

Evidence submitted by CAFCASS

1. INTRODUCTION

1.1 CAFCASS was set up from 1 April 2001 as a national executive Non Departmental Public Body for England and Wales to provide the full range of services that support and represent children in family law proceedings. We bring together work previously undertaken in three separate services—the Family Court Welfare Service, Guardians Ad Litem and Reporting Officers, and the Children's Division of the Official Solicitor.

1.2 In January 2004 CAFCASS transferred from DCA to DfES.

2. THE STRATEGIC FRAMEWORK IN WHICH CAFCASS OPERATES

2.1 We now work within the strategic priorities set by DfES and contribute to the wider government objectives relating to children. In this context we will have a role to play in taking forward the proposals set out in the Children Bill currently before Parliament and other non legislative measures set out in the Green Paper Every Child Matters.

2.2 We have contributed to the proposals outlined in the Green Paper Parental Separation: Children's Needs and Parents' Responsibilities and we attach at Appendix 1 (**not printed**) our response to that consultation.

3. THE WORK OF CAFCASS

3.1 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.

3.2 We operate within the law set by Parliament and under the rules and directions of the family courts. Our role, as set out in legislation in respect of family proceedings in which the welfare of children is or may be in question, is to:

- safeguard and promote the welfare of the children;
- give advice to the family court about matters before it;
- make provision for children to be represented; and
- provide information, advice and support for children and their families.

3.3 During 2003-04 we responded to:

- 33,803 private law cases (that is applications for parental responsibility, residence and contact, where parents have been unable to reach agreement on these matters);
- 13,470 public law cases (that is applications for local authority care and supervision orders and applications for adoption);
- Overall these 47,273 applications involved 73,937 children and young people. Further information about our workload and demand is given later in the **Annex**.

3.4 In addition CAFCASS practitioners participated in over 350 alternative dispute resolution schemes. The MCSI Thematic Inspection Seeking Agreement, which looked at this element of our work, found that these could be grouped into seven different types of schemes. As part of our contribution to the implementation of the Green Paper we intend to work with others in the

Family Court System to identify common agreed criteria so that schemes such as the Essex scheme, mentioned in the Paper can be rolled out more widely and assist families to resolve more issues at an earlier stage.

We are also a major contributor to the Family Resolutions Pilot Project and have worked with commitment and enthusiasm in the development and roll out of the pilots. We would be very happy to provide more information about our alternative dispute resolution role.

3.5 At the other end of the spectrum CAFCASS practitioners supervised 607 new Family Assistance Orders in 2003-04. These orders provide additional advice and support to families after the final orders are made by the court. Current legislation restricts their use to exceptional circumstances only. We are currently undertaking some internal research on their use and effectiveness so that we can contribute authoritatively to the current proposals to review them.

4. ABOUT CAFCASS

4.1 We employ over 2,000 staff, including more than 1,300 practitioners and we also contracted with over 350 self employed guardians last year. We have continued to recruit additional self employed guardians to meet our objective of having a flexible workforce which can respond to fluctuations in demand. We are the largest employer and contractor of qualified social workers in the United Kingdom and on average our practitioners are more experienced than in any other social work organisation. When CAFCASS started our practitioners undertook exclusively private law work or exclusively public law work. New practitioners joining CAFCASS are trained to undertake both types of work and over time we plan to train and develop all practitioners who have the necessary skills and experience—and who wish to—to undertake the full range of work. We call this process convergence and believe that it will provide us with a more flexible workforce and create the unified service envisaged when CAFCASS was created.

Our 2004-05 operating budget is £107,830,000.

We work from 125 buildings across England and Wales (with a further 13 properties where we have interview facilities only). We also support 260 home workers who we provide with the same computer facilities as our office-based staff.

Our service delivery is structured through nine English regions, Wales and CAFCASS Legal. We have a small Headquarters, providing overall management of our operations and corporate support on finance, human resources and communications.

Following the Select Committee report on CAFCASS published in July 2003, the entire Board of CAFCASS was invited to resign. They were replaced by an Interim Board in January 2004 and a new board was appointed in the Spring of 2004.

The new members are:

Baroness Pitkeathley (Chair); Baroness Howarth of Breckland OBE; Gillian Baranski; Harry Marsh; Jennifer Bernard; Richard Sax; Margo Boye-Anawoma; Judith Timms OBE; Erica De'Ath OBE; Professor Jane Tunstill; Mark Eldridge; Nicholas Stuart (Co-opted member)

The new Board is rich in experience and expertise as well as strongly committed to CAFCASS' aims.

A new Chief Executive, Anthony Douglas, took up his post in September 2004.

The Director of Operations and the Director of Human Resources left CAFCASS in August and October 2004, respectively. As a consequence, the new Chief Executive is taking the

opportunity to review the senior management functions at Headquarters and has made the decision to reduce the tiers of management between himself and front line staff.

Both the new Chief Executive and the Board have made service delivery the top priority for CAFCASS. Action to achieve this includes:

- putting more resources into the operational teams and regions;
- putting a hold on non-frontline developments to create additional resources to fund frontline services and reduce delays;
- putting in place plans in each team and region to reduce delays in allocating cases;
- reducing the size and functions undertaken at Headquarters and devolving many functions closer to the front line;
- making decisions more open and inclusive; and
- involving all staff and self employed practitioners in developments and decisions within CAFCASS.

In his first two months in post Anthony Douglas the new Chief Executive has:

- visited 32 teams around the country, met with over 600 staff and all key stakeholders, and initiated programmes to transform the internal culture of CAFCASS, now set out in a detailed consultation paper;
- changed the decision-making process so that decisions are made quickly and are widely publicised;
- provided free access to the CAFCASS Intranet for all self-employed practitioners, and removed restrictions on the CAFCASS Smart Group as part of making the organisation more transparent and open;
- contributed to numerous press articles;
- spoken at a number of conferences and events to promote CAFCASS work;
- begun discussions with key agencies in the family justice system about working more effectively together, including the potential development of joint dispute resolution teams; and
- changed the Human Resources functions and policies into a new Staff Support and Development Service.

5. FIRST YEAR ISSUES

5.1 Detailed information on the difficulties associated with the set up and start up were provided to an earlier inquiry of this committee, which reported on the work of CAFCASS. We do not intend to repeat the evidence given but this is available if required. Following the publication of the report CAFCASS prepared a detailed Action Plan to address the Committee's recommendations and findings.

We had already commenced work on many of the areas identified by the committee and found the committee report positive in reinforcing many of the actions taken. The Action Plan and progress against it can be made available to the Committee on request.

5.2 More information about our performance in our first three years is given in our 2001-02, 2002-03 and 2003-04 Annual Reports.

6. PROGRESS IN THE LAST YEAR

6.1 Over the last year we have substantially reduced delays in the allocation of public law cases, which were a matter of concern at the time of the previous Select Committee.

6.2 We understand that this Committee is focusing on Private Law proceedings. We accept that there is still more work to do to achieve consistent speedy allocation of private law cases in many parts of the country. The causes of delay are complex and include a growth in workload demand, staff sickness, delays and in some places inability to recruit significant numbers of practitioners.

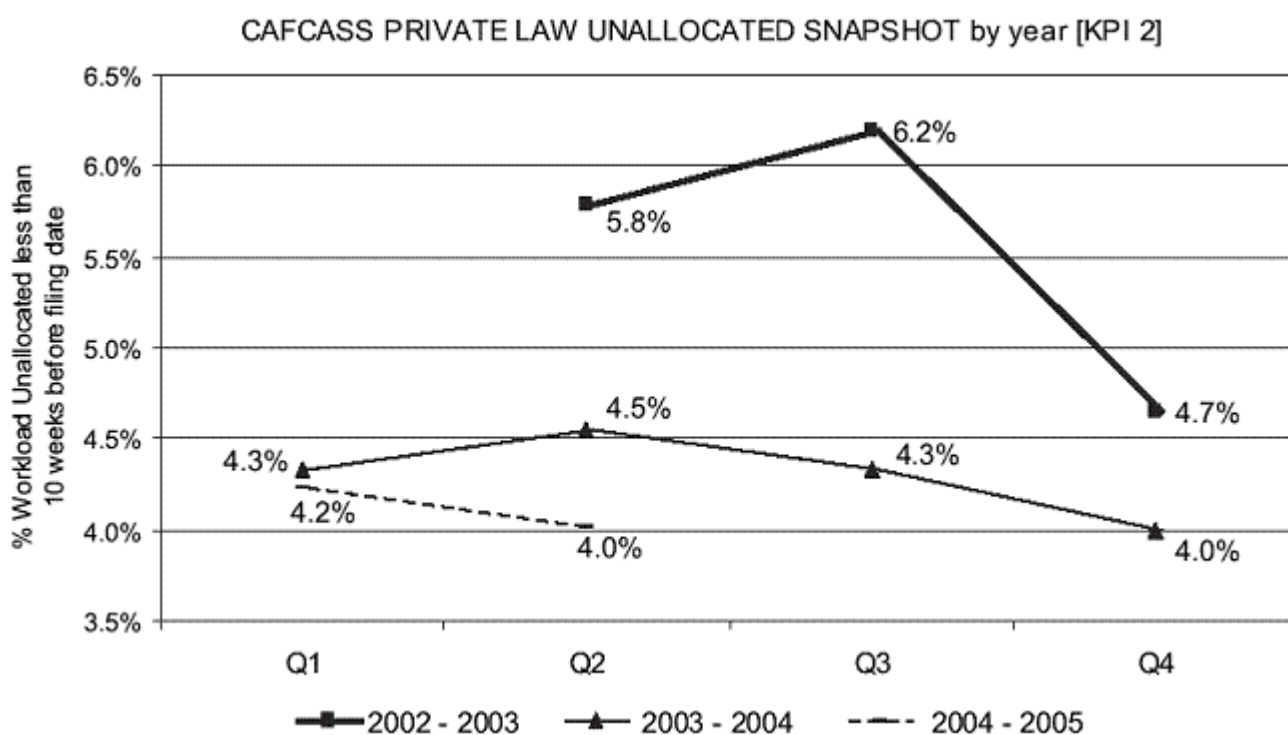
The measures that we have so far taken to reduce delay include: developing a staff bank scheme, extending the self employed contract to take on private law cases, and giving new staff a mixed caseload.

The most recent performance reports to the Board and our sponsorship Department demonstrate the progress that has been made. Progress on Regions not meeting required performance levels is reported to the Board monthly.

6.5 CAF/CASS is set Key Performance Indicators (KPI) by its sponsoring department. The most relevant in the context of Private Law cases is our KPI 2, which relates to keeping unallocated cases to the minimum.

KPI 2—The number of reports unallocated less than 10 weeks before Court filing date for the month should be no more than the target of 4% of the workload.

This KPI along with the others is monitored on a monthly and quarterly basis. The graph below shows the cumulative second quarter figure of 4.0%:



Performance (target met): Six regions and Wales met the target for the quarter: East Midlands (0.4%), Eastern (0%), North East (3.9%), North West (1.2%), South East (3.3%), Wales (0.5%)

and Yorkshire & Humberside (3.2%)

Performance (target not met): Three regions did not meet the target for the quarter: Greater London (8.1%), South West (10.6%) and West Midlands (6.4%). While these regions have a quarterly percentage that did not meet the target, all show a substantial downward trend from July to September. Greater London dropped from 14.7% in July to 2.0% in September. South West dropped from 11.4% in July to 8.8% in September. West Midlands dropped from 9.7% in July to 2.8% in September.

We also monitor whether regions and teams are able to meet the filing dates of the courts. In this we continue to aspire to the target that Private Law reports should be prepared within 10-12 weeks of the filing date. Teams who are unable to meet this requirement may make arrangements with their Courts to extend the timetable for preparing reports. These teams with extended agreed times will still continue to be counted as unallocated less than 10 weeks before filing date. Wales is the only region whose teams have not made these arrangements with their Courts and work to the agreed timetable. Of the other teams within CAF/CASS, 2.5% (two teams) may extend times with the Courts on a case-by-case basis, 50.6% (41 teams) meet the 10-12 week requirement, 19.7% (16 teams) have agreed times of 13-14 weeks, 21% (17 teams) have agreed times of 15-16 weeks and 6.2% (five teams) have agreed times over 17 weeks.

7. THE WIDER FAMILY SYSTEM

7.1 We do however believe that some of the issues contributing to the delays lie beyond the sole control of CAF/CASS. The Magistrates Courts Service Inspectorate, which undertakes the inspection functions of CAF/CASS for DfES, conducted an inspection into delays. They found that while CAF/CASS was focusing on clearing backlogs of unallocated work there was much more that could be done with the courts and others in the family justice system to reduce delays throughout the system, agree alternative dispute and case management processes as well as agreeing appropriate thresholds for requesting reports.

7.2 This year the sponsoring Departmental minister commissioned a report from a consultant, Ernie Finch, into public law delays in the court system and process. Mr Finch has come up with a range of findings and recommendations that point to the need for all agencies in the family justice system to work together to reduce delays and improve services to families and children. Most of his recommendations have been incorporated into the Programme Board on Reducing Delays along with the implementation of the Judicial Protocol.

This work is led at ministerial level by a group with representatives from all the key agencies, including the President of the Family Division. CAF/CASS believes that many of the issues identified in the Finch report on public law also pertain to private law and recommends that a similar approach is taken and a protocol developed for private law cases.

8. OUR WORK WITH FAMILIES

8.1 As stated already CAF/CASS has contributed to the work leading up to the Green Paper and the President's Private Law framework. We are committed and enthusiastic about taking the proposed development forward and believe that CAF/CASS is now ready to realise the promise made when it was created to see in place a far greater range of support services to families and courts.

8.2 Below are examples of our work, some of which will be familiar. It is worth remembering, however, that behind every high profile and heart-rending story that hits the headlines there is a CAF/CASS practitioner working discreetly with the family to ensure that the interests of the child are put first. Not always, or even often, an easy role in private law work.

Case Study 1: Allegations of Violence

A father applied for contact of three children aged 10, five and two. The mother opposed the application, saying the father is extremely violent and has never shown an interest in the children. She claimed his application was motivated by a desire to control her and disrupt her new relationship. This is a reasonably familiar scenario to us in CAF/CASS. Police checks revealed 20 "domestic" incidents when the couple lived together. Of these 60% were when help was summoned by the mother, and 40% when help was summoned by the father. No charges were ever brought. Since the couple separated 15 months previously, contact had been sporadic and at times violence apparently broke out between the parents. The mother is a white UK citizen and has a history of depression. The father is a second generation British citizen, his family being from the Indian sub-continent. Cultural issues added to the complexity of the case.

A great deal of work was done with the family and three reports for the Court were prepared. A number of supervised contact sessions were arranged by the CAF/CASS Family Court Adviser, who also advised the Court that a Family Assistance Order would be useful. The CAF/CASS practitioner conducted a number of joint interviews with both parents, whose attitude softened considerably over a period of time. The parents began to prioritise the needs of their children and satisfactory contact arrangements are now in place.

This case illustrates how most of our work is not in the report writing, but report writing plus direct work with children and parents to move a situation on. Many situations we resolve are initially as intractable as this one. Only a very small proportion require a court hearing, and even when Orders are made, this is usually with consent, the parties having agreed a way forward.

Case Study 2: Complex special needs

D is a seven year old girl with special needs who has not had contact with her birth father for four years, apart from letters which may or may not have been received or opened. He has applied for direct contact. D's mother, with whom she lives, has two other children, also with special needs. D's father has a learning disability. In order to be able to make a clear recommendation to court, the CAF/CASS Family Court Adviser spoke with all the available relatives, a number of local professionals who are working with the family including a child mental health professional, and another professional dealing with specific aspects of the child's learning difficulties. The CAF/CASS practitioner also gathered all known information from local agencies. Direct communication with D through the use of play and materials showed her to be apprehensive about her father. The mother opposed direct contact, even if supervised. The CAF/CASS practitioner concluded that D would benefit from continuing indirect contact with her father, through letters, postcards and exchanges of photographs. She recommended work be done with D's father so he could understand her views, needs and wishes, and direct work with D's mother, so she could see the potential benefits of some structured supervised contact in the future.

The case illustrates how many children referred in private law cases are children in need, and how a full assessment and focused follow-up work is often required.

Case Study 3: intractable contact issues

Mr Justice Wall (as he then was) gave judgment in an intractable contact case in January 2003. He followed the recommendation of the CAF/CASS Legal practitioner and transferred residence of the two children from the mother who he found had been undermining contact to the father who was unimpeachable.

This is a relatively unusual but by no means unique outcome. The judge praised the work of our practitioner who had disagreed in her report with the opinion of a consultant child psychiatrist whom she had commissioned to provide expert medical evidence in what was a

very complex case.

Case Study 4: Medical treatment—representation of a very young baby

The tragic case of baby Luke Winston-Jones was heard in open court by the President on 22 October 2004. Luke is a baby boy who is approximately nine months old. He suffers from Edward's Syndrome. Doctor's treating Luke concluded that cardiac massage and ventilation were not appropriate for Luke in his condition, and so sought a treatment limiting order from the Court. His mother, Ruth Winston-Jones, wished for treatment to be given contrary to the Doctor's clinical judgment. A CAFCASS Legal practitioner was appointed as guardian *ad litem* to protect Luke's best interests. She visited the mother and Luke in hospital, instructed an independent medical expert and attended meetings to try to narrow the issues in the case. It is likely that in the short term there will be more such cases that are emotionally demanding as well as requiring intensive work from social work practitioners and lawyers in CAFCASS Legal over a very short period of time.

The above cases give a mere glimpse at the complexity and distress that our practitioners worked with in the nearly 39,000 cases that were referred to us last year.

9. CONCLUSION

9.1 Since the inception of CAFCASS much has been said about putting the additional "S", the support "S" in CAFCASS into place. The above case studies demonstrate that some of that is already happening, but as we have stated in our Green Paper response we believe that much more can be achieved.

9.2 We firmly believe that as an organisation we are now ready to put a sharper focus on our role in private law work. We are keen to work with other agencies and the independent and voluntary sector to achieve the changes proposed in the Green Paper and we believe that if our resources can be focussed on the more complex cases much earlier on in the process that we will be able to make a real difference.

9.3 We are committed to work with others to achieve real changes both within CAFCASS and within the wider Family Courts System so that children can continue to enjoy safe and meaningful relationships with both parents and wider family members following separation and divorce. We believe that this is achievable and in the best interests of most children if they are to grow up and develop mature adult relationships and ultimately become parents themselves.

Children and Family Court Advisory and Support Service

1 November 2004

Annex

CAFCASS WORKLOADS AND RESOURCES

1. WORKLOADS

<i>Type of work</i>	<i>2001-02 actual</i>	<i>2002-03 actual</i>	<i>2003-04 actual</i>
Private law requests	34,704	34,761	33,803
Public law requests	13,462	13,815	13,470
Total requests	48,166	48,576	47,273

Family assistance orders	436	582	607
Privileged mediation	4,346	4,650	3,632
Directions Hearings	N/A	N/A	38,750 *

* Directions hearings involving CAFCASS practitioners undertaking alternative dispute resolution have resulted in a reduction in the number of privileged mediations during the last year. This information was not consistently collated from all teams in the past

Note: 2001-02 figures based on six months actual data. Our workload is determined by the number of applications to the family courts and is not within our direct control.

2. PEOPLE

<i>Region</i>	<i>Self employed (headcount)</i>	<i>Employed staff in Post (headcount)</i>	<i>In Post (WTE)</i>
Eastern	40	126	105.89
East Midlands	15	142	125.89
Headquarters	0	87	80.6
Legal Services	0	28	28
London	94	212	187.4
North East	11	132	117.38
North West	23	307	276.05
South East	90	188	151.59
South West	30	167	139.3
Wales	15	148	127.8
West Midlands	59	212	182.93
Yorkshire & Humberside	11	274	242.86
TOTALS	388	2,023	1,765.69

Staff Group (employed)

In Post (headcount)

Family Court Advisors

1,307

Service Managers	126
Directors (inc. Chief Executive)	5
Board Members	12
Senior Managers (Divisional Directors, Assistant Directors, Regional, Managers and Business Managers)	34
Specialists (Lawyers and HR Advisors)	41
Administrative Staff (Regional and Headquarters support functions)	420
Assistant FCA	6
Ancillary Staff	20
Support Worker	3
Sessional and Bank Scheme	53

Note: based on data at 30 September 2004.

3. FINANCIAL RESOURCES 2004-05

<i>Budget type</i>	<i>Annual operating budget £000's</i>	<i>% of total</i>
Staff	66,153	62
Contract (self employed guardians) and agency	12,399	11
Total staff	78,552	73
Running costs	23,283	22
Accommodation	4,711	4
Partnerships	1,284	1
Capital	0	0
Total non staff	29,278	27
Overall total	107,830	