

**PROTOCOL FOR ALLOCATING RESPONSIBILITIES
FOR COURT REPORTING IN PRIVATE LAW CHILDREN
ACT 1989 PROCEEDINGS BETWEEN CAFCASS AND
LOCAL AUTHORITY CHILDREN'S SERVICES**

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Contents

1.0	Introduction.....	3
2.0	Circumstances in which preparation of s7 reports by local authorities should be considered.....	4
3.0	When Cafcass prepares the reports.....	5
4.0	Communication between agencies.....	5
5.0	Reports pursuant to section 37 of the Children Act 1989.....	5
6.0	Liaison between agencies about the operation of this protocol.....	6

1. Introduction

- 1.1. This protocol should be considered together with the President of the Family Division's revised Private Law Programme (a trial of which is currently being undertaken); the Interim Guidance issued on 30th July by the President of the Family Division and agreed with Ministry of Justice, HMCS, Department for Education and Cafcass; and Cafcass' own Operating Priorities which were published in August 2009.
- 1.2. Pursuant to s7 Children Act 1989, courts can in private law cases direct either Cafcass or a local authority to report about "such matters relating to the welfare of the child as are required to be dealt with in the report". It is now envisaged that s7 directions will be much more specific about the issues to be addressed in reports and the President's Interim Guidance says that the practice of requesting a s7 report in general terms should cease. Reports may be limited to the child or children's wishes and feelings, or be directed to cover one or more defined issue. Additionally, the Interim Guidance says that the court should explore whether there is a way of determining the application without a report.
- 1.3. The filing dates for reports will be directed by the local court in accordance with local arrangements and should be complied with.
- 1.4. Cafcass will be directed to prepare reports in accordance with its statutory function of safeguarding and promoting the welfare of children and to give advice to the court.
- 1.5. There are certain circumstances in which it is more appropriate for s7 reports to be prepared by the relevant Local Authority Children's Service.
- 1.6. This protocol aims to:
 - a) Assist practitioners to identify the more appropriate agency (either Cafcass or Children's Services) to assist the court when it chooses to exercise its power under section 7 to request a welfare report.
 - b) Build on existing good collaboration and ensure that suitable liaison and information sharing arrangements between Cafcass and Children's Services are developed and maintained, in particular in circumstances in which Cafcass considers that it should be recommended to the court that Children's Services should prepare a s7 report.
 - c) Minimise delays in reporting to the court to assist courts to make decisions within the timescale for the child.

- d) Avoid unnecessary duplication and re-assessment, bearing in mind the impact on children and families of being subject to assessment by multiple agencies.
- e) Ensure efficient use of resources.

2. Circumstances in which preparation of s7 reports by local authorities should be considered

2.1. Children's Services will generally be the more appropriate agency to prepare s7 reports where:

- a) The child is the subject of a currently open case, in particular when:
 - i) The child is the subject of a child protection plan or the subject of a planned child protection conference.
 - ii) The child is currently the subject of a supervision order; or accommodated under s20 Children Act 1989.
 - iii) A core assessment is being undertaken by Children's Services or has been completed within the past month.
 - iv) Children's Services are carrying out enquiries pursuant to s47 Children Act 1989.
 - v) An initial assessment has commenced by Children's Services and it has already become apparent that further Children's Services involvement is likely.
 - vi) The child is currently in receipt of services as a "child in need" as defined in section 17 Children Act 1989.
 - vii) The child is subject to a family assistance order which directs the local authority to make an officer available.

Or

- b) the case has been in one of the categories set out in paragraph 2.1.a) above but within the past month has been closed by Children's Services, save in circumstances in which an initial assessment or s47 enquiries had concluded that there was no need for further action by Children's Services; or
- c) the court application was made as a result of a recommendation by Children's Services or with its support.

2.2. Where a child's case was closed by Children's Services more than a month before the date of issue of the court application, Cafcass may propose that Children's Services should undertake the task of preparing a s7 report, but it should only do so with the agreement of Children's Services.

3. When Cafcass prepares the reports

3.1. Cafcass will prepare reports in all circumstances other than those set out in paragraph 2.

3.2. It is acknowledged that there may be some circumstances in which Children's Services has current or recent involvement with the family but may not be best placed to complete the s7 report, for example, where it has previous knowledge of only one of the adult parties, or where its perceived neutrality, in the eyes of one or more of the parties, may be compromised because it is or appears to be in support of one of the adult parties' positions.

4. Communication between agencies

4.1. Because Cafcass screens all court applications, it is likely that before the first hearing it will be able to identify those cases where Children's Services should report to court. If, however, Cafcass is directed to provide a s7 report and it subsequently becomes aware that the circumstances set out in paragraph 2.1 apply, Cafcass may refer the matter to court for directions about which agency should prepare the report.

4.2. Where Children's Services' involvement is limited in nature or where its involvement ended more than a month prior to the issue of the court application, it will make all reasonable efforts to provide Cafcass with relevant information to assist in the task of enabling the court to make timely decisions for the child.

4.3. Wherever practicable prior to the first hearing, Cafcass will seek Children's Services' views about whether a section 7 report is needed and if so, about its focus and scope. At the first hearing Cafcass will inform the court of any views expressed by Children's Services.

5. Reports pursuant to Section 37 of the Children Act 1989

5.1. The court can order the local authority to undertake an investigation under section 37 of the 1989 Act if it appears to the court that it may be appropriate for a care or supervision order to be made.

5.2. When Cafcass is considering whether to make a recommendation to the court for a direction under section 37, it will wherever practicable consult with the relevant local authority prior to doing so.

6. Liaison between agencies about the operation of this protocol

6.1. Cafcass and Children's Services should use existing, local liaison methods (within Cafcass this may be a Service Manager or Head of Service) to consider issues arising from the operation of this protocol. Within Cafcass this task may be undertaken by a Service Manager or Head of Service. Possible issues could include the need to monitor the outcomes of reports in a local authority area, to help Children's Services reach a decision about the services to be provided generally to children and their families.

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