

February 2017

**AGREEMENT ABOUT HOW LOCAL AUTHORITIES AND CAFCASS CAN WORK EFFECTIVELY IN A SET OF CARE PROCEEDINGS AND PRE-PROCEEDINGS IN THE ENGLISH FAMILY COURTS**

**PURPOSE**

1. This agreement aims to strengthen the way in which social workers, IROs and children's guardians work together in the best interests of children who are the subject of proposed or issued public law proceedings.
2. In this guidance, we recognise that local authority social workers, Independent Reviewing Officers (IROs) and children's guardians are all qualified social workers using the same knowledge-base, research framework and case law, albeit with different statutory responsibilities.
3. Record levels of demand increase the requirement on all professionals to work efficiently and collaboratively. This also applies to all levels of management in local authorities and Cafcass. There is simply no professional time available to be spent on not communicating.
4. Legislation, regulation and legal precedents affecting children and families are dynamic. So, in addition to establishing some general principles to underpin professional practice, Cafcass and ADCS are committed to maintaining a suite of guidance notes designed to clarify organisational roles and promote the efficient use of resources when our roles are complementary. Some of these guidance notes also function as guidance for the sector about important practice issues.

**BENEFITS FOR CHILDREN**

5. The Children and Families Act 2014 introduced a 26 week limit for care proceedings. This is a recognition in law that every day matters for a vulnerable child. Avoidable delay for a child must be just that - avoided. We support a culture of urgency about reaching decisions and want to reinforce the importance of local authorities and Cafcass working effectively to make sure that each child who becomes the subject of care proceedings achieves the level and type of permanence they need as soon as possible.
6. It is rare that one agency alone is able to meet all of a vulnerable child's needs. With the national shortage of social workers, foster carers and other resources such as infant, child and adolescent mental health services, the only way to achieve positive outcomes for every child is for there to be a co-ordinated approach between all those professionals who make up the team around a particular child.

**RESPECTIVE ROLES**

7. No single agency in a family court case has a monopoly on the voice of the child. The guardian representing the child who is a party to the case has a clear responsibility to be the voice of the child, and independently represents the child in

family proceedings. However, the local authority social worker, the local authority as a corporate parent and the judge or magistrate in the case must also be able to understand the voice of the child in their work and decisions. Other professionals, family members and friends who know the child well will also be able to articulate the voice of the child. The voice of the child can be hard to hear and even harder to interpret. We think there is an advantage for the team around the child in court to collaborate in order to establish a clear evidence base and to be transparent with each other about what decisions need to be made on behalf of the child.

8. Working together must never be collusive and casework must never be allowed to lead to a perception of collusion between local authority social workers and children's guardians. Children's guardians must be independent, even when consensus-building.

## **PROPOSAL**

9. Cafcass and ADCS have produced a range of guidance notes to support specific processes and proceedings and also introduced compatible [reporting templates](#) to court, which emphasise the importance of an evidence base for each case, an in-depth child focus and cogent analysis in court reporting.
10. This agreement represents a commitment to developing a collaborative approach designed to resolve disagreements between the local authority and Cafcass about the social work evidence base being relied on in decision-making. In our view, two social work agencies with the same professional standards and training should be able to agree on the evidence base on which recommendations about the future of the most vulnerable children in the country will be based.
11. This agreement sets out the commitment by the guardian to examine the social work evidence to see if it can be agreed before putting any different positions to the court. It is important to recognise that the independence of the guardian requires them to assess any other evidence, including that of the parents/carers, before reaching a final view about the social work evidence. However, it is in the interests of the child for the guardian to fully engage with the social worker to seek to reach a consensus about care planning for the child. Where opinions differ, either pre-proceedings or during proceedings, this is not to be considered a failure.
12. A central pillar of the Public Law Outline (PLO) is that the combined expertise of the social worker and the guardian should be sufficient 'expertise' for the vast majority of cases. Use of additional experts should be limited to cases where a particular expertise from a different discipline is needed, e.g., medical evidence about the causation of an injury to a child.

## **WORKING TOGETHER ON ASSESSMENTS**

13. The guardian role is to analyse the local authority assessments, not to repeat them. The guardian should always carry out enough direct work of their own to be able to give effective primary evidence in court. That direct work can include spending time with the child, discussing the child's situation with the social worker and primary carers, and seeing the child's birth parents. The degree to which this is done depends on the circumstances of each case.
14. Where there are clear gaps in the assessment, the guardian can identify how the gap or gaps can be bridged and the local authority can take steps to bridge these

gaps as soon as possible. The guardian and the social worker should be able to make recommendations about the child's situation in the interim and to also be clear about any timetabling or case management issues that need to be worked through with the court.

15. To be effective means reaching agreement if possible on the main narrative in the case – the reason for proceedings as well as the basis for the interim proposal for placement and contact; the analysis of the impact on the child of what has happened in their family; plus what needs to be done now to bring about positive change for the child during proceedings and then for the rest of their childhood, where this can reasonably be predicted.

## **WORKING TOGETHER ON CARE PLANS**

16. The requirements of the court care plan are set out in Regulations and in the main refer to the permanence placement and contact framework. For the social worker and the guardian, the plan should flow from the evidence base. It would be unusual if an agreed evidence base led to different conclusions about the way forward but if it does, attempts should be made to resolve differences out of court before referring the issue to the court. Discussions about the care plan should involve the IRO as well as the social worker, the guardian and the parent/s/ in most cases.
17. In cases where permanence for the child cannot be determined in care proceedings and when the major decisions about the identity and detail of placement/s and contact/s, will have to be taken after proceedings have finished, the guardian and the IRO should discuss the level of oversight needed by the IRO after the court case concludes. Their discussion should be recorded in the guardian's case analysis and the IRO's case notes.

## **WORKING TOGETHER PRE-PROCEEDINGS**

18. The same principles apply to the pre-proceedings period. Schemes such as Cafcass Plus allow for early scrutiny by Cafcass of proposed local authority cases, aiming either to divert cases away from care proceedings by agreeing that further work with the family would be beneficial for the child, or by narrowing the issues and agreeing an evidence base for a potential care application, so that if the case does go to court, case management can be as straightforward as possible.
19. The principles of Cafcass Plus can be followed either in an individual case or in a cluster of cases, without a formal scheme.

## **PRACTICALITIES**

20. The main mechanism for social workers, IROs and children's guardians working together is through discussion, using a learning circle methodology. A learning circle is a mechanism for organising the collective wisdom of a group.
21. Whatever the mechanism, a problem-solving and solution-focused climate and culture should be established in the meeting.
22. Such discussions and/or meetings are part of the normal professional flow of the case but a note of the discussion or meeting is essential as it may form part of the evidence base in the case. Other parties will have the right to know the content of the discussion and/or meeting.

## COMMITMENTS

23. Cafcass as a national organisation will make its national and local-level data and analytics available to local authorities at the local level, in order to understand thresholds for care and removal in relation to the various benchmarks available.
24. Local authorities will keep Cafcass informed of imminent applications.
25. Cafcass commits to reaching its view about the assessments and care plan at the earliest possible opportunity.
26. Local authorities will keep their IROs informed about relevant case developments. Liaison between IROs and Cafcass should be in line with the established [protocol](#).

## ADDITIONAL SPECIFIC CIRCUMSTANCES FOR WHICH JOINT GUIDANCE HAS BEEN PRODUCED

27. In our view, the principles set out above should underpin the work of the local authority and Cafcass practitioners in those cases in which they are both involved. The following guidance relevant to different cases and court applications can be accessed via this [link](#):

Children Relinquished by Parents for Adoption  
The Provision of Local Authority Reports in Private Proceedings  
Settlement Conferences within Care Proceedings  
Applications in Respect of Secure Accommodation

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### PROFESSIONAL RELATIONSHIPS

1. Relationships should be based on mutual respect at all times without any maligning or undermining of views being expressed.
2. We acknowledge that the dynamic of the CG/SW relationship may generate professional tensions which if self-managed and self-regulated constructively can make a positive contribution to jointly delivering the best outcome for the child in question.

Amended 7 February 2017