

# Ofsted's inspection of Cafcass: Lancashire and Cumbria service area

---

Cafcass Lancashire and Cumbria service area provides services to children and families in Blackburn with Darwen, Blackpool, Cumbria and Lancashire.

The Office for Standards in Education, Children's Services and Skills (Ofsted) regulates and inspects to achieve excellence in the care of children and young people, and in education and skills for learners of all ages. It regulates and inspects childcare and children's social care, and inspects the Children and Family Court Advisory Support Service (Cafcass), schools, colleges, initial teacher training, work-based learning and skills training, adult and community learning, and education and training in prisons and other secure establishments. It rates council children's services, and inspects services for looked after children, safeguarding and child protection.

If you would like a copy of this document in a different format, such as large print or Braille, please telephone 08456 404040, or email [enquiries@ofsted.gov.uk](mailto:enquiries@ofsted.gov.uk).

You may copy all or parts of this document for non-commercial educational purposes, as long as you give details of the source and date of publication and do not alter the information in any way.

To receive regular email alerts about new publications, including survey reports and school inspection reports, please visit our website and go to 'Subscribe'.

Royal Exchange Buildings  
St Ann's Square  
Manchester  
M2 7LA

T: 08456 404040  
Textphone: 0161 618 8524  
E: [enquiries@ofsted.gov.uk](mailto:enquiries@ofsted.gov.uk)  
W: [www.ofsted.gov.uk](http://www.ofsted.gov.uk)

No. 090310

© Crown copyright 2009



# Contents

---

<b>Introduction</b>	<b>4</b>
<b>Overall effectiveness</b>	<b>5</b>
Grade 4	5
<b>Capacity for improvement</b>	<b>6</b>
Grade 3	6
<b>Areas for improvement</b>	<b>7</b>
Immediately	7
Within three months	7
Within six months	7
<b>Meeting the needs of service users</b>	<b>8</b>
Ambition and prioritisation	8
Performance management	8
Workforce development	9
User engagement	10
Partnerships	10
Equality and diversity	11
Value for money	11
Safeguarding	12
Evaluation	13
<b>Quality of provision</b>	<b>13</b>
Service responsiveness	13
Case planning and recording	14
Assessment, intervention and direct work with children	14
Reporting and recommendations to the court	15
Complaints	15
Outcomes for children and young people	16
<b>Definitions</b>	<b>17</b>
Family assistance order	17
Inspection grades	17
'No order principle'	17
Principle of 'no delay'	17
Private and public law	17
Review reports	18
Rule 9.5 cases	18
Section 37 enquiry	19
Welfare checklist	19

## Introduction

Ofsted carried out the inspection of service provision by the Children and Family Court Advisory Support Service (Cafcass) in the Lancashire and Cumbria service area (the service area) in the week commencing 9 November 2009.

Cafcass consists of a national office in London and three geographical sectors – north, central and south – which are each divided into service areas. The head of service is the senior manager in each service area and is accountable to the sector's operational director. The operational directors are directly accountable to the Cafcass chief executive.

The service area provides services to children and families across the local authority areas of Blackburn with Darwen, Blackpool, Cumbria and Lancashire. The Head of Service has been in post since 19 October 2009.

The professional staff who provide the social work service to children and families subject to private and public law proceedings are organised in teams in Blackburn, Carlisle, Lancaster and Preston with sub-offices in Blackpool and Whitehaven. Four operational service managers manage service delivery, supported by one specialist manager for quality improvement.

During the fieldwork, inspectors examined an extensive range of documentation and held meetings with stakeholders, the judiciary, local authorities and interest groups. Interviews were held with members of staff, the Operational Director (North), the Head of Service, the Head of Service for Quality Improvement (North of England), the senior Human Resources manager, family court advisers, family support workers and all the service managers. Inspectors evaluated private and public law reports, case files, complaints records and human resources files. They surveyed the views of Cafcass staff, adult service users, children and young people. They observed Cafcass practice with service users, including children and young people; they also spoke to children and young people looked after by the local authority and they conducted telephone interviews with adult service users.

## Overall effectiveness

### Grade 4

The overall effectiveness of the Cafcass Lancashire and Cumbria service area is inadequate.

Despite some significant strengths in the service provided by Cafcass in this area, the quality of safeguarding practice is not consistent enough and is inadequate overall. In most parts of the area, nearly all children and young people involved in private law cases and some in public law cases are waiting too long to receive a service from Cafcass. Many of these cases have been assessed as having significant safeguarding risks and limited action is taken to minimise the risk of harm while children wait for a service. These delays have the potential to increase the risks for these children because of the failure to speedily secure their future. This has been a pivotal factor in determining the inadequate judgement for overall effectiveness.

The service area has been required to respond to a 50% increase in private law cases and a similar increase in public law cases over the last 18 months. Insufficient consideration has been given to managing delays effectively and to responding to the increased demand for core services. Improvements have been made to the financial management arrangements but decisions to use the workforce more flexibly to respond to changes in demand have not made sufficient impact.

Staff demonstrate a satisfactory awareness of equality and diversity issues relevant to the area. However, progress to ensure that this has been integrated into mainstream practice and the implementation of action plans arising from equality impact assessments have been too slow and are inadequate overall.

A culture of performance management and quality assurance is not sufficiently embedded in the service area to evaluate the quality and improve services effectively. This, combined with a recent significant change in management at head of service and service manager levels, has resulted in an inadequate understanding of the strengths and weaknesses in service provision. However, the newly appointed Head of Service and the management team are rapidly gaining a clear understanding of the challenges to making the necessary service improvements.

Engagement with children and young people is satisfactory overall and improving. Some service user feedback has been used to improve facilities for children and young people. Most children and young people who responded to the Ofsted survey felt that their lives had improved as a result of their involvement with Cafcass. However, there is no systematic approach to user engagement across the service area. While most responses to complaints from service users show a high level of rigour and sensitivity, the responses take too long and learning from complaints is not used effectively to improve the quality of service.

However, once cases have been allocated the quality of provision is satisfactory overall. Direct work with children and young people is mostly satisfactory, and in some cases is of a high standard. Case planning is generally clear and good use is made of the quality of assessment, intervention and planning process to advocate for the needs of children and young people. The majority of reports to court are satisfactory or better.

## Capacity for improvement

### Grade 3

Capacity to improve is satisfactory.

In the very short time that the Head of Service has been in post, he has quickly developed an understanding of the challenges within the service area. Most of the service management team are also new to their roles and there is no evidence that services have deteriorated during the transition to the new management team. Strategic planning is in place and has been strengthened; the business plan has been updated recently to reflect the new priorities set by the Head of Service. Innovative plans, for example through the Children First pilot (a child-centred intervention for those in private law proceedings), have the potential to significantly improve services to families and reduce delays. The Central Management System used by staff and managers to record and collate data relating to the quality of service provision is now widely used, but the accuracy of these data is not sufficiently robust.

The service area has sufficient qualified and experienced staff and has low levels of staff turnover. Recruitment processes are safe. Despite limited implementation of quality assurance systems, assessments and direct work with children and young people and their families are mostly satisfactory or better.

Partnership work is largely effective, particularly with the courts and with the police. Engagement with children and young people and other service users is satisfactory and improving.

In response to budget pressures in the service area, recent changes in financial planning have been implemented. However, these do not allow sufficient flexibility in the deployment of staff and resources to respond effectively to changes in demand for service. Knowledge, learning and development opportunities are available to staff to support delivery of key priorities, including safeguarding and domestic violence. However, insufficient training opportunities are available for staff in implementing the pace of changes in practice required of them, as in new information technology requirements.

## Areas for improvement

In order to improve the quality of provision and services for children and young people, the Cafcass Lancashire and Cumbria service area should take the following action:

### Immediately

- Ensure that identified risks of harm to children and young people are assessed and minimised effectively by timely allocation of cases.
- Ensure that performance and quality assurance processes are implemented effectively and consistently to improve the quality of service.

### Within three months

- Ensure that the sharing of case plans and recommendations to court with children and families is appropriate and timely.
- Ensure that complaints are responded to within required timescales and that lessons learned lead to improvements in service delivery
- Ensure that staffing resources are deployed appropriately to meet changes in demand for services.

### Within six months

- Ensure that consultation with service users is systematic and includes all vulnerable groups of children and young people.
- Implement fully the action plans arising from the equality impact assessments.

## Meeting the needs of service users

### Ambition and prioritisation

#### Grade 3

Ambition and prioritisation are satisfactory.

The inspection followed very recent changes in the leadership of this service area. The Head of Service took up post on 19 October 2009 and the majority of service managers are new. The previous temporary and transient leadership had failed to set clear priorities and implement national and local strategic plans for the improvement of service delivery. The new Head of Service has given immediate attention to key aspects of safeguarding and has made changes to ensure that local service planning is now linked to national priorities, including improved outcomes for children and young people. However these changes are too recent to show any impact.

The quality of provision of services to children and families in the service area is mostly satisfactory. Steps are now being taken to tackle delay effectively although this work is recent and the number and nature of the cases held on waiting lists remain unacceptable.

However, protocols for information sharing with safeguarding agencies are good overall and very effective with the police. Once cases are allocated, safeguarding information is used well by Cafcass to inform decision-making by courts and to refer cases appropriately to local authorities. Liaison with the judiciary is particularly strong and appropriately prioritises tackling the delay in the service delivery. However the links with local authorities are inconsistent, resulting in weak communication in some public law cases.

In the main, lines of accountability are understood by staff and appropriate steps are taken by managers where there is evidence of a significant lack of compliance with Cafcass policy and procedure. Managers ensure that staff are provided with most of the resources necessary to work flexibly.

### Performance management

#### Grade 4

Performance management is inadequate.

The application of the national performance tool, Quality for Children, is inconsistent across the service area. Where it is being used, some first-line managers overestimate the quality of practice in their teams and fail to recognise where improvements are needed. Although supervision decisions and management oversight of case work are evident in some files, performance management of

practice lacks rigour and does not assist in improvements in outcomes to children and young people

While performance against most indicators is in line with the national average, the national average performance is itself poor. Few targets are met against national performance indicators relating to the quality of services, and there is little evidence of an improving trend, particularly in the timeliness of service delivery. Although adequate steps have been taken to ensure there is no overspend in the current financial year, the impact of sudden limitations to the use of funds has been underestimated. For example, changes in the deployment of staff have had an adverse impact on the service area's capacity to meet fluctuations in demand.

Although local audits and activities by the quality improvement team operating across the north sector of England continue to record and monitor performance, this does not lead to sufficient improvement where it is needed. For example, the audit of the duty arrangements conducted in October 2009 did not show any significant improvements following the duty audit completed six months earlier.

The quality of some performance data is poor. Information about team performance is not consistently accurate and is sometimes contradictory, for example data relating to the time taken to complete reports. Consequently the data used in the service area misinform workload planning and the identification of trends.

However, the information held in the Central Management System is used well by managers and most family court advisers and is beginning to improve the accuracy and reliability of management information. The new Head of Service has recognised the need to reconfigure some service delivery and managers are undertaking a very effective exercise to start to release underused capacity in teams.

## **Workforce development**

### **Grade 3**

Workforce development is satisfactory.

The service area workforce is suitably skilled and competent and most posts are currently filled. The local workforce plan appropriately addresses issues such as succession planning. However, the plan has weaknesses in some key areas. For example, it fails to ensure that there is flexible capacity within the workforce to respond effectively to meeting the rising demands for the Cafcass service. Recruitment processes are effective and comply well with safe recruitment procedures. Appropriate systems are in place to manage allegations against staff. Although there are recent national constraints on individual training, essential training is available to staff, such as that related to safeguarding and domestic violence.

The quality of supervision and appraisal has been adversely affected by changes of managers in some offices. However, over the last six months this has improved due

to the greater stability in the management group. The frequency of supervision and staff appraisal is not always consistent with Cafcass policy and procedures and the national plan to reduce to a 10:1 ratio of practitioners to service managers has not yet been achieved. Individual action plans have been targeted effectively where deficits in performance have been recognised.

## **User engagement**

### **Grade 3**

User engagement is satisfactory.

Cafcass has engaged effectively with children and young people locally to enable them to contribute to improving some aspects of services, for example in the design of information leaflets. The area has responded well to feedback from the Cafcass Young Inspector's comments by providing robust action plans which are now being implemented. The area has also worked with a local advocacy organisation which has been effective in enabling children and young people to express their views.

In response to the Ofsted survey of users, almost half the children and young people felt that things had changed for the better as a result of the service they received.

Although the service area has initiated these positive opportunities to engage its users, particularly children and young people, this is not regular and systematic. Feedback is not, therefore, always representative of all the vulnerable groups of children served.

## **Partnerships**

### **Grade 3**

Arrangements for working with key stakeholders, relevant agencies, community groups and commissioned services are satisfactory.

Most partners and stakeholders are positive about their relationship with Cafcass. The courts report very effective partnership working, for example in the collaborative work to ensure that private law court reports focus appropriately on the key issues. Information sharing processes through local multi-agency risk assessment conferences are good. Service user representative groups are also positive about their links with Cafcass, which they report to be responsive and sensitive to need.

Work with local authorities at a strategic and case level is variable. Although there are some examples of good liaison, there have also been communication problems, particularly about delays in the appointments of guardians in public law cases.

Arrangements for commissioning services are satisfactory. Local need has been assessed effectively and has resulted in contracts with a range of partner organisations to provide accessible contact centres for children and their families across the area. Peripatetic contact facilities have also been commissioned appropriately to ensure that all families who need additional services for contact have access to suitable provision. Good liaison and monitoring arrangements are in place to assure the quality of commissioned services.

## **Equality and diversity**

### **Grade 4**

Work to promote equality and diversity is inadequate.

The service area fails to meet the national performance indicator for monitoring the diversity of service users and its performance is also below that of other areas in the north of England. The service area has been slow to complete equality impact assessments. Although these are now in place with good action plans to support improvement, these are too recent to demonstrate sufficient impact. In particular, slow progress has been made in responding to findings that two offices in the service area are not accessible for disabled staff or service users.

However, the work of practitioners demonstrates a positive commitment to promoting equality and diversity. Inspectors saw good examples of practitioners sensitively assessing how needs arising from disability, ethnic origin and parental age impact on outcomes for the children and young people. Some effective action has been taken to provide accessible services in rural parts of the area by offering office and interview facilities in a wide range of venues. In addition, there are some constructive practitioner-led initiatives to make connections with local community and faith groups. Communication is promoted well through the provision of posters and leaflets available in languages appropriate to the area and interpreters are used effectively.

Arrangements to ensure the confidentiality of service user information are satisfactory and the workforce reflects the local community it serves in terms of diversity. Most children and adult service users who responded to the Ofsted survey said they were treated with dignity and respect.

## **Value for money**

### **Grade 4**

Value for money is inadequate.

The service area does not manage its resources well enough to ensure effective and efficient delivery of core services. The recent budget review fails to prioritise adequately the need to offer a timely service to children and families. The concentration on reducing the use of the flexible workforce does not take sufficient

account of other ways to balance the budget. For example, because there is no scanner in Cumbria, staff have to travel longer distances than necessary which results in some inefficient and expensive use of their time. The majority of key performance indicators relating to the efficient use of resources are not met by the service area and some performance is below the average for the north of England.

However, the service area is actively working to improve its performance. An effective internal audit of caseloads in one team has shown extra capacity and this exercise is planned to be repeated across the whole area. The Head of Service has prioritised appropriately the development of a single early intervention team and a review of the relative workloads of teams to improve performance in this area.

## **Safeguarding**

### **Grade 4**

The contribution of the service area to safeguarding children and young people is inadequate.

Cases awaiting allocation, in some instances by up to eight months, include children assessed by Cafcass to be at a high level of risk. Risks included cases involving domestic violence, parental mental health issues and families seeking to remove children from the country. These risks are not actively managed or minimised until the case is allocated.

Almost all children in private law experienced a delay in the court process and there is some delay for those involved in public law cases. Waiting lists are held in most offices and these vary between three weeks and eight months. Duty arrangements are in place to undertake prioritisation of cases that are awaiting allocation and the order of priority is altered to reflect new information received by the service. However, these arrangements are not consistent across the service area and the prioritisation of cases awaiting allocation is insufficiently focused on the individual needs of children and young people. The service area has acknowledged that it is not until cases are actually allocated that risks to the child are addressed by the service.

However, within all individual allocated cases seen by inspectors, practice to address safeguarding of children and young people was satisfactory or better. This demonstrates a good awareness at the front line of safeguarding needs of children across the service area and a commitment to helping to keep children safe.

The service area makes an effective contribution to local safeguarding children boards with some service managers holding key positions such as chair of the serious case review panel and membership of executive committees. Information about lessons from local serious case reviews is disseminated effectively among practitioners. Partnerships with other safeguarding agencies are satisfactory and the

service area's practice in making notifications and referrals to local authorities is effective in safeguarding children.

## **Evaluation**

### **Grade 4**

Evaluation is inadequate overall.

The first self-evaluation produced by the service area for this inspection was inadequate in many respects. After feedback from Ofsted the self-evaluation was revised and improved. However, it remained inaccurate and over-optimistic in the evaluation of the effectiveness of service provision, particularly in relation to safeguarding. Although awareness of the service area's weaknesses has improved through the recently strengthened performance monitoring, this has not been translated into sufficient improvement or impact on outcomes for children.

## **Quality of provision**

### **Service responsiveness**

#### **Grade 4**

Service responsiveness is inadequate.

In most teams, the waiting time for families to receive a service is too long. It is most significant in private law where inspectors found delays of up to eight months. The filing time for private law cases is too slow and the overall performance is well below the national average and that of the north of England. Individually, no office in the area achieves the national target, and performance on filing times varies from 16 weeks in Lancaster to 22 weeks in Preston. A recent exercise has been undertaken to review all cases on the waiting list using a structured assessment tool. However, the outcome of this exercise has been insufficiently effective as it has resulted in the re-ordering, rather than a reduction of the waiting list.

However, both staff and managers are alert to the principle of reducing unnecessary delay. An effective caseload review has highlighted hidden capacity in one office and this review is planned to be implemented across the area. Good work has been undertaken to improve service responsiveness in partnership with the judiciary by implementing the President's Interim Guidance issues in July 2009 to address the national problems of increased demand for court reports. In Cumbria, a good protocol has been agreed to offer a local response to this guidance and similar effective work is well under way in Lancashire. The timely and area-wide introduction of the Children First model of working has the potential to improve significantly the responsiveness of the service to both courts and service users.

## **Case planning and recording**

### **Grade 3**

Case planning and recording are satisfactory.

Cafcass policy and procedures for case plans and records are followed appropriately in most cases. Almost all the files reviewed by inspectors had case plans and records that were satisfactory or better. This was particularly apparent in the files of recent cases. Effective planning by practitioners to achieve the best outcomes for the child or young person was demonstrated in case plans. Appropriate attention was given to address issues of diversity in most cases, for example ensuring that cultural identity was specifically addressed in cases of trans-racial adoption. Recording is accurate and timely, reflecting the needs of the children and young people.

However, the content of records was not consistent between the paper and electronic files, resulting in some confusion in information held about individual children. Audits by the area have identified this as an ongoing concern. A small minority of cases where case planning and recording are inadequate were found within the duty systems. In these cases, case planning was not sufficiently robust and recording was poor and incomplete.

## **Assessment, intervention and direct work with children**

### **Grade 3**

Assessment, intervention and direct work with children are satisfactory.

All cases seen by inspectors met the criteria required for the intervention of the Cafcass service and, where applications to the courts did not meet the criteria and lacked evidence of statutory welfare needs of children, these were referred appropriately back to the courts. The majority of assessments take account of the immediate and wider family and significant others for the child. Most assessments are child focused, purposeful and focused on improving outcomes for children and young people. A small minority of assessments do not involve all the key figures in the child or young person's life, for example schools or members of the extended family. In the cases seen by inspectors, the majority of public law cases scrutinised local authority assessments and care plans appropriately. However, feedback from local authority partners was that the quality of public law work is more variable.

Direct work with children and young people is good. Practitioners are skilled in engaging effectively with children and young people using a range of age-appropriate techniques. The wishes and feelings of children and young people are assessed and reflected in most assessments. However, assessments are not always shared with children and young people and their families.

Although the Ofsted survey shows that children and young people feel Cafcass practitioners listen to their views and concerns, they do not feel that what they said made a difference to the outcome of the case.

## **Reporting and recommendations to the court**

### **Grade 3**

Reporting and recommendations to the court are satisfactory.

Most court reports seen by inspectors were satisfactory or better with clear conclusions and recommendations. Three examples of reports seen during the inspection were outstanding but a few were inadequate. Most reports were well written with recommendations which followed logically from the text, were clearly evidenced, and with the options available to the court considered carefully including the 'no order' principle. Generally reports were proportionate to need and, in public law cases, referred to but did not repeat information which the court already had from the work of the local authority. Some good examples were seen of a careful consideration of every aspect of the welfare checklist, but this was not consistent across all reports.

However, reports are not routinely shared with children and families prior to court hearings and a fifth of cases identified by the service area through internal audit remain inadequate in quality. Service managers do not read every report before it is filed with the court, resulting in some peer reading of reports. The quality assurance of court reports is insufficiently robust.

## **Complaints**

### **Grade 4**

Complaints handling is inadequate.

The service area is very slow to answer complaints and does not meet the national timescales. The information sent to users about the complaints procedure is good but the service area does not provide it in a timely manner. Fewer than half of the service users who responded to the Ofsted survey said they knew how to make a complaint about the service they received from Cafcass.

Learning points from complaints are known and disseminated by the area but there is little evidence that lessons learned translate into sustained improvements in service delivery. The business plan lacks rigour in its attention to improvement in complaints handling.

However, the quality of the response to complaints is good in most cases. The small number of complaints from children and young people are handled well including providing independent advocacy where this is appropriate. The deficits in complaints

handling are recognised at a local and national level and plans are in place to revise the national complaints policy.

## **Outcomes for children and young people**

### **Grade 4**

The contribution of the service area to improving outcomes for children is inadequate.

Despite an emphasis on child focused assessment, the service area does not ensure that consistent consideration of the impact of family breakdown on outcomes for children is embedded in all aspects of case planning and reporting to court. The impact of the local delay in the allocation of many cases means that the contribution of the service in ensuring that all children are safe or feel safe is inadequate.

While children's views are frequently well represented in court reports, assessments and direct work with them, there is insufficient analysis of the effect of family disruption on children's physical and emotional health, educational progress and economic well-being.

## Definitions

### Family assistance order

This is a short-term order made by the courts for some families following separation or divorce. A family assistance order is designed to give specialist help where it is needed if it is in the child's interest and if the aims can be achieved.

Consent is required from everyone named in the order except any children.<sup>1</sup>

### Inspection grades

Grade 1 Outstanding

Grade 2 Good

Grade 3 Satisfactory

Grade 4 Inadequate.

### 'No order principle'

Children Act 1989 section 1(5) is known as the 'no order principle'.<sup>2</sup> It states: 'Where a court is considering whether or not to make one or more orders under this Act with respect to a child, it shall not make the order or any of the orders unless it considers that doing so would be better for the child than making no order at all.' The 'no order principle' is consistent with two of the philosophies underlying the Children Act 1989: that there should be minimum state intervention in family life and that parents should exercise and be encouraged to exercise responsibility for their children.<sup>3</sup>

### Principle of 'no delay'

Section 1(2) of the Children Act 1989 sets out the general principle that any delay in determining the question about a child's upbringing 'is likely to prejudice the welfare of the child'. This means that any unnecessary delay should be avoided.

### Private and public law

Family law is that area of the law which regulates and deals with family and domestic relations, including, but not limited to, marriage, civil and domestic partnerships and the welfare of children. Where these matters are dealt with by courts, they are known as family proceedings. The person or body that brings the issue to court is known as the applicant and the person or body opposing the application is known as

---

<sup>1</sup> C Prest and S Wildblood, *Children law: an interdisciplinary handbook*, Jordans, 2005.

<sup>2</sup> [www.opsi.gov.uk/ACTS/acts1989/ukpga\\_19890041\\_en\\_2](http://www.opsi.gov.uk/ACTS/acts1989/ukpga_19890041_en_2).

<sup>3</sup> See footnote 1.

the respondent. In general terms applicants and respondents are known as parties to the proceedings.

Private law is that part of the family law where the state does not normally need to be involved. Private law proceedings involving Cafcass are usually about situations where parents have separated and they cannot agree where a child should live or with whom they should have contact. The law that established Cafcass states that it should only become involved in family proceedings where the welfare of the child is, or may be, in question.

Private law cases are dealt with through what is known as The Private Law Programme. This is designed to provide a framework for the consistent national approach to the resolution of issues in private law proceedings. It is designed to assist parties to reach safe agreements where possible, to provide a forum in which to find the best way to resolve issues in each individual case and to promote outcomes that are sustainable, that are in the best interests of children and that take account of their perspectives.

Public law is that part of the family law which deals with relationships between parents, or those with a parental role, where the state does need to be involved to ensure that a child does not suffer significant harm. Court proceedings are usually initiated by a local authority applying for a care or supervision order. This may result in the child being looked after by the local authority under a care order. Adoption-related applications are also normally public law proceedings.

Public law cases are dealt with through the Public Law Outline.<sup>4</sup> This is a system aimed to control delay in family court public law proceedings. It was introduced across England and Wales in April 2009, with new Statutory Guidance for Local Authorities.

## **Review reports**

These are reports that update the court about progress made, or lack of, in arrangements agreed by parties in court orders.

## **Rule 9.5 cases**

The proper conduct and disposal of proceedings concerning a child that are not specified within the meaning of section 41 of the Children Act 1989 (that is, many public law proceedings) may require the child to be made a party to the proceedings. Rule 9.5 of the Court Rules provides for this and for the appointment of a guardian ad litem for the child party. This will apply in private law proceedings, usually Children Act 1989 section 8 applications concerning residence, contact, specific issues or prohibited steps.

---

<sup>4</sup> For further information visit: [www.justice.gov.uk/guidance/careproceedings.htm](http://www.justice.gov.uk/guidance/careproceedings.htm).

Arrangements for the use of Cafcass in such cases are governed by a Practice Direction issued by the President of the Family Division.

## **Section 37 enquiry**

Section 37(1) of the Children Act 1989 sets out the following powers of the court: 'Where, in any family proceedings in which a question arises with respect to the welfare of any child, it appears to the court that it may be appropriate for a care or supervision order to be made with respect to him, the court may direct the appropriate authority to undertake an investigation of the child's circumstances.' The appropriate authority is the local area children's services.

## **Welfare checklist**

The Children Act 1989 section 1(3) sets out what is known as the welfare checklist. It comprises seven features that should be balanced equally when courts consider whether an order should be made. The welfare checklist considers: children's wishes and feelings; their physical, emotional and educational needs; the likely effect of any change in circumstances; characteristics that make up their identity; any harm suffered or at risk of suffering; parental capability; and the court's powers. The Adoption and Children Act 2002 section 120 extends the definition of harm within the meaning of the Children Act 1989 section 31, 'including, for example, impairment suffered from seeing or hearing the ill-treatment of another'.<sup>5</sup> Under court rules, Cafcass practitioners are under a duty to have regard to 'the matters set out in section 1(3)'. Note: Requirements in regulations and court rules are not 'statutory' in that they are not set out in a statute and are therefore secondary legislation.

---

<sup>5</sup> [www.opsi.gov.uk/ACTS/acts2002/ukpga\\_20020038\\_en\\_9#pt2-l1g120](http://www.opsi.gov.uk/ACTS/acts2002/ukpga_20020038_en_9#pt2-l1g120).