks, although more recently CAFCASS modular training has been underpinned by a theoretical approach. Current practice, including the narrative approach, is strongly influenced by practices rooted in the former Family Court Welfare Services and the early years of CAFCASS.

2.25 The first interview usually started with the FCA asking about the family history from the point when the couple met. Inspectors suggest that the narrative approach is weak because:

- it is unspecific and unfocused; it is used by FCAs to gain the maximum general information rather than being clear about what is needed to complete an assessment
- adult memories about relationships are often partial
- the absence of a structured assessment framework leads to unevaluated reports which do little more than repeat the assertions of each party.

2.26 In this inspection, the narrative approach was frequently seen to be carried out ineffectively because:

- the narrative gained was often imperfect since each adult concentrated on the parts of the history of most concern to themselves. Without an interview plan to help the FCA manage the interview, FCAs often did not establish a clear chronology of significant events
- there were unexplained variations in how FCAs approach the information-gathering task. Genograms<sup>20</sup> and family trees<sup>21</sup> were sometimes used but this appeared to reflect the practitioner's individual style rather than the complexity of the family situation or identified best practice
- interviews tended to focus on the problems within the family. There was little focus on positives in the current family situation or what might be achieved through the assistance of other significant members of the wider family. These 'backward looking', conflict-orientated interviews did not help service users focus on problem solving. Rather, such a traditional approach risked further enmeshing service users in their conflict as they revisited historical hurts and grievances.

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<sup>20</sup> A genogram is a diagram that sets out relationships among individuals to help practitioners and service users identify patterns in family history.

<sup>21</sup> A family tree resembles a genogram but is usually confined to a map of relationships with one person rather than within whole family histories.

2.27 An example of the narrative approach observed by Inspectors at first interview is given below.

FCA began taking the family history.

SU outlined without interjection by the FCA how and when the relationship began, the pregnancy, date of marriage, how they moved from A to B but were married in another place, how they moved to C and when, then gave an explanation of why the mother had a Caesarean operation, then how they took on an au pair, her origins and how long she stayed.

SU then explained about his work and how this necessitated a change of address; then reasons for another change and a later au pair.

20 minutes into the interview, the SU was still talking with an account of a family holiday, which immediately preceded the breakdown. Some information on the buying of homes was given without being asked for.

SU referred to the decline in their relationship and the FCA said '*I just really need the main picture of this.*'

SU continued with a lengthy explanation regarding the separation.

FCA said: *Tell me about the arguments, the general flavour.*

SU replied: *We would argue about anything and everything.*

FCA asked: *Did it get heated at all?*

SU responded: Yes.

FCA then asked: *Was the child present?*

SU replied: *Sometimes.*

SU then reverted to events leading up to separation and some actions by the other party.

FCA asked: *what did the judge say to that?*

SU replied: *Just said he was very shocked and pointed out to her that this might affect the child. She got me to lie about the basis of the divorce.*

SU went back to the separation.

FCA asked: *When you split up, where were you?*

SU started to give specific dates when key events happened.

FCA said: *I don't need specific dates, it's not really very important.*

SU said: *I was very worried, because she'd gone. Then she came back; we were living in D.*

HMICA comment:

- the remainder of the interview continued in a similar pattern
- the attempts of the FCA to manage the interview were mainly unsuccessful
- questions about the child were almost entirely absent from large sections of the interview, although the FCA made some positive interjections
- much of the information gathered was irrelevant to this application for contact.



## Child focus

2.28 Where the welfare of the child is an issue, Inspectors expect to see the experiences, development, wishes and feelings of the children as central to the interview and assessment processes. FCAs told Inspectors that their intention in interview is to focus on the needs of the children. However, this aim was not reflected in the observed practice, which was often adult focused. Often, insufficient interview time was spent on children's experiences and ascertaining their views. Parents often expressed hostility towards each other and described circumstances where it was likely that children were aware of, or directly experienced, hostility. In these examples, observation by Inspectors showed that FCAs did not gain a clear understanding of what the child might have witnessed, or of the child's feelings. Where the FCAs tried to focus on the experience of the children, the desire of the adults to '*tell their story*' often predominated. Whilst a short period of ventilation of grievances may be appropriate and necessary, Inspectors consider that excessive use of interview time to explore the hurts of the adults is inappropriate.

2.29 The focus on the interests of the adults is most clearly seen where FCAs seek agreements between the adults. This process entails the FCA establishing what each party wants and then trying to find a compromise between the two positions. HMICA has previously reported<sup>22</sup> that seeking agreement often entails insufficient focus on the interests of the child. For instance, this may arise when domestic abuse may be a risk. In such cases, the perpetrator's wish for contact may lead to a compromise position of supervised contact that may lead at a later stage to unsupervised contact.

2.30 Inspectors take the view that, if brokering an agreement is valid, then it should only take place after a full assessment, especially of any risk factors. However, in some interviews, FCAs tried to find an agreement before assessing risk. This repeats findings that HMICA reported in 2005.<sup>23</sup>

2.31 An example of this approach is given below.

The mother is an Asian woman in her twenties and her child is aged seven. The mother's statement alleges domestic abuse from the father, who is seeking residence. The FCA's first interview was undertaken without prior screening for domestic violence and risk:

FCA: *'He says he phones every night,*

SU: *Every night? No, every other night three times a week*

FCA: *That's enough anyway, is it enough to reassure the child?*

SU: *I don't know, they were traumatised when he moved out.*

FCA: *What about 50/50 in the holidays?'*

After a discussion on whether this would be viable, the FCA then gathered more information on current circumstances.

<sup>22</sup> *Domestic violence, safety and family proceedings* (October 2005), para 3.10.

<sup>23</sup> *ibid.* para 3.13.

2.32 Inspectors also observed some good interviews. For example:



In a first interview where residence was being sought:

FCA: *'Do you think you have different approaches as parents?'*

SU: *Yes, she'd accuse me of being old fashioned.*

FCA: *Differences aren't necessarily a problem for children. I don't know if you might agree.*

SU: *Yes but she puts herself first.*

FCA: *We need to work out which differences matter and which are just different approaches. Can you talk about this?*

SU: *We might row or it might be OK.*

FCA: *What makes a row?'*

HMICA comment:

- In this extended interview, the FCA provided feedback to the service user, encouraging her to move beyond the narrative and discuss the fuller implications.

2.33 However, the lack of a clear interview plan and focus on children was seen by Inspectors in a number of interviews. This led to:

- rapid changes of subject
- superficial questioning
- returning to the same area of questions at later points
- lack of follow-up questions (such as *tell me some more about...*)
- lack of summarising (such as *so what you are saying is.....*)
- interview endings without a clear summary
- abrupt endings.

2.34 Some FCAs had useful interview plans but these were prone to being derailed when FCAs were faced with assertive service users. Inspectors sometimes observed little sense of the interview goals having been reached. Rather, it appeared that the FCA had run out of questions to ask.

2.35 In general, the lack of plans and focus in first interviews did not change as FCAs undertook second and subsequent interviews. Inspectors observed that the purpose of later interviews remained unclear. For example, it might be *'to get an update'*. Sometimes, the purpose of later interviews was not clearly explained to service users. Because some FCAs started their interviews without significant information, such as from Social Services files, they sometimes had to back-track over previously covered topics. FCAs were often drawn into day-to-day detail of frictions between the adults and immediate contact arrangements – especially, for example, around Christmas time. In a few cases, Inspectors saw some good examples of planning.



The FCA organised overnight stays as rehearsal for proposed contact arrangements.

## Interviewing skills

2.36 The narrative approach also led Inspectors to observe insufficient exploration and probing of key topics. There were, for instance:

- little use of information already gained about the service user being interviewed and their past behaviour, including convictions
- powerful negative statements about the other service user being written down without challenge or exploration – for instance, regarding mental stability
- harmful actions by the service user being interviewed not being challenged regarding the child – for instance, during difficult contact arrangements.

2.37 An example of a lack of challenge is given below, where the service user tries to pass responsibility for the termination of contact from herself to the FCA:

The FCA interviewed a respondent who had terminated contact between the child and her father. The FCA wished to clarify why this had occurred.

SU: *I've told her, she can't see her Dad until I've seen the lady.*

FCA: *What lady?*

SU: *You – I didn't want to tell her too much.*

FCA: *Has she asked you why?*

SU: *I just said that it's because the lady says "Daddy's got problems with his head".*

The FCA then moved the interview on to other issues.

2.38 There is a considerable risk where key topics are insufficiently probed. For example, service users can be misled into believing that, because the FCA does not question their version of events, their 'story' is accepted by the FCA. In contrast, Inspectors observed a number of timely, powerful interventions. Where, for instance, FCAs used information from other agencies, the interviews were significantly stronger. Two short examples are given below:



A service user said they could not remember their convictions.

The FCA responded *'I think that's worrying, that you're not sure what it's about, and that isn't very common'*.

In another case, the FCA queried a very sweeping statement by an applicant about the respondent with the question *'do you have reason to believe that [the respondent] presents a risk to the child?'*

This intervention created a pause and reflection by the service user.

## Assessing alleged domestic violence

2.39 Domestic violence is not a factor in all family proceedings cases dealt with by CAFCASS, but is considered to be significant in a proportion of cases. How large that proportion is has been variously estimated as up to 70% or more.<sup>24</sup> HMICA has previously commented that *'Inspectors*

<sup>24</sup> *Domestic violence, safety and family proceedings* (October 2005), para 1.14.

*conclude that the nature of domestic abuse is not sufficiently understood by most CAFCASS practitioners<sup>25</sup>.*

2.40 Observation of interviews showed similar concerns to those reported by HMICA in 2005. In particular, the current inspection highlighted that, where allegations or evidence of domestic abuse were present, front-line practice has not improved. The key issues remain that practitioners do not consistently:

- explore the information on file – for instance, regarding dates of alleged incidents
- ask about domestic abuse at first interview (the CAFCASS policy and procedure offer as guidance a useful set of questions to explore this issue)
- follow up information given in interview
- clarify the effects of the domestic abuse on the children
- acknowledge the feelings and fears of survivors – for instance, regarding future contact
- gain further information that might corroborate or disprove the allegations
- explore possible links between alleged domestic abuse and child protection
- give survivors information on local support services
- incorporate the allegations into their assessment; at times, FCAs attempt to broker an agreement regarding contact even when there are allegations of domestic abuse
- seek Finding of Fact Hearings where there are allegations and denials of domestic abuse, despite the requirements of CAFCASS procedures to do so.

In two observed cases, HMICA considered that the practitioners' work was seriously flawed regarding domestic abuse. These cases were referred to CAFCASS management by Inspectors to ensure the safety of the children.

2.41 The following example is of an observed interview with a survivor of alleged domestic abuse.

SU: *When I saw him at court – I saw him and felt under pressure. He was not a good husband and won't be a good father. He never sent any birthday cards or presents. Why does he suddenly want contact? It is just to give me pain and make me unhappy. I am worried he will say he wants the child full time. He has threatened me he will have him one day. My solicitor has said he can't. Whenever I see him I feel scared.*

FCA: *What of?*

SU: *Since he slapped me. Even when I saw him at court, I was totally scared.*

FCA: *If a way of him seeing the child could be arranged with you not there?*

SU: *He's not a good husband and he won't be a good father.*

FCA: *Well, that doesn't necessarily follow. You can be a good Dad, but not a good husband.*

SU: *He will be a bad influence.*

FCA: *Was he physically violent?*

SU: *Yes, he threatened me with a knife.*

FCA: *What about?*

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<sup>25</sup> *Domestic violence, safety and family proceedings* (October 2005) p8.

SU: *After he'd threatened me, he used to put a knife under his pillow at night. He'd say if I told my parents he'd scared me with a knife, he would kill me. He said he would hang me.*

FCA: *What was he threatening?*

SU: *If you don't move out with me, I will hang you.*

FCA: *But he didn't move out when he had the chance of a house?*

SU: *Always he was up one week and down the next – it was hard to know.*

FCA: *Do you know where he lives now?*

#### 2.42 HMICA comments on the above exchange include:

- no attempt was made to establish when and where the slapping incident took place, whether the child witnessed it or if child protection was an issue
- the service user twice mentioned threats from the applicant to hang her but neither was followed up nor attempts made to establish dates or specific incidents
- later in the same interview, the service user referred a third time to the threat to hang her and this allegation was also not followed up
- the FCA did not attempt to gather corroborative evidence
- the FCA moved the discussion away from allegations of violence
- the FCA attempted to influence the service user towards an agreement to allow contact with an allegedly violent adult
- no information was offered regarding support services to survivors of domestic abuse.

#### 2.43 The following is an example of an interview with an alleged perpetrator.

In this case there were allegations of continuing violence, verbal abuse, threats of abduction and marital rape.

FCA: *Why did you separate?*

SU: *We had some little arguments.*

FCA: *There are allegations of domestic violence from .....*

SU: *I did not do anything.*

FCA: *You deny it?*

SU: *Yes*

FCA: *Okay. So when you separated where did you live after that?*

HMICA comment:

- there was no proper exploration of the allegations of serious domestic violence
- the specific allegations were not explored
- the service user's acknowledgement about 'little arguments' could have been used by the FCA to explore the issues
- there was no enquiry about the presence of the child during the incidents
- there was no attempt to assess if there was a child protection issue
- the FCA did not consider the need for a Finding of Fact Hearing.

2.44 The following is a further example of an interview with an alleged perpetrator where domestic abuse is downplayed:

The mother has alleged verbal and mental abuse of her, swearing and over-controlling of the two children and that they are now happier being away from the father.

FCA: *Do you want to make any comment about your relationship? She talks about verbal and mental abuse.*

SU: *Umm*

FCA: *Clearly, you were angry and things were said.*

SU: *Well, there was no fighting or towering over her.*

FCA: *I'm not clear why she felt she had to leave with the children.*

SU: *It went through a rough patch. I've never raised a hand to the mother but it's about 50/50 on arguments but if she's nasty, you can't expect it not to come back.*

FCA: *OK, obviously my role is to look at what's best for the children, their long-term interest. It will be difficult. I hear what you say about going abroad but she has family there. If they did go, how often would you see them?*

HMICA comment:

- a denial by the alleged perpetrator was sufficient to deflect the FCA who rapidly moved onto another topic
- in the subsequent observed interview with the children, the allegations were not raised.

2.45 Inspectors observed that FCAs almost always followed a standard sequence of first seeing the applicant and then the respondent, even where there were allegations of domestic violence. Where the applicant was alleged to have committed the domestic violence, the FCA usually saw the alleged perpetrator before having clarified the allegations with the respondent. In contrast, one FCA interviewed the respondent first because she had made allegations that needed to be explored.

2.46 CAFCASS has a new procedure and policies regarding domestic abuse. The pack is research-based, focused on the child, and gives comprehensive guidance on conducting cases where domestic abuse might have occurred. Inspectors found that practitioners had varying levels of understanding of this new procedure, although some were due to receive training in the near future. Inspectors consider that CAFCASS now faces two challenges – integrating its domestic abuse policies and procedures into front-line practice and demonstrating improvements in the quality of front-line delivery.

## Interviews with children

2.47 Departmental Guidance indicates<sup>26</sup> the importance of practitioners having some key skills when working with vulnerable children. These include:

- listening to the child
- conveying genuine interest
- empathic concern
- understanding
- emotional warmth
- respect for the child.

2.48 The Guidance also notes the importance of these skills and qualities with specific reference to Contact and Residence Orders, and includes useful advice around planning interviews. For example, when planning interviews:

- children are more likely to convey information if they understand its purpose
- children see confidentiality as an important issue to be clarified and these issues must be dealt with before going on to sensitive issues. Often confidentiality will need to be discussed again at the conclusion of an interview
- there is a need to set out the ground rules such as the child's right to clarify, to say '*don't know*,' and that there is often no right or wrong answer.

2.49 The children were seen in all the cases observed for this inspection. In interview, most practitioners were sensitive to the needs of the children in terms of the length of interview, and whether children should be seen on their own or with an adult present.

2.50 Inspectors noted that, generally in preparing for interviews with children, many practitioners:

- rarely considered the possibility of more than one interview with a child
- did not consider that the child might want or need a friend or other relative to be present to provide some support
- usually left most of the preparation of the children for the interview to the parent (who were themselves often unclear as to the purpose, length or content of interviews)
- did not sufficiently clarify the child's level of understanding before starting the interview.



During the home visit, a practitioner planned and implemented an introduction to the child, explaining his role, and then followed this up separately with a further interview.

In another case, the FCA invited a parent to look at the interview room so that they could describe it to their daughter.

2.51 There was considerable variety of practice regarding at what age a child is interviewed and at what age it might be possible to assess the child's attachment to different adults.

2.52 Where children were interviewed, the main purpose was usually to assess their wishes and feelings. There were wide variations in how much time FCAs spent in seeing children. For example, the only interview with two boys in one case lasted 16 minutes and, in another, the

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<sup>26</sup> D Jones, 'Communicating with vulnerable children', Department of Health, 2003, p65.

interview with the child took over an hour. These different approaches appeared to relate solely to the practitioner's preference.

2.53 There were important and significant differences in how FCAs explained to children:

- that their views would be reported to court
- that their parents would be made aware of them
- the weight given to their wishes and feelings.

It was also apparent that FCA explanations to help children understand how confidentiality would be dealt with varied widely.

2.54 In explaining these issues to children, FCAs used a range of approaches. A few had booklets whilst others (apparently unaware of the availability of such booklets) relied solely on spoken communication. An example of observed good practice is:



An FCA who explained that children's best interests are the paramount consideration and was keen to demonstrate that it would be done in a way that would not put inappropriate responsibility on the child. To the child, he said *'it is not you who makes the decision'*.

2.55 Interview plans with children were unwritten, even though FCAs usually had some specific objectives in mind. Inspectors found that the achievement of objectives was better in those interviews with children than in interviews with adults, as discussed above. This might reflect the narrower scope of interviews with children. It was also noticeable that children rarely took control of their interview, in comparison with adult interviews, where this frequently occurred. However, where more than one child was being assessed, the emphasis was sometimes on the eldest child rather than an assessment of each child.

2.56 In the observed interviews, Inspectors found that only a few FCAs acknowledged to the children the feelings that they might have about the CAFCASS process. Some FCAs took the time necessary to help the child feel relaxed. Others tended to rush in, as the following example illustrates:

An FCA interviewed two children, aged eight and six, whom she had not met before.

The children were anxious.

Before any introduction of herself or any other remark, the FCA asked

*Are you sad your Dad has gone?*

2.57 In contrast, the following example illustrates observed good practice:



FCA: *'do you mind if I ask you what to draw?'*

Child: *no, I'll use your favourite colour...it will be hard because it will be with my left hand*

FCA: *do you know what people are called who can write with both hands?*

Child: *it's a long word*



FCA: *ambidextrous.*

Child: *that's right* [She draws and she puts her family and pets in the windows of the house]

FCA: *it's a six-windowed house – it's a big one, do you like a big house?*

Child: *yes*

FCA: *the sixth window is empty, you don't have to fill them all in*

Child: *that's cos, I'm saving that window for someone special and that's me*

The child then writes her own name rather than draw herself in the window and goes on to ask the FCA about his glasses, which are very large. The FCA jokes that they are Harry Potter glasses.

HMICA comment:

Within a few minutes the FCA has created a very good rapport with the child.

- 2.58 In many observed interviews with children, FCAs used closed, rather than open, questions. This frequently resulted in short replies, such as 'yes' or 'no' or no answer at all. FCAs were not always successful in enabling children to ask questions about the processes. Some FCAs used age-appropriate language and were careful not to use jargon. FCAs sometimes did not check that children had understood their explanations, ideas and suggestions.
- 2.59 The FCA's manner and tone of voice were usually encouraging. They invariably showed interest in what the child was presenting. They were prompt at 'getting down on the floor' to talk with children. Most practitioners were patient if, for instance, children found it difficult to express a view. In all observed interviews but one, practitioners listened well and were non-judgemental. FCAs did not usually summarise during or at the end of interviews. A few helpfully encouraged children to contact them, if the child wished, to make further comments but in none of the observed cases was this offer taken up.
- 2.60 In the observed cases there was no use of a common CAFCASS toolkit for the purpose of assessing children. Instead, FCAs tended to use their own assessment techniques. FCAs usually sought to ascertain children's feelings towards family members through the use of techniques such as 'smiley faces' and drawings.
- 2.61 An example of an attempt to ascertain the views of a young child who spoke no English is set out below:

In an interview with the child, the FCA planned to use both an interpreter and an assistant to interview the child, who was three years old.

The FCA had a sheet of faces with different expressions, which she planned to use to explore the child's wishes and feelings.

The interview started after some observed contact. The child was playing with a tea set. The FCA referred to her interview plan, and asked the child through the interpreter to draw her mother's house.

The assistant then took over, kneeling next to child, as she tried to get her to draw. At this stage all three adults were very close to child.

The assistant asked the child several questions such as *when you see poppa what is your face like?* but the child made little response.

Similarly, there was little response when the FCA asked her *would you like to see poppa?*

The child then wandered off, not engaged by the process. The interpreter brought other toys over. The FCA tried again to engage the child, unsuccessfully.

The interview concluded after eight minutes and was not repeated.

**2.62** Of the observed interviews, none dealt thoroughly with the implications for children of alleged domestic abuse. Opportunities to explore children's experiences, sources of support, and child protection issues were not pursued by FCAs. This reflects the practice in observed interviews with adults discussed above. Further, FCAs did not discuss options with children but only dealt with their intended report recommendations. None of the FCAs explored with the children how best to express their views to the court.

**2.63** On the basis of the observed interviews, the reliability of some statements made in FCA reports concerning the children's wishes and feelings is insufficiently robust. The underlying reasons for this include:

- assessments of children are often based on single interviews
- the frequent lack of a rapport stage
- the absence of explanations which might reassure the child and enable him/her to share perceptions
- restricted questioning techniques
- limited time spent with children.

## Observed contact

**2.64** Following the initial interviews, FCAs often then arrange to see the child or to carry out observed contact<sup>27</sup>. Practitioners told Inspectors that they set up these interviews primarily to observe the attachment between the child and each parent. Service users are aware that observed contact sessions are part of the process to assess applications for contact or residence. This inspection shows that there are a number of issues about observed contact arrangements, CAFCASS methodologies and wider considerations. In summary:

- often these interviews are held at CAFCASS offices, which are unfamiliar to children and adults; interactions were likely to be affected by the unfamiliar setting
- adults are often also under pressure, since they are aware that observed contact is a part of the assessment process. Such pressure may result in the parent acting atypically
- in observed contact, FCAs tend to over-rely on affectionate or non-affectionate behaviour by children towards adults (there may well be a wider range of feelings in children who have had adverse experiences)
- where the aim is to observe attachment, interviews are too infrequent and too brief to make a reliable assessment, given that observed contact typically involves a single interview lasting no more than 40 minutes.

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<sup>27</sup> Observed contact usually refers to when the FCA arranges for the child and a parent to be together while the FCA monitors and assesses the relationship between them. Usually, FCAs will observe both parents with the child, although at different times.

2.65 Against this background, it is understandable why some parents forcibly put their views to FCAs that such brief observed contact can be unfair if they had been denied or lost contact with their children. The following example illustrates such concern.

The FCA suggested to the father that there should be supervised contact for him.

He had been denied contact with his baby.

SU: *I'll be a stranger.*

FCA: *I know.*

SU: *It's three months like since I've seen him. He might not know me.*

FCA: *Well, it would be more about how you deal with it, his distress. It's also about how okay you are if he is distressed with him then going back to his mum.*

SU: *I think it's really unfair on men. He's not had any contact with me.*

FCA: *Well then, you need to build it up at his pace.*

SU: *It's a load of nonsense. It's ridiculous. I'm seeing him on a Wednesday, then I've got to wait for her [the mother] a fortnight and you say I've got to try and build a relationship up.*

The FCA moved the discussion on to how the SU was parenting his other children.

2.66 The example above highlights how the FCA may be challenged about their practice. Inspectors found that FCAs are often uncomfortable and struggle to give confident responses grounded in established social work methods and/or research as to outcomes. Further, there appears to be an inherent tension concerning the presumption of contact. In particular, it may be misleading for FCAs to explain to parents that their future contact with the child may depend primarily on the quality of the observed contact without also explaining what weight is being given to all the other aspects of the assessment.

## Other assessment components

2.67 Where new contact or residence arrangements are proposed, FCAs typically see the accommodation to assess its suitability. CAFCASS has not issued assessment guidance concerning accommodation and, consequently, FCAs use an approach based on their own particular viewpoint.

2.68 Often children have other people in their lives who are significant to them, such as grandparents or other family members. Unless they are a party to proceedings or directly involved in contact and other arrangements, they are rarely seen by the FCA. Some FCAs complete their assessments without reference during interviews to such persons, even when considering a change of residence. FCAs are far more likely to make contact with other professionals such as GPs, health visitors and teachers. As part of its overall development of assessment tools, CAFCASS may wish to include guidance about who should be interviewed, based on the needs of the case, including the bond between the child and other significant people.

## Identity issues, diversity and race equality

- 2.69 Inspectors observed little attention to identity, diversity and race equality issues in FCA interviews. This was the case, for instance, in applications to remove from jurisdiction where children would move to live in a country different from the non-resident parent. The relevance of identity issues, particularly race and ethnicity, were not included in the assessment. Instead, the FCA asked a set of general questions that did not relate to the needs of these dual heritage or mixed race children.
- 2.70 FCAs usually use interpreters effectively. On one occasion, Inspectors observed the FCA's difficulty in trying both to manage and understand the lengthy and unexplained discussions between the interpreter and service user.
- 2.71 Written information to service users is often only in English. This is despite the fact that CAFCASS has made good provision to translate information.

## Fairness to parties

- 2.72 Inspectors observed that FCAs are usually scrupulous in attempting to be fair and impartial between service users. Inspectors found no evidence of overt bias, for instance, against fathers or in making assumptions that mothers are better parents. However, given the lack of an agreed framework, discussed earlier, there is the possibility of allegations of inappropriate views and bias. Some inadequate practice in interviews regarding domestic abuse referred to above included a lack of robust probing of allegations. This may be misinterpreted by some survivors as possible collusion with perpetrators. The importance of this issue is also reflected in FCA reports for court discussed below.

## Referrals to Social Services Departments

- 2.73 Where appropriate, Inspectors found that FCAs referred children in need to the local Social Services Department. At times, FCAs did not make a referral because they were influenced by their knowledge that the local Social Services Department would probably not provide a service because of pressure of resources. In one observed case, the FCA appropriately took the initiative in making the referral, although the final outcome was not known to Inspectors.
- 2.74 In several cases, FCAs made other appropriate referrals about children to Social Services. These included allegations of sexual abuse, a child with special needs and where children had witnessed domestic abuse. These referrals demonstrated FCA awareness of CAFCASS' own Child Protection Policy. However, the opportunity for such referrals is minimised where FCAs do not thoroughly assess allegations that domestic abuse may have been witnessed by children.

## Finding solutions

- 2.75 Most service users in private law are referred to CAFCASS by the court because of unresolved difficulties regarding residence and contact. Inspectors were surprised to observe some lack of early exploration regarding the issue in dispute, why an application for a Court Order was being made at that point, what each service user wanted and how the court process, including

CAFCASS, might assist. In some cases, whilst there had possibly been disagreement at the time of the application to the court, initial interviews indicated that there was no longer a significant dispute. One FCA commented that, although he might be able to get an early resolution, *'it's not the CAFCASS way'*. Another said *'Yes, there could have been some mediation in this case. I didn't try it because my mindset was I will do what the court says.'* In both of these cases, the FCA continued with a full Section 7 assessment and report. These examples illustrate the importance of taking forward developments introduced in 2005 by the President's Private Law Programme, the Early Resolutions Pilots and more recently by CAFCASS' consultation *Every Day Matters*.

- 2.76 In contrast, in cases where there are significant disputes about contact or residence, Inspectors expect FCAs to be able to advise service users on which types of Orders are more likely to work well for the child and in what circumstances. This should help service users become better informed and more able to participate in finding realistic solutions to their problems. Inspectors also suggest that such discussions might facilitate and enrich the assessment by the FCA who would be in a stronger position to comment on the response of the parties to such discussion. However, given the lack of detailed longitudinal research, CAFCASS shares with the wider family justice system a serious deficit in evidence on which to base its work. The efficacy of most Court Orders in family proceedings remains largely unknown. FCAs are therefore only able to use their own, individual experience and cannot involve service users in exploring the outcomes most likely to be successful.
- 2.77 Consequently, there was little emphasis on the abilities of the parties to find a solution. Instead, the information was presented to the FCA who then found a solution, usually through negotiation that the FCA conducted. There was little joint interviewing of adults. FCAs frequently failed to involve adults in the assessment by sharing their emerging thinking about the problems and solutions. Instead, from a service user perspective, FCAs tended to jump without intermediate steps from information gathering to the FCA's solution. This also implied that, in some cases, there was a lack of a clear link for service users between the discussions they took part in and the report. Where service users *'told their story'* and believed they had been heard, but there was no discussion about the judgements being made, the report could come as a shock.
- 2.78 Against this background, Inspectors observed that FCAs usually outlined their own preferred solution and sought the agreement of the adults and children to it. As noted previously, FCAs rarely explored both the positives and negatives of their preferred option. As HMICA noted in 2005,<sup>28</sup> this resulted in service users not feeling that they are partners in the process. The following example illustrates effective engagement with a service user.



Some interventions were solution focused and appropriately placed responsibility on the adult by asking, for example *'What do you think?'* *'What ideas do you have?'* *'What can you both do differently as parents?'* *'Why do you think an Order would be of benefit? What do you feel we can offer which you and [the other service user] can't settle?'*

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<sup>28</sup> *Domestic violence, safety and family proceedings*, para 3.5.

## The quality of interviews – summary

2.79 The above chapter details many aspects of the quality of interviews observed during this inspection. In summary, Inspectors observed examples of good or excellent practice that need to be built on. However, many assessment processes seen in this inspection are characterised as:

- adult focused, including an over-emphasis on the narrative and seeking agreement before assessing risk
- over-influenced by the role of reporting rather than assessing
- insufficiently informed by CAFCASS' statutory functions and case law
- often not making best use of scarce practitioner resources
- dependent on the FCA to find solutions
- dependent on the personal style and practice preference of individual FCAs
- lacking certain basic interviewing skills.

In addressing these issues, CAFCASS needs to develop its practices within its plans to implement *Every Day Matters* and agree new national standards. **HMICA makes a recommendation to this effect.**

# 3 Quality of practitioners' work – reports

This chapter assesses the degree to which practitioners provide courts with comprehensive, timely reports. HMICA expects that CAFCASS will:

- provide comprehensive assessments and demonstrable evidence for judgements and decisions made
- make assessments in relation to the Welfare Checklist
- report fully in domestic abuse cases
- report fully on diversity and equality issues
- be fair to all service users
- outline the powers and options available to the court
- make clear child-focused recommendations
- produce reports in accordance with CAFCASS guidelines
- comply with the principle that unnecessary delay is likely to prejudice the child's welfare.

## Overall assessment

The quality of practitioners' work, as reflected in their reports to court, is varied and differs little from findings arising from previous inspections. CAFCASS has commendably taken important steps to improve the quality and consistency of reports. However, further improvements are still needed. This poses a significant challenge to management, particularly as local culture and the exercise of practitioner preference exert powerful influence on day-to-day front-line practice.

Many reports would be of greater value if they focused less on descriptive narrative and more on evaluation. Reports often give insufficient attention to allegations of domestic violence, issues around diversity and the need to explore any alternative options available to the courts.

## Purpose of reports

3.1 Section 7 reports under the Children Act 1989 are requested by courts when considering disputed Section 8 applications – that is, applications concerning where the child should live, with whom the child should reside, whether there are specific issues or the need for a Prohibited Steps Order. Inspectors expect to see CAFCASS S7 reports written within a framework which:

- is consistent with CAFCASS' statutory functions and case law
- is child-focused
- is evaluative
- provides for consistent outcomes
- is based on available evidence and research in making recommendations.

- 3.2 CAFCASS has issued a helpful template for the writing of reports and guidance. This inspection also shows that, although there is guidance accompanying the report template, the effectiveness of the guidance is as yet limited.

## CAFCASS provides comprehensive and demonstrable evidence for judgements and decisions

- 3.3 Inspectors read FCA reports that related to the observed interviews (see Annex A Methodology). Few reports seen were too brief; most tended to be over-lengthy. The long reports included too much detail about background and about adult views, such as statements and counter-statements regarding the circumstances of a separation. This created an imbalance in many reports between historical and hearsay information about the adults and current information about the welfare of the child and the child's needs. Inspectors considered that information contained in reports is unnecessary unless it is relevant to the assessment of the child's welfare. This finding is consistent with previous HMICA inspections.<sup>29</sup>

- 3.4 An example of unevaluated report comments noted by an Inspector is given below:

*The paragraph describes in detail the absence of birthday cards sent by the service user but it does not assess what their absence means to the children, mother or father. The court is left to make up its own mind.*

- 3.5 An example of good practice is shown below:



The report gives a clear picture of both service users and of an emotionally abusive adult, as well as the effect on the child.

- 3.6 In a small number of reports, there was no evidence for important opinions and hearsay was reported as fact. For example, no evidence was offered to support the statement that “*at his age and with his temperament Child A is more affected by unreliability or changes in contact arrangements than Child B*”. On occasions, FCAs used words like ‘*obviously*’ as a substitute for evidence. A few reports were submitted to court without information from police and other safeguarding checks. In one case, where the information from police had not been received by CAFACASS, the FCA wrote ‘*I have undertaken police checks but I do not anticipate that these will give rise to any problems*’. In another report, the FCA commented on the content of a medical report about a service user even though the FCA had not seen that report.
- 3.7 In almost all cases, the report accurately reflected the information gathered in the assessment. However, in one of the three cases that HMICA referred to CAFACASS management because of particularly poor observed practice, the FCA made false statements in their report regarding what they had done in the assessment.

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<sup>29</sup> *Domestic violence, safety and family proceedings* (October 2005), para 3.41.



3.8 Some important elements of assessment were infrequently included, such as:

- the motivation of the applicant
- the reason for the timing of the application
- the child's level of understanding.

Where there were cross-applications, some reports lacked detail on each of the different applications and did not comment on them.

3.9 As referred to earlier, certain kinds of S7 reports – such as variations in the level of contact – are constrained by case law and, as such, require relatively little assessment work. In others, a greater range of knowledge, tools and skills are needed – such as removal from jurisdiction or the child's primary residence – and are highly dependent on an adequate assessment process to inform the FCA's judgements and recommendations.

## Fairness

3.10 Reports that simply repeat what the different service users have said can give an appearance of fairness and even-handedness. However, if FCAs do not adequately explore allegations of domestic abuse and over-emphasise the role of finding an agreement between the parents, this may lead to FCAs recommending contact with perpetrators of domestic abuse. Inspectors saw no instances of gender bias in report recommendations.

## Welfare checklist

3.11 Almost all reports include the Welfare Checklist as part of the structure for reporting to court. Sometimes, information was mistakenly placed in the wrong section as the following example shows:

Under *The child's age, sex, background and any characteristics of the child which the court considers relevant:* the report writer stated:

*'The child is at an age when her wishes and feelings are very important. She has asked to spend one night a weekend at her mother's house and the parties agree with this. Her brother's wishes and feelings are less important because of his age.'*

This information is about the child's wishes and feelings and should have been stated in that section of the report.

3.12 Children's level of understanding and needs were often not well explored in the selection of reports read by Inspectors. Inspectors found that there was little sense of individuality about each child. There was a tendency in some reports towards statements of opinion that could be relevant to all children rather than the particular child subject of proceedings. The example below is a comment on the child's future needs:

*'Which ever option is considered – one of the above or another – they all depend on improved communication between the service users for the benefit of the children'*

The report gave no indication of how this might be achieved.

3.13 There were elements of good practice in FCA reports – including the Welfare Checklist section covering physical, emotional and educational needs – that gave sound indicators to demonstrate the basis for the practitioner’s assessment.

## Allegations of domestic violence

3.14 Further to earlier discussion about allegations of domestic violence, reports read by Inspectors often:

- screened out information regarding domestic abuse
- failed to assess the perpetrator’s ability to change and risk of future harm
- were weak on assessing the impact of domestic abuse incidents on children.

As a result, potentially unsafe contact was recommended in the following example, where there had been serious allegations of domestic abuse that had not been assessed. In this example, the report author places the onus on the alleged victim to make contact work:

*‘provided this reintroduction is made sensitively, without anger or excessive anxiety on the part of either parent, I would not anticipate any adverse effect on the child.’*

3.15 Among instances of good practice was the example of an allegation about the partner of the applicant hitting the child. This was fully explored by the FCA and carefully addressed in the report.

## Diversity, identity and equality issues

3.16 Reports usually referred only to identity issues if the case involved a non-white British family or service user. Occasionally, descriptions of the child (*‘she has brown hair and brown eyes’*) were included without explaining the relevance of such physical characteristics to a consideration of the child’s welfare.

3.17 Assessments and reports tended to focus on the adult parties and the child subject to proceedings. As noted earlier, this meant that there was little, if any, reference to the child in the wider context of their extended family, cultural or religious roots.

3.18 There were instances where reports about removal from jurisdiction should have addressed more thoroughly the impact on the child’s identity of a move to another country.

## Powers and options available to the court

3.19 Inspectors found that FCAs usually did not refer to the ‘no Order principle’. In those cases where it was mentioned, the justification for making an Order was couched in terms such as *‘I would see a need for an Order in this case’* but without giving reasons. Inspectors saw several reports where, having observed the assessment, the justification for an Order was unclear. On two occasions, the FCA expressed to the Inspector some pessimism about how sustainable the recommended Order might be, but such pessimism was not expressed in the reports.

3.20 Evidently, any Court Order determining when a child will see an adult, or where the child will live, is a powerful intervention by the State in a child's life. In CAFCASS reports dealing with such matters, Inspectors would expect FCAs to demonstrate that their recommendations, to the greatest extent possible, are based on a sound assessment and use of relevant research.

## Recommendations

3.21 Recommendations in reports read by Inspectors rarely mentioned or evaluated alternatives. Similarly, it was unusual for any risks and negative implications of the FCA's recommendation to be explored. In few cases were the service users' views about the FCA's recommended course included.

3.22 Report recommendations often contained statements of hope without a clear path regarding how such hopes might be realised. For example:

*'A has the usual needs of childhood including stability and security in his life, both physical and emotional. He should be able to grow up in a home free of avoidable distress.'*

## Producing reports in accordance with CAFCASS guidelines

3.23 All reports read by Inspectors used headings, which included the investigation, the Welfare Checklist and recommendations. There were many different ways that FCAs presented other information through standardised sections covering issues, views of service users, analysis, background information, record of convictions, report by Probation, view of GP, summary and family composition.

3.24 A small, but surprising, number of reports contained spelling and grammatical errors. Otherwise, most reports were seen as clear, understandable and jargon free.

## Principle of avoidance of unnecessary delay

3.25 Significant numbers of cases went beyond the 12 weeks target. Inspectors saw instances where responsibility for delay arose from CAFCASS practice, such as delayed allocation or a belated request for a Finding of Fact Hearing. The reason for other delays lay outside CAFCASS' direct control and was linked to the responsibilities of other key agencies within the family justice system.



# 4 Quality of practitioners' work – case management

In this chapter, HMICA assesses the degree to which case management promotes the welfare of children and adults. HMICA expects that CAFCASS will:

- prepare for work with individuals and families
- manage, present and share records according to its standards and procedures, and legal requirements
- ensure that children and families are seen in comfortable, safe environments
- ensure staff safety
- comply with the principle that unnecessary delay is likely to prejudice the child's welfare.

## Overall assessment

The lack of clear national frameworks and guidance within CAFCASS results in significant variations in the practitioner approach to case management. This adversely affects its quality and usefulness. Such variations are heavily influenced by local and individual ways of dealing with case management. Efforts to implement best practice in case management across the whole organisation have not yet had sufficient impact at the local level. For similar reasons, the management of files, including case recording, also varies widely.

Most service users are likely to experience the start of the assessment as timely. They are nearly always interviewed in comfortable offices, although they do not receive consistent information or explanation about the role of CAFCASS in private law.

Although the importance of ensuring the safety of staff and service users regarding the risk of violence is recognised, weaknesses highlighted in previous HMICA reports have not yet been eradicated.

## Preparation

- 4.1 After receipt of the court papers by CAFCASS, the initial stages of work mainly involve setting up the file, case allocation, initiating checks and arranging initial interviews. Service managers often seek to allocate cases to practitioners who have previously been involved with the same family. In a few instances, Inspectors noted significant delays within CAFCASS in allocating cases to FCAs.
- 4.2 As reported by HMICA previously<sup>30</sup>, the information returned to CAFCASS varies across geographical areas; some police forces, for instance, offer useful 'police intelligence' while others only give a record of convictions. Social Services information also similarly varies.

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<sup>30</sup> Domestic violence, safety and family proceedings (October 2005) para 3.43.

- 4.3 In some cases, the local Social Services Department (SSD) had substantial involvement with the family and, as such, might have been better placed to carry out the S7 reporting rather than involving a new agency – CAFCASS. In a few cases, Inspectors found that there had been liaison with the SSD but, in others, this option had not been considered. One FCA commented that *‘judges are still asking CAFCASS for S7 reports which SSD should be doing, because they do not trust SSD reports.’*
- 4.4 Practitioners always have copies of the court application forms from the first hearing but the contents are variable, depending on who completes the records. When given to FCAs, files sometimes include both applicants’ and respondents’ statements. However, FCAs mentioned that some local courts discourage the use of statements. Practitioners are not always in a position to know the reasons why statements are not available.
- 4.5 As mentioned earlier, Inspectors found that practitioners very rarely prepare a written case plan, outlining the steps that they would take, the sequence and likely timescales. CAFCASS’ Technical Competencies emphasise the need for case plans. In discussion with Inspectors, many FCAs argued against their use because they see their work essentially as repeating for each case an established, effective model with minimal variations.
- 4.6 There are planning inconsistencies regarding whether partners or supporters can be present at interview, at what age FCAs should see a child and at what age children’s wishes and feelings can be assessed. As with many other aspects of practice, FCAs relied on their own practice rather than CAFCASS Guidance, standards or agreed best practice. Inspectors saw little evidence of practice meeting social work interviewing standards<sup>31</sup>. These incorporate, for instance:
- a coherent goal – aim of the interview
  - steps – to achieve the goal
  - destination – indicators of successfully achieving the goal
  - review – whether the plan has worked.

## Files and records

- 4.7 Typically, business support staff make up files for practitioners following allocation of new referrals. CAFCASS has draft Guidance on record keeping which covers how files should be maintained. The draft Guidance was seen to be operating in few cases. Instead, practitioners usually maintain files according to local office systems. Inspectors found that some files were well ordered and information was easily accessible. In others, the contents were not structured and records of CAFCASS actions were sometimes incomplete.
- 4.8 Interview notes were taken by FCAs. Inspectors observed in one case that no notes were taken during or after an interview with children. FCA notes also covered examination of documents such as SSD records and telephone calls. Notes were not typed up in any of the cases observed. Such notes were difficult for anyone other than the author to read. The absence of well-ordered and readable case records as the CAFCASS norm means that the organisation has no reliable and systematic audit trail of practice.

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<sup>31</sup> Tomlinson [full reference to be added].

## Interview settings

- 4.9 The location and design of almost all offices visited made them accessible to service users, although one office has no disabled access. Newer premises are of a good standard, with most rooms comfortable for service users. All of the rooms used for interviews with children are safe. There is a lack of information in many office waiting areas on local groups and other relevant services, such as support to adults and children who have survived domestic abuse.



An FCA was based in a court building that did not have child-friendly facilities. However, the FCA went to considerable lengths to create a more child-friendly atmosphere for the meeting by providing additional toys and other equipment.

- 4.10 In three of the twelve CAFCASS offices visited, privacy and sound-proofing were inadequate. Service users and Inspectors overheard confidential conversations between FCAs and other service users in adjoining interview rooms. In one interview, the FCA left their own interview to advise another FCA in the adjacent room that they could be overheard.
- 4.11 As has been reported in previous inspections<sup>32</sup>, there is an inconsistent approach to the safety of staff and service users in CAFCASS. The entrances to offices are secure except in one multi-occupancy building. Some offices lack alarms for use in interview rooms and, where these are present, their use is not always understood. Some practitioners ignore some Health and Safety considerations, such as seating arrangements in interview rooms.
- 4.12 Family Court Advisers nearly always ask service users to attend CAFCASS offices prior to home visits. Different forms and procedures to assess risk are used in different offices. Risk assessment forms are rarely completed, including in cases where there is some evidence of risk, for instance of abuse from a service user. There is little planning for the safety of FCAs when arranging visits to service users' homes. Inspectors are concerned that generally FCAs judge the likelihood of risk from the perspective of their own particular experience.

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<sup>32</sup> Inspection report of Eastern Region, March 2005, para 4.14.





# 5 Organisational accountability for practitioners' work

This chapter looks at how CAFCASS supports and improves staff capability and accountability. HMICA expects that CAFCASS will:

- have in place continuing professional development (CPD) training including research findings and the most recent legal and diversity developments
- have in place effective systems for supervision and quality assurance of front-line practice.

## Overall assessment

The continuing confusion and strongly held differences in opinion about the role of front-line practitioners in private law is of concern. It risks undermining efforts to enhance staff capability through training and ensure that, within the organisation, accountability for service delivery is both transparent and effective. New quality assurance mechanisms introduced in 2005 have not yet made sufficient impact on key aspects of front-line practice. Similarly, whilst arrangements for practitioner support and supervision by managers may well be good enough in some areas, overall these important aspects of quality assurance do not command widespread respect and confidence across CAFCASS. There is a clear link to be made between robust quality assurance and improvements that demonstrate a more effective use of scarce front-line resources in private law.

## The role of the FCA

5.1 FCAs often recognise that there are problems in implementing a child focus in their practice. One FCA commented that *'proceedings get embroiled in the interests of the parents and it is difficult to keep returning to the child's interests.'* Inspectors found that FCAs have different views on:

- how far the process should meet the needs of the adults. Some FCAs take the view that, even if there are no welfare issues for the child, an S7 assessment is justified if there are adult needs
- the reporter role, as against that of evaluator/assessor
- the role of brokering agreement. Some FCAs often only assess the issues if the service users cannot reach an agreement.

## Staff capability

5.2 As noted above, there is no formal guidance on the purpose of CAFCASS Section 7 work, how to plan an assessment process, or how to plan and carry out interviews. At present, there are no agreed standards against which to measure or improve staff capability, although CAFCASS is currently consulting about national standards. One new FCA commented *'it would be really helpful if there was an operational instructions manual because it would be*

*easier to know what to do and when and it could be demonstrated if things were done and if they weren't.* Inspectors found that new staff are often surprised and disappointed at the lack of frameworks in CAFCASS. Inspectors take the view that the implementation of a strategy to deliver agreed changes in front-line practice are necessary. **A recommendation is made to this effect.**

- 5.3 FCAs have received little training on core tasks other than at induction. CAFCASS has a training package for new FCAs and for experienced FCAs undertaking convergence<sup>33</sup>. However, the training curriculum has limitations because it cannot yet be linked directly to any agreed national standards, framework and guidance as these are still being developed. Inspectors consider that in order to improve practice this deficit must be addressed. **A recommendation is made to this effect.**
- 5.4 Inspectors noted that some new FCAs were concerned that on joining CAFCASS their previous high standards of professional practice were not seen as necessary. Instead, in some areas, a lower standard seemed to apply. For example, one new FCA who had formerly prepared written interview plans commented about her current practice *'when I have more experience I'll be able to do interviews without prepared questions – like the rest of them'*.

## Staff accountability

- 5.5 During 2005, CAFCASS introduced updated policies and procedures to ensure that staff are accountable for their work. Accountability systems include supervision, appraisal, national standards and quality assurance. However, this inspection suggests that these changes have not yet been fully integrated into local area practice. There is an ongoing dilemma within CAFCASS about the extent to which service managers should observe FCA interviews.
- 5.6 Inspectors found considerable confusion around the issues of FCA internal accountability within CAFCASS. For example, some FCAs *commented 'I am accountable to the court for the report'...* others said *'I am accountable to the children in terms of the service that I provide....and I am accountable to the parents similarly'*.

## Quality assurance

- 5.7 HMICA expects that all stages of the assessment and report writing by FCAs should be part of a quality assurance (QA) system in order to ensure that practice and reports are fit for purpose. In many offices, the work of FCAs in carrying out interviews and producing reports is not subject to any consistent QA procedures.<sup>34, 35</sup> Typically, interviews are unsupervised and unmonitored throughout CAFCASS. Inspectors found most QA practices centre on the court reports. These usually rely on peer reading of reports against a CAFCASS checklist.

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<sup>33</sup> In which experienced practitioners in either public or private law are trained to understand the similarities and differences of both role and context in public and private law and to consider the implications for practice.

<sup>34</sup> This was reported by MCSI in 2004 *Training and Quality Assurance for Service Delivery*.

<sup>35</sup> HMICA, *First Line Management* July 2005. As noted above, interviews varied widely in length, with no rationale apparent, between 40 minutes and 2 ½ hours for first interviews. Inspectors were not able to judge the adequacy of the time given, since many interviews lacked a clear aim.

These arrangements are variable. For example, some offices have a rota while in others, the FCA asks an available FCA to quality assure the report.

- 5.8 Inspectors are concerned that the absence of robust arrangements means that:
- the report checklist is not always used
  - because of the wide variation in practice, FCAs checking reports are not clear about appropriate standards.
- 5.9 Further, there is no training or preparation for those carrying out quality assurance and Inspectors found no systematic arrangements by managers to ensure that the system works. There are also difficulties about close colleagues undertaking peer QA. As one FCA expressed it, *'people would be more critical if they didn't want to upset them in the quality assurance processes'*. Another said *'quality assurance is not a measure against standards but is only against other people's opinions'*. Inspectors judge that these arrangements are unacceptable and in need of improvement. **A recommendation is made to this effect.**

## Support and supervision

- 5.10 Usually FCAs have good access to service managers. The lack of frameworks, standards and assessment tools leave some staff vulnerable. Some FCAs are anxious about whether they are doing the job correctly. One FCA said *'nobody ever sat down and said "this is how we do things here". I feel I need to know how I am doing'*. Another FCA commented *'there is no guidance or procedures on planning or undertaking interviews. It's all down to your mentor or the practitioner that you are linked to'*. FCAs often told Inspectors that they would welcome more effective supervision.
- 5.11 Supervision usually takes place at one- to two-monthly intervals when FCAs meet their service manager to discuss cases. In practice, CAFCASS appears to hold certain assumptions about supervision – namely, that FCAs are experienced practitioners and operate at a high level of competence. As such, it expects the FCA to bring any issues that require assistance to their manager's attention. One FCA commented; *'In supervision, I go through my cases but not on specific issues...peer advice supervision is more valuable because of their experience. For example, am I concentrating on the right things? There has been no supervision on this case'*. In the view of Inspectors, this consultative, practitioner-driven approach does not provide sufficient organisational accountability.

## Best practice

- 5.12 As part of its strategy for ensuring delivery of high quality front-line services and continuous improvement, HMICA expects CAFCASS to have in place arrangements for identifying and promulgating best practice. This inspection found that current systems in CAFCASS do not yet meet this challenge nationally, although there are examples of good local initiatives.

## Use of resources

5.13 This inspection highlights examples, some of which have already been referred to above, where CAFCASS' resources are not used to best effect in private law practice. In summary, these include:

- the production of unnecessary interim reports, for example to meet filing dates
- cases where there are no significant child welfare issues
- undertaking unnecessary or over-complex assessments
- the continuation of cases where there are no significant disputes
- producing full S7 reports when the issue is around specific detail rather than principle; for instance, regarding the amount of, or variation in, contact arrangements
- the length of interviews, where much information collected is superfluous or where FCAs ask for information already available on file
- cases which might better be dealt with by staff from the SSD who have prior knowledge of the family.

5.14 Inspectors note that, in some cases, report writing follows the first three interviews whereas, in others, there are further interviews. There were examples of straightforward cases about contact where as many as seven visits were made, whereas Residence Order applications dealt with by another FCA might only involve three visits.<sup>36</sup>

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<sup>36</sup> Recent developments, such as CAFCASS Every Day Matters, identify this issue.

# Annex A

## Methodology

- A team of five Inspectors and an Inspection Assistant conducted the Inspection of CAFCASS regarding front-line practice. CAFCASS was given six months' notice of the start of the main fieldwork and of the topics to be inspected. CAFCASS Headquarters provided the inspection team with documentary evidence together with its own analyses of performance in the main topic areas.
- The inspection team visited CAFCASS offices at Carlisle, Preston, Whitehaven, Mansfield, Lincoln, Leeds, Bradford, Eastbourne, Brighton, Bodmin, Reading and Truro.
- The inspection team carried out a series of structured observations of interviews in those offices and during home visits. Inspectors observed, as far as practicable, all interviews following allocation and up until the Final Hearing. The consent of service users was always obtained to the presence of Inspectors.
- The interviews observed took place from October 2005 to February 2006.
- 78 observed interviews and 22 reports were evaluated using checklists developed by HMICA.
- Inspectors carried out structured interviews with FCAs at the end of the process. Questionnaires were sent to adults and children at the end of the process.
- HMICA posters were displayed in CAFCASS office reception areas inviting contact from service users. Copies of the posters were also displayed in a number of languages at different offices.
- HMICA reports do not normally record the views of identifiable individuals.
- CAFCASS has seen this report in draft form. This allowed HMICA to take into account comments, including those about factual accuracy.



# Annex B

## CAFCASS responses to HMICA recommendations

### HMICA Recommendation 1

In order to improve the quality and effectiveness of its front-line practice in private law, HMICA makes the following recommendations to CAFCASS:

Clarify its functions in private law proceedings and the associated range of practitioner roles.

#### CAFCASS response

The process for clarification commenced at the end of 2005 with the CAFCASS consultation paper, *Every Day Matters*. The main proposals for private law – shorter and more direct work with service users combined with robust risk assessments and transparent methods of working – have been agreed. The next stage of incorporating these into new National Standards with underpinning guidance has begun and will be completed by April 2007.

**Overall improvement target:** Clarity and transparency with staff and service users in all private law proceedings.

**By:** April 2007.

### HMICA Recommendation 2

Publish national standards and supporting private law practice guidance.

#### CAFCASS response

Draft National Standards have been produced and are in a process of consultation. The consultation ends in September 2006. Work on the guidance that underpins the National Standards has begun and will be in place by April 2007.

**Overall improvement target:** National Standards agreed and guidance in place.

**By:** April 2007.

### HMICA Recommendation 3

Develop and implement a strategy to deliver agreed changes in front-line practice.

#### CAFCASS response

CAFCASS will:

- fully implement the Performance Framework
- update training modules to take account of Private Law changes
- ensure that planned training is carried out in each region
- work with judiciary and other stakeholders to deliver change locally via the Family Justice Councils.

**Overall improvement target:** Strategy in place.

**By:** April 2007.

### HMICA Recommendation 4

Take further steps to ensure quality assurance is effectively undertaken in local area teams and local accountability is improved.

#### CAFCASS response

CAFCASS will fully implement the Performance Framework.

**Overall improvement target:** QA systems in place for all teams

**By:** April 2007.

### HMICA Recommendation 5

Develop and implement a strategy to address the assessed training needs of staff undertaking private law work.

#### CAFCASS response

- The CAFCASS Knowledge, Learning and Development strategy sets out the training requirements for FCAs undertaking private law work. In addition, Training Needs Analyses are conducted by teams based on individual Personal Development Plans for each FCA
- Work is underway to revise both the foundation training module and the Private Law training module to encompass agreed aspects of the Every Day Matters consultation
- Private Law work will also be informed by the major training programme on Domestic Violence, and specific training in Risk Assessment, once a clear model has been agreed.

**Overall improvement target:** FCAs sufficiently skilled and trained to carry out private law duties. Assessment processes in place.

**By:** April 2007.