

## Child safeguarding policy

*Cafcass policies are designed to support and strengthen the accountability of Family Court Advisers (FCAs), Children’s Guardians, and their managers in safeguarding children, staff, and the reputation of Cafcass. While they do not supplant the professional independence and judgement of FCAs and Guardians, our policies derive from legislation and from what we learn from practice quality audits, significant incidents, learning reviews, feedback, and complaints. They set out what must be done. They are public documents against which we can be held accountable collectively and individually. If they are not adhered to, Cafcass and individual FCAs and managers can be subject to challenge through complaints, the Parliamentary & Health Services Ombudsman, referral to Social Work England, or a Judicial Review. A decision not to adhere to a policy must be supported by a compelling rationale, endorsed by a manager, and recorded. Policies are, therefore, subject to monitoring for compliance – with fair and reasonable consequences for non-compliance. Key policies that are new or updated are subject to attestation<sup>[1]</sup> by all staff or groups of staff where appropriate.*

### **Why this is important for children.**

1. While Cafcass is not a primary child protection agency, it has a statutory duty to safeguard children and promote their welfare through their proceedings and not only those children who are the subject of family law proceedings. This means practitioners working together with others to identify harm and risk of future harm, and to take appropriate and prompt action when there is concern about the safety of a child, including any child who are ‘connected’ to the child(ren) subject of the proceedings. This policy sets out what Family Court Advisers (FCAs) and Children’s Guardians (hereafter ‘practitioners’) and their managers, as registered social workers, must do when they are concerned about a child’s welfare or safety.

### **Overview**

2. Cafcass is required by Working Together (2023) to contribute to strong and effective multi-agency child protection arrangements. Children who need protecting may include those who experience harm in their own family and those who are harmed or exploited by others in their community. Suffering or being likely to suffer significant harm is the threshold for child protection enquiries and such harm can take different forms, including sexual, physical, or emotional abuse; neglect or domestic abuse, including controlling or coercive behaviour; exploitation by criminal gangs or organised crime groups; trafficking; female genital mutilation, forced marriage, online abuse; sexual exploitation; and the influences of extremism which could lead to radicalisation.
3. This policy sets out the requirements of practitioners and managers, including locums and Cafcass Associates, in accordance with the statutory duty of Cafcass to safeguard and promote the welfare of children.

---

<sup>[1]</sup> Cafcass process requiring employees to confirm they have read, understood, and will act in accordance with a policy.

4. The policy covers all family law and application types, where a practitioner is appointed to provide advice and assistance to the child, their family, and the court. The policy is underpinned by practice guidance to support practitioners and managers to fulfil their duties to safeguard and promote the welfare of children.
5. Nationally, Cafcass follows the statutory guidance set out in [Working Together \(2023\)](#) and, locally, the policies, protocols and procedures agreed by the Local Safeguarding Children Partnership for the area where the child lives. Practitioners and managers are required to familiarise themselves with the national guidance and local arrangements, to refer to them when they identify harm or risk of future harm and to act in accordance with them when they become concerned about the welfare or safety of a child.
6. The policy includes the duty of practitioners and managers to be alert and to take action to safeguard a child when they suspect abuse by a person who works with children or contextual risks including child exploitation and radicalisation.

## Specific requirements

### Making a report to the police

7. If a practitioner believes a child is being harmed or is in danger of immediate harm, **they must make a report to the police.**
8. When a child makes further or additional disclosures of cruelty, abuse and/or neglect once they are in care and feel safe, consideration alongside children's social care services must be given to making a report to the police.

### Situational case supervision

9. Practitioners **must seek situational case supervision when they have concerns about the welfare or safety of a child.** This supervision must be reflective with the intention of seeking agreement about the nature of harm or risk of future harm and the most appropriate action necessary to safeguard the child(ren). **Managers are required to record the issues and outcome of situational case supervision in the child's record, including agreed actions and to follow up in the agreed timeframe.**

### Making a referral to local authority children's social care services

10. When a practitioner becomes concerned about the welfare or safety of a child either through screening a court application, or via information received by any other means, **they must request situational case supervision with a manager about whether a referral to the child's local authority children's social care services (CSC) should be made.** The manager is responsible for recording the situational case supervision on the child's record, with any actions clearly recorded, with a timeframe agreed and followed up.

11. The concern must trigger additional enquiries by the practitioner such as obtaining further information from the parents and/or the child's local authority. **This action must happen within 24 hours of screening the application or the concern being identified.**
12. If a referral is required, it must clearly set out the details of the concern by providing evidence of harm, or the risk of future harm. The referral must provide the information and analysis required to assist the local authority to decide whether to take further action. The referral must be made initially by telephone, followed by a written referral on the same day. There is a requirement on local authorities to provide an outcome to the referrer within 24 hours. **If a decision is not received within that timescale, the practitioner must follow up with an email/phone call and record that they have done so.** The practitioner must alert their manager if there is a significant delay in receiving a decision.
13. For all children subject of the application, the court must be informed that a referral was made, as Cafcass has a **simultaneous statutory duty** to inform the court of concerns about the welfare or safety of a child through the submission of a 16A risk assessment report. The 16A report must be clear about the risks identified, the evidence that is available to substantiate the identified harm or risks, the action taken to seek protection for the child, and the action the court is being asked to take - including listing an urgent hearing if that is required. If further information is obtained which means that an urgent hearing is not necessary, this must be communicated to the court so the case can be taken out of the list.
14. If the outcome of the referral is known, the practitioner or manager must provide the outcome to the court, to assist in making the hearing effective. If the decision of the local authority is to undertake child protection enquiries or a statutory social work assessment, then it is the local authority CSC that must provide the section 7 report or child impact report to the court or any other assessments.
15. While the consent of a parent/carer is not required before making a referral about the safety of a child, it is good practice to inform a parent/carer beforehand when it is judged safe to do so. Where a decision is taken not to inform a parent/carer, the rationale must be recorded in the child's record. Referrals for early help or family support services do require the consent of the parent/carer.
16. When there are concerns about a child subject of the proceedings, **consideration must also be given to whether a referral to CSC should be made for any connected children**, such as brothers and sisters, or other children who are not the subject of proceedings but may be at risk of harm. Practitioners must seek situational supervision when they are concerned about the safety of connected children.

### Finding of Fact hearings

17. A referral to the local authority CSC must always be considered when the concerns are such that a recommendation is made for a Finding of Fact hearing because risks to children can continue, and even increase, in the period between the court directing a Finding of Fact hearing and the Finding of Fact hearing taking place.

## Professional differences – using the local escalation procedure

18. When a local authority CSC decides to take no further action following a referral about the welfare or safety of a child, the practitioner must be provided with sufficient information from the local authority to satisfy themselves about the rationale for this decision and to make a judgement that this is a safe enough outcome for the child. This must be recorded on the child's record with an analysis provided by the practitioner about why they are satisfied with the decision.
19. If the practitioner is not satisfied with the decision and is of the view the local authority should undertake a child protection enquiry because in their view the child is suffering harm, or is at risk of significant harm, **they must seek situational case supervision with their manager in the first instance**, to agree how to resolve the professional disagreement with the local authority. If a resolution is not achieved, the Head of Practice must be alerted who will communicate with the Head of Service for the local authority. If the matter remains unresolved, the Assistant Director must liaise with the Assistant Director, or Director of Children's Services **This process of escalation must be made and completed quickly if the child has suffered or is at risk of significant harm.**

## Local authorities seeking information from Cafcass

20. In circumstances where the local authority approaches Cafcass for information about a child or family with whom we have worked or are working with, the practitioner can share information to support a local authority child protection investigation. This is permitted only when there is a s47 investigation, or when the local authority has invoked child protection processes following an investigation, or the child is already or has been the subject of a child protection plan. Any requests outside of the child protection process (such as a s17 child in need assessment) requires the permission of the court to disclose information.
21. Where the local authority convenes a strategy discussion for a subject child in live proceedings in either public or private law, the practitioner must discuss with their manager about attending the discussion in line with [Working Together \(2023\)](#) as part of professionals involved in supporting the child. If the practitioner does not attend the meeting, they should obtain an update from the local authority regarding the outcome or decisions from the meeting in order to update the court as appropriate.

## MARAC (Multi-agency risk assessment conference)

22. Information can be shared with the local authority CSC if it is fulfilling a child protection function. Information from proceedings cannot be shared directly with MARAC as this is a multi-disciplinary forum not carrying out a child protection responsibility directly.
23. MARACs are not a legal entity in themselves. Those who report into a MARAC retain ownership of the information they provide. The CSC will attend a MARAC and will be able to share the information that Cafcass has provided if that information is about harm or risk of future harm to a child.

24. If a referral is made to the local authority CSC relating to domestic abuse, this referral must include a request for CSC to refer to the MARAC (if there is not a MARAC already open) making clear that Cafcass are not permitted to make such a referral.
25. If the manager agrees that a referral to MARAC is required, the referral must explicitly request that an outcome is also sought on whether the local authority referred to the MARAC.
26. The [UK GDPR guidance and resources | ICO](#) to sharing information to safeguarding children must be followed.

### MAPPA (multi-agency public protection arrangements)

27. MAPPA is the process through which various agencies such as the police, the Prison Service and Probation work together to protect the public by managing the risks posed by violent and sexual offenders living in the community.
28. Practitioners can share information from proceedings with a police officer in limited circumstances i.e., if they are acting in the furtherance of child protection (for example they are investigating an offence against a child, and/or exercising their powers of immediate protection). If a person involved in proceedings is subject to a MAPPA, then the practitioner must seek to obtain as much information as possible from the agencies involved to inform and assess any risk posed to the child subject of proceedings or connected children.

### Section 16A risk assessments and report to court

29. As court appointed officers, under s16A of the Children Act 1989, practitioners must undertake a risk assessment and inform the court of the outcome of their risk assessment when they have reasonable cause to believe that a child has been harmed or is at risk of harm. **The child's practitioner must seek situational case supervision with a manager and complete a 16A risk assessment for the court.**
30. The 16A risk assessment must be specific about the concerns, any substantiating evidence to support the concerns, and the action that the court is being asked to take, such as listing an urgent hearing to consider changing arrangements for the child to safeguard their welfare, to direct the local authority to undertake urgent enquiries or, to alert the court to the risks which may have been resolved, following a referral to the local authority CSC.

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

31. This duty requires the practitioner to extend their enquiries beyond the specific requirements of the application and court order to gain the perspectives and insights of those who know the child and/or parents/carers.

32. When a referral to the local authority CSC has been made, and it relates to harm or risk of significant harm, **a 16A risk assessment must be completed and submitted to court**. For all children subject to the application, the court must be informed that a referral was made via the submission of a 16A risk assessment, the outcome of the referral (if known), the assessment of harm and risk of harm, and subsequent actions and recommendations to safeguard the child. If there is a delay in receiving the local authority outcome, it is not appropriate to delay submitting the 16A risk assessment report as the practitioner has a statutory duty to inform the court of the concern as soon as the concern is known.
33. **A 16A risk assessment report is a separate document and must not be incorporated into a Safeguarding Letter, Section 7 report, Child Impact Report** (unless ordered by the court), due to the different rules on disclosing the reports to parties. The practitioner must clearly state that the risk assessment has been undertaken in accordance with the requirements of section 16A Children Act 1989, clearly setting out details of the harm the child is suffering or at risk of suffering and what action has been taken to safeguard the child. The assessment must explain to the court, the actions that they are recommending to the court.

### Section 37 recommendations

34. In private law proceedings, if the child is experiencing harm or there is risk of future significant harm such that a practitioner believes the threshold is met to consider either a s31 Care Order or Supervision Order, **the practitioner must consult with a manager** and appropriate advice must be provided to the court, setting out the rationale for this advice.
35. Before advising the court, the relevant local authority must be informed by the practitioner that they are advising the court that a s37 report is required, along with a referral and 16A risk assessment report outlining their concerns and why a s37 report will be advised. In such instances, it is likely that the 16A risk assessment will require the court to list an earlier hearing.
36. If the court agrees, it will direct the local authority to undertake an investigation of the child's circumstances and report its findings to the court. The child's FCA must confirm with the local authority in writing that the order has been made and the timescales agreed.
37. As part of their enquiry the local authority social worker will need to consider if the local authority should consider applying for a s31 Care Order or for a Supervision Order, if the local authority must provide services or assistance for the child and their family, or take any other action to protect the child from harm.

### Elective Home Education

38. If a practitioner becomes aware that a child with whom they are working has been removed from school and/or is being electively home educated, or is not attending for education, they must check whether the local authority has arranged to find out so far as is possible, whether the home educated child is receiving a suitable education. There are no detailed legal requirements as to how such a system of oversight must work. It is for the local authority to decide what it sees as necessary and proportionate to assure itself that every child is receiving

a suitable education, or action is being taken to secure that outcome. It is recommended that the local authority has a named senior officer with responsibility for elective home education.

39. A child being home-educated is not a risk of itself. However, when there are concerns about the child's welfare or safety, which are increased by their lack of contact with other professionals, **situational case supervision must be sought to consider making a referral to the child's local authority CSC and making the court aware via a 16A risk assessment.** This is particularly the case, if the child not attending school or being home educated is or has been the subject of a child protection plan.

### Private fostering

40. If a practitioner becomes aware that a child is living with an adult, who is not a close relative, for twenty-eight days or more, **they must notify the local authority**, to check whether the arrangement is known and has been assessed as suitable to meet the needs of the child or, if not, to enable an assessment under Private Fostering Regulations. When notifying the local authority, details must be provided of who lives in the household and who holds parental responsibility and has, therefore, been able to agree to this arrangement.
41. Where there are concerns about the welfare or safety of a child subject of proceedings living under a private fostering arrangement, a referral to the local authority CSC must also be submitted, as well as a 16a risk assessment to the court.

### Prohibited Steps Orders

42. Where there is a Prohibited Steps Order in place to safeguard a child, permission must be sought from the court to share details about the Prohibited Steps Order with the child's school and any other involved agencies to safeguard the child. It is permissible to share details of the Prohibited Steps Order without consent of the court if there is an immediate risk to the child's safety.

### Vulnerable adults

43. When a practitioner becomes concerned about the welfare or safety of an adult, **they must seek situational case supervision from a manager to consider whether an adult safeguarding referral must be made**, in accordance with local arrangements and adult protection procedures. Referrals must set out details about the nature of harm experienced by the person and/or the risk of harm. The adult concerned and their family must be made aware unless in so doing, harm or further harm is a likely outcome.
44. In the event of an immediate risk to a vulnerable adult, such as self-harming or violent domestic abuse, **a report must be made to the police.**

## Children experiencing harm outside the family

45. Children experiencing harm or a risk of harm outside of their family is sometimes referred to as **contextual or extra-familial harm**. This is harm that is attributable to behaviour associated with criminal or sexual exploitation of children, including county lines, radicalisation, trafficking, modern slavery, 'honour-based' abuse, female genital mutilation, and gang activity. Children who may be causing harm to others, must receive a safeguarding response in the first instance as well as action being taken appropriately to protect any other children whom they are causing harm or risk of future harm.
46. If contextual safeguarding concerns are known or suspected, practitioners **must immediately seek situational case supervision with a manager to consider whether a referral to the local authority is required**. In instances of Female Genital Mutilation (FGM) or Forced Marriage or radicalisation, practitioners have a duty to report this to the police. This is an explicit requirement and the procedure to be followed is set out on [gov.uk](http://gov.uk) and must be discussed with a manager.
47. If modern slavery or human trafficking is known or suspected, the local authority must be asked, as soon as this information is known to Cafcass, in accordance with its first responder status, to refer the child to the National Referral Mechanism (NRM). The NRM is part of the UK Human Trafficking Centre. Referrals to it can only be made by first responders which include local authorities and the police. Cafcass is not a first responder.

## Orders which result in a concern about a child's welfare or safety

48. When a court does not accept the recommendations of the child's FCA or Children's Guardian which results in an order that they consider leaves or places the child at risk of harm, **situational supervision must be sought from a manager** where the following options are considered:
- 16A risk assessment**. This must only be used where there is new information not already before the court.
  - Manager's letter to court**. This must be drafted in a courteous, respectful tone clearly setting out the practitioner's concerns for the safety of the child with constructive suggestions for next steps.
  - Appeal (16.4 cases only)**. Where the child is joined as a party the child's legal representative must be consulted to consider whether there are grounds for appeal.
  - Child safeguarding referral**. This option must be considered in combination with any of the above options and must always be made in reference to the Child Safeguarding Policy.
49. If the court rejects the challenge and confirms the decision, the practitioner must record on the child's record what steps were taken to challenge the court order on behalf of the child and seek legal advice.
50. It may be necessary for local senior managers (Head of Practice or Assistant Director) to escalate matters to the relevant Designated Family Judge. This might be where there is a risk of significant harm to a vulnerable adult or child, or where a court direction poses a serious risk to the safety of staff.



## Concerns about a professional who works with children

51. When a practitioner has safeguarding concerns about a person who works with children, (which can include a party to proceedings, a colleague, volunteer or another professional) **they must consider a referral to the local authority CSC** with a recommendation to involve the Local Authority Designated Officer (LADO). They must stipulate that the referral includes a referral to the LADO, setting out what type of behaviour has been identified that is harming or represents a risk of harm to the child(ren) about whom they work or know. Information must not be shared about these concerns with any party outside of Cafcass except the LADO or the police if there is an immediate risk of harm or injury to a child or other adult. The LADO will make any decisions at the initial meeting, if the decision is to make further enquiries, about what information can be shared and with whom.
52. Practitioners must not attend LADO meetings as this is an internal local authority meeting who is responsible for the decisions made in response to the concerns shared. The referral and any subsequent information sought must be sufficient to enable the LADO to make decisions.
53. **Situational case supervision must be sought from a manager prior to making a referral to CSC that includes a recommendation to inform the LADO and the manager must read and approve the referral before it is submitted.** A record of the rationale must be made on the child's record regarding any such referral.

## Special Guardianship and Disclosure and Barring Scheme (DBS) checks

54. In public law cases, the Child's Guardian **must have sight of the completed DBS and medical checks of prospective special guardians, prior to supporting a Special Guardianship (SG) assessment, which must be clearly recorded and analysed on the child's record.** The outcome of any such checks needs to be clearly recorded on the child's record. Whilst waiting for checks to complete before supporting any SG application, it is important to factor this into the timetable for the child and to continue all other work in parallel to minimise any potential delay in the decision making.

## Registered sex offenders

55. Practitioners **must urgently seek the views of a probation officer or risk offender manager if they become aware that a registered sex offender is in contact with a child.** If there has been a conviction for a sexual offence such as rape, the risk of harm to a child of contact with an adult who has been convicted of such a sexual offence, must be considered to be significant and harmful. All available evidence should be obtained and scrutinised, including reports and risk assessments from other professionals such as the Probation service and sentencing remarks from the criminal court.
56. In considering recommendations for **family time when there has been a report of a sexual offence,** practitioners must assess the child's safety and welfare, grounding this in an understanding of the offender's attitudes and behaviour, and a deep understanding of the child's experience and vulnerability. While assessments and recommendations for interim and final orders are informed by the professional judgement of the practitioner, they must be

informed and tested by applying **the following starting points** in relation to what is known at the time:

- a) If there is a report of sexual offending, such as rape, **the starting point** must be to consider the risk of harm to a child as significant and the need for a fact-finding hearing and suspension of any pre-existing direct spending time arrangements with specific reference to PD12J paragraphs 25-27 until the court makes a finding.
- b) If a fact-finding hearing is already scheduled, **the starting point** must be that there should be an evidence-based recommendation for no direct time with the accused parent, again with reference to PD12J paragraphs 25-27, until the court makes a finding.
- c) If there is a disclosure of a sexual offence and this has resulted in a police investigation, **the starting point** must be a recommendation for the child to spend no direct time with that parent until the police have concluded the investigation. If the outcome of the police investigation is 'no further action' (based on likelihood of successful prosecution) (a) then applies.
- d) If a parent has a conviction for a sexual offence such as rape, **the starting point** is that the risk of harm to a child of contact with that adult is significant and with reference to paragraphs 35-37 of [Practice Direction 12J](#), there should be a recommendation for no time with that parent.

57. In protecting victims of domestic abuse, including sexual offending, any departure from **this starting point** must be supported by a compelling rationale, discussed with a manager, and recorded contemporaneously on the child's case record.

### Recording

58. Practitioners **must record any safeguarding concerns**, the action they have taken to safeguard the child and the outcome of that action in line with the case recording policy and our expectation that all actions must be followed through to secure the child's safety.

### Standard safeguarding checks and scrutiny of police information to inform analysis of harm and risk of harm.

59. In public law applications, a child's guardian must make enquiries of anyone who may have relevant information to support their safeguarding assessment of the child's circumstances and best interests.

60. **Police records and criminal histories must be reviewed and used to inform analysis of harm and risk of future harm**, and specifically when unification or reunification is being considered.

61. In private law C100 applications, Cafcass undertakes police and local authority checks in relation to both applicants and respondents. Consideration must be given as to whether level 2 police checks are required, see police check guidance for further details [Police checks guidance](#). The rationale must be recorded on the child's file.

62. In all other non C100 applications and in respect of third parties, practitioners must exercise their professional judgment as to whether further safeguarding checks, including level 2 police checks are required.
63. International police checks can be requested by a practitioner if a domestic PNC check indicates that relevant information is held by a police force in another country, or the practitioner has reason to believe relevant conviction information may be held by a police force outside of England. Each country will adhere to its own national laws in providing information so responses may vary or be denied. In these circumstances, practitioners must consult the [Police checks guidance](#) for further information.

<b>Owned by</b>	Assistant Director for Performance & Quality Assurance
<b>Endorsed by</b>	National Director of Operations
<b>Approved by</b>	Corporate Management Team
<b>Approved on</b>	17 September 2024
<b>Implemented</b>	26 September 2024
<b>Attestation</b>	Yes
<b>Version Control</b>	December 2020 – replaces Cafcass Child Protection Policy
	October 2021 – reflects changes to practice framework
	May 2022 – reflects learning from significant incidents/child record reviews
	October 2023 – reflects learning from significant incidents
	January 2024 – link to supporting guidance added
	September 2024 – reflects learning from complaints and learning reviews
<b>Next Review</b>	April 2025