



House of Commons

Committee on the
Lord Chancellor's Department

**Children and Family
Court Advisory and
Support Service
(CAFCASS)**

Third Report of Session 2002–03

Volume I



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Report, together with formal minutes

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The Committee on the Lord Chancellor's Department

The Committee on the Lord Chancellor's Department is appointed by the House of Commons to examine the expenditure, administration, and policy of the Lord Chancellor's Department and associated public bodies.

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Summary

The Children and Family Court Advisory and Support Service (CAFCASS) was established on 1 April 2001. It brought together the work of securing children's welfare through representation and reporting previously done by the Family Court Welfare Service, the Guardian ad Litem and Reporting Officer panels and the Children's Division of the Official Solicitor. At the time our inquiry started, CAFCASS fell within the responsibility of the Lord Chancellor; that responsibility has now been transferred to the Minister for Children in the Department for Education and Skills.

The skill and devotion of staff throughout the organisation and their commitment to the children they serve is not to be gainsaid, and criticisms of the way CAFCASS's difficulties have been handled should not detract from that. Nevertheless, widespread concern about CAFCASS's performance has been apparent ever since it was set up. A dispute with the self-employed guardians who made up the bulk of the pre-CAFCASS workforce on the public law side of the new organisation's work led to a loss of staff which had a serious impact on CAFCASS's ability to deliver core services. CAFCASS found itself unable to cope with increasing demand for its services and significant delays in the allocation of guardians to cases persisted. Meanwhile CAFCASS failed to improve the service offered by the Family Court Welfare Service in private law disputes. Many vulnerable children were left without full representation at critical times as a result.

Our inquiry found serious failings in the establishment and management of the new Service. Too little time was allowed for its establishment, leaving the organisation at a disadvantage from the start. Once established, CAFCASS failed to make proper use of the preparatory work which had been done, compounding the difficulties. Relations with self-employed guardians were mishandled, resulting in the alienation of an important sector of the workforce. The focus on the dispute and an over-emphasis on the creation of management structures led to the neglect of other important aspects of the service, including training and professional development, IT and the development of support services for children and families experiencing relationship breakdown. Meanwhile, the delivery of CAFCASS's core services failed to improve.

A CAFCASS Board lacking experience and expertise in key areas of the organisation's work proved unable to exercise effective oversight or provide appropriate strategic direction, hindered by confusion over lines of accountability and the respective roles of the Board, the senior management team and the Lord Chancellor's Department. The dismissal of the original Chief Executive caused further disruption to CAFCASS's work, while LCD itself managed to create the impression that its prime interest in the new Service was in keeping costs down.

We make a number of recommendations aimed at enabling CAFCASS to become the "high quality service operating to the best professional standards" envisaged when it was first proposed. The priority for CAFCASS must be for it to get to grips with its service delivery duties, and clear the backlog of cases which has been allowed to build up. To assist in doing so, it should conduct a comprehensive workforce planning exercise aimed at ensuring that it knows what resources are needed. It should establish a dedicated training

and professional development strand and enable the effective performance management of its front-line practitioners. It should put in place a fully fledged case management system which will allow the collation of reliable information for management and research purposes and relieve some of the burden on hard-pressed front-line managers. It should indicate the role it envisages for itself in the provision of support services, and develop relations with other bodies working in the field, particularly the Legal Services Commission. Additionally, it should develop its research capacity so that it can establish “what works” for children experiencing family breakdown.

Changes are also required in corporate governance. CAF/CASS needs to demonstrate clearly and unambiguously that it is putting children and young people first in all it does. It should re-examine its management structures with a view to ensuring that it has a management style appropriate to the work it does. CAF/CASS’s Framework Document should be rewritten so that it explicitly reflects the Service’s core tasks and sets out the proper constitutional relationship between CAF/CASS as an NDPB and its parent Department. There should be a fundamental review of membership of the Board, with the aim of bringing onto it people of experience and stature who can develop the strategy necessary to deliver an effective, child-centred service. The new Board should take steps to ensure that it is able to carry out effectively its function of providing strategic direction and holding senior management to account.

CAF/CASS performs a vitally important function in the protection of vulnerable children at a critical time in their lives. In the two years of its existence so far considerable doubt has been cast on its ability to perform that function effectively. CAF/CASS needs to be helped to use, develop and build on the considerable skills which exist among its personnel and to become the kind of quality organisation it was originally intended to be. We hope that by addressing the concerns raised in this Report CAF/CASS will begin to regain the confidence of those working with and for it and show that it is an organisation genuinely and effectively committed to the children it serves.

1 Introduction

1. The Children and Family Court Advisory and Support Service, generally known by its acronym, CAFCASS, was formally established on 1 April 2001. It is a non-departmental public body accountable, at the time our inquiry started, to the Lord Chancellor. Following the machinery of government changes announced by the Prime Minister on 13 June,¹ responsibility for CAFCASS will now transfer to the Department for Education and Skills, under the Minister for Children. The organisation's role is to provide a service to the Courts in family proceedings. In the words of CAFCASS itself, "CAFCASS exists to ensure children and young people are put first in family proceedings; that their voices are properly heard; that the decisions made about them by courts are in their best interests; and that they and their families are supported throughout the process."²

Our inquiry

2. Our decision to inquire into the work of CAFCASS followed widespread concern about the organisation's performance. That concern has been apparent ever since the inception of the service in April 2001. Negotiations preceding the establishment of the new service led to a dispute with the self-employed guardians who, at that time, undertook the vast majority of the work on the public law side in most parts of the country.³ As a result, many left the service, and the consequent lack of staff resulted in increasing delays in the allocation of guardians to cases in public law.⁴ The problems were compounded by allegations of mismanagement at senior levels within CAFCASS which culminated in the suspension and eventual dismissal of the Chief Executive.⁵ Despite the assurance of the Lord Chancellor, in evidence to the Home Affairs Committee in October 2001, that he was "very much on the case",⁶ the impression continued to grow of a service in crisis. The importance of the work which CAFCASS undertakes—safeguarding the proper protection of some of the most vulnerable children in our society—led us to announce shortly after our own establishment an inquiry into the work of the organisation.

3. The importance of the work of CAFCASS, and the widespread nature of the concern over its performance, were reflected in the large number of submissions which we received. Nearly 80 individuals and organisations sent us written memoranda. We heard oral evidence from 12 of these, in addition to CAFCASS itself and the responsible Minister. A number of us also undertook visits to CAFCASS offices in our local areas.

4. We are grateful to all of those who submitted evidence, both written and oral, and to those who arranged and participated in the visits we undertook to local offices. We also express our thanks to our specialist advisers, Professor Judith Masson of the University of

¹ Number 10 press notice 13/06/2003, *Reform of children's services: Margaret Hodge appointed Minister of State for Children*

² CAFCASS Corporate Plan 2003/06, p 7

³ See paras 36–42 below

⁴ See paras 60–67 below

⁵ See paras 43–46 below

⁶ Home Affairs Committee, *Minutes of Evidence: The Rt Hon Lord Irvine of Lairg QC, and Sir Hayden Phillips KCB, The Work of the Lord Chancellor's Department*, HC (2001–02) 269, Q 114

Warwick and Professor Adrian James of the University of Bradford, for their help and guidance throughout this inquiry.

Acknowledging the devotion of CAFCASS practitioners

5. Before we set out our findings in relation to the work of CAFCASS, **we wish to acknowledge the skill and devotion of staff throughout the organisation and their commitment to the children they serve.** CAFCASS officer is a vital profession, and those who choose to take it up deserve every encouragement as well as recognition for the work they do. Throughout its difficult early period, CAFCASS has continued to be staffed by people who have worked very hard to achieve the best outcomes they could for the children for whom they are responsible. **The criticisms we make of the way CAFCASS's difficulties have been handled should not detract from that fact.**

Submissions from non-resident parents and those concerned about domestic violence

6. We also wish to respond to the submissions we have received relating to CAFCASS officers' practice in cases involving disputes over children's contact with non-resident parents, and where domestic violence has been an issue. The concerns which have been raised by these groups and individuals are many and varied. These issues have not been the focus of our inquiry, and we have not carried out any detailed investigations in connection with them. The most that we can say is that much more research needs to be done in this area, and we make recommendations below about how CAFCASS should address this need.⁷ Without such research, we cannot comment on the quality of work done in individual cases.

⁷ Para 166

2 The role of CAFCASS

Introduction to CAFCASS's role

7. Proceedings in which CAFCASS officers are involved may broadly be divided into two categories: private law proceedings, predominantly where parties (usually, but not exclusively, parents) cannot reach agreement on the best arrangements for the child; and public law proceedings, which concern applications for local authority care or supervision and other care related matters. CAFCASS officers are appointed by the Court to provide a report and, depending on the nature of the proceedings, to fulfil the respective functions of Children and Family Reporter, Children's Guardian, Reporting Officer or Parental Reporter.

8. The Criminal Justice and Court Services Act 2000 provides that the primary duties of CAFCASS in respect of family proceedings are to:

- a) Safeguard and promote the welfare of the children
- b) Give advice to any Court about any application made to it in such proceedings
- c) Make provision for the children to be represented in such proceedings, and
- d) Provide information, advice and other support for the children and their families.⁸

Private law proceedings

9. The principal role of the Children and Family Reporter is to investigate and report on issues concerning the welfare of children involved in disputes about residence and contact, at the request of the court. The role has traditionally been described as “acting as the eyes and ears of the Court.” The Children and Family Reporter may also assist parents to resolve any outstanding areas of disagreement, if this is possible during the course of their enquiries. CAFCASS is also responsible for the supervision of family assistance orders when these are made.⁹

Public law proceedings

10. The role of the children's guardian (formerly “guardian ad litem”) in public law proceedings is set out in the Children Act 1989 and accompanying court rules.¹⁰ The child is a party to these proceedings; the children's guardian represents the child, appointing and instructing the solicitor for the child in most cases, investigating fully the child's circumstances, advising the court about the management of the proceedings and preparing

⁸ Criminal Justice and Court Services Act 2000, s 12(1)

⁹ Children Act 1989 s 16 gave courts the power to make a family assistance order in exceptional circumstances and, with the agreement of those adults named in the order, to assist families with any continuing problems post-divorce. The assistance offered is defined as voluntary.

¹⁰ Children Act 1989, ss 41 and 42; Family Proceedings Rules 1991, rr 10, 11 and 11A

