

7 February 2025

Dear

Request for Information - ATISN 23253

Thank you for your correspondence received on 10 January, part of which has been processed as a request for recorded information under the Freedom of Information Act (FoIA). This letter is our response to your FoIA request (you will receive a separate response concerning the additional issues you raised). You asked:

1. Does CAFCASS Cymru have a policy similar to CAFCASS England's "Management Support, Supervision, and Oversight Policy" detailing when an FCA should seek supervision or consult a manager? Are there any similar policy's applicable in Wales where there is a requirement for a review of the Child's Plan at 26 weeks? If so, could you provide details on how this review process is conducted?
2. CAFCASS England has a policy called "Engaging with and seeing children policy". Does CAFCASS Cymru have a similar policy?
3. Does CAFCASS Cymru have a policy similar to CAFCASS England's "Policy on engaging with partners, grandparents, wider family members, and professionals"? Specifically, are there guidelines for involving both paternal and maternal grandparents and anyone else close to the child to ensure balanced assessments, and protocols for consulting additional individuals if recommendations change due to specific incidents, to get a broader picture?
4. Are there policies in place outlining an internal process for residency changes to ensure decisions align with the child's best interests? Specifically, is there a framework similar to CAFCASS England's "Management Support, Supervision and Oversight Policy" which requires FCAs to seek supervision or consult with a manager?
5. Does CAFCASS Cymru use the same main policies and frameworks as CAFCASS England, such as the "Domestic Abuse Policy" or the "Assessing Coercive Control framework"? If so, which ones, and are they adapted for Wales? If CAFCASS Cymru has their own, distinct safeguarding and domestic abuse policies, please provide these, along with updates, and clarify which policies are shared and which are exclusive to CAFCASS Cymru for comparison.
6. What frameworks and tools are used to assess domestic abuse versus conflict, and are these the same as those available on the CAFCASS England website?
7. Does CAFCASS Cymru have a similar document to CAFCASS England's "Practice Quality Standards in Private Law" that provides specific questions to assist FCA's in reflecting on their decisions, engaging meaningfully with children, and appropriately assessing risks? If so, what is the name of that document? Can you provide it.

8. Can you provide the document which states there is no requirement to log calls?
9. Are all CAFCASS Cymru staff trained to recognise domestic abuse, coercive control, and trauma? Specifically, what training did staff receive on identifying and handling these issues prior to the introductory training provided by the Safe & Together Institute in March 2024?
10. What specific qualifications and training does the FCA in my case hold, beyond their qualification as a social worker, to work within CAFCASS Cymru and handle cases involving domestic abuse, coercive control, and trauma? Please provide details on any additional certifications or training specific to these areas.

Our response

1. Cafcass Cymru has an operational procedure for supervision, a copy of which is attached. There is no requirement for a review of the case plan at 26 weeks.
2. We do not hold information matching the description of your request. The duties of Cafcass Cymru officers in relation to conducting their enquiries are set out in legislation, practice directions issued by the President of the Family Division and the specific directions made in orders of the court in relation to each particular case, for example, Practice Direction 12B (pilot) sets out what the Child Impact Report should include.
3. We do not hold information matching the description of your request. The duties of Cafcass Cymru officers in relation to conducting their enquiries are set out in legislation, practice directions and the specific directions made in orders of the court.
4. Cafcass Cymru has an operational procedure for supervision, a copy of which is attached. There is no policy outlining an internal process for recommendations relating to change in residence.
5. The documents listed below (and published on our website) provide information and advise our practitioners on victims of domestic abuse, and in relation to features of coercive and controlling behaviour:
 - [Domestic abuse information sheet | GOV.WALES](#)
 - [Guidance for Cafcass Cymru practitioners about children experiencing domestic abuse | GOV.WALES](#)

We have also published on our website an update setting out our position in relation to domestic abuse improvement and cultural change [Domestic Abuse Improvement and Cultural Change: update statement July 2024 | GOV.WALES](#) .

The following documents have also been provided as attachments to the covering email with this letter:

- *Cafcass Cymru Domestic Abuse Practice Guidance* (this document is currently being updated to reflect changes including the Harm Panel Report, the Domestic Abuse Act and the rollout of the Pathfinder model across Wales, and is currently not available on our website whilst it is being updated).
- Cafcass Cymru's operational safeguarding procedure (similarly due to be reviewed).

Cafcass Cymru is a distinct organisation to Cafcass in England and does not share any of the policies or frameworks of Cafcass.

6. Please see the answer to Point 5 above.

7. We do not hold information matching the description of your request.

8. We do not hold information matching the description of your request.

9. The following training was provided on these issues prior to March 2024: Safe & Together Overview; CC-CAWAC (Cafcass Cymru Child and Adolescent Welfare Assessment Checklist); Domestic Abuse & Alienating Behaviours; and Trauma Model training. Cafcass Cymru practitioners receive training in respect of domestic abuse, coercive control, and trauma.

10. We have concluded the information requested amounts to third party personal data and is exempt from disclosure under section 40(2) of the Freedom of Information Act, 2000 (FOIA), as set out below.

When considering whether or not the exemption applies, I have to consider the effect of disclosure in response to a FOIA request. That is, the information is released to the world not just the person making the request. As such, it is the effects of that wider disclosure which needs to be considered.

Freedom of Information Act 2000: Section 40(2)

Section 40(2), of the FOIA, together with the conditions in section 40(3)(a)(i) or 40(3)(b) provides an absolute exemption if disclosure of the personal data would breach any of the data protection principles.

'Personal data' is defined in sections 3(2) and (3) of the Data Protection Act 2018 ('the DPA 2018') and means any information relating to an identified or identifiable living individual. An identifiable living individual is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual.

We have concluded that, in this instance, the information requested contains third party personal data.

Under Section 40(2) of the FOIA, personal data is exempt from release if disclosure would breach one of the data protection principles set out in Article 5 of the GDPR.

We consider the principle being most relevant in this instance as being the first. This states that personal data must be:

“processed lawfully, fairly and in a transparent manner in relation to the data subject”

The lawful basis that is most relevant in relation to a request for information under the FOIA is Article 6(1)(f). This states:

“processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child”.

In considering the application of Article 6(1)(f) in the context of a request for information under FOIA it is necessary to consider the following three-part test:

- **The Legitimate interest test:** Whether a legitimate interest is being pursued in the request for information;
- **The Necessity test:** Whether disclosure of the information/confirmation or denial that it is held is necessary to meet the legitimate interest in question;
- **The Balancing test:** Whether the above interests override the interests, fundamental rights and freedoms of the data subject.

Our consideration of these tests is set out below:

1. Legitimate interests

The Welsh Government recognises there is a legitimate interest in members of the public being assured that an individual employed as a Cafcass Cymru FCA is qualified, experienced and competent to do that job.

2. Is disclosure necessary?

The information provided below sets out the qualifications and experience necessary to be employed as an FCA. This information is in the public domain and applies to all FCAs. We are satisfied access to this information demonstrates to the public that all FCAs are suitably qualified do undertake their role and we do not therefore consider it necessary to disclose information relating to specific individuals.

We ensure that all FCAs are suitably qualified and competent to undertake their role. To take up appointment, FCAs need to hold a Diploma in Social Work (or Social Care Wales recognised equivalent) and a minimum of 3 years post qualifying experience of working with children and their families. They also need to demonstrate that they are registered with Social Care Wales.

All Cafcass Cymru Family Court Advisers (FCAs) have a minimum of three years' direct experience of working with children and their families before they are employed by Cafcass Cymru. They will have significant experience of working with issues such as breakdown in relationships, adults behaving in a controlling and abusive manner and working to reunite families and restore relationships.

3. The balance between legitimate interests and the data subject's interests or fundamental rights and freedoms

We recognise there is a wider public interest in knowing individuals are suitably qualified and experienced to carry out their roles. We believe the information as set out above provides this assurance.

We believe that the legitimate interest in understanding the relevant qualifications and length of service of FCAs is therefore satisfied and there is no reason for disclosing detailed information on any particular individual FCA that would override the interests, fundamental rights and freedoms of the data subject provided by the DPA 2018. Consequentially we believe the rights of the FCA outweigh any wider public interest and disclosure would breach the DPA 2018 and thus the information is exempt from disclosure.

Further, even if release of the information were considered to be lawful, we believe that the 'fair' requirement of the above principle would not be satisfied. This is because the data subject (the Family Court Advisor) is not a senior civil servant and they would have no reasonable expectation that their personal information would be put into the public domain. Thus, we believe release of this information into the public domain would be unfair and incompatible with the purpose for which the data was originally obtained.

As release of the information would not be legitimate under Article 6(1)(f), and as no other condition of Article 6 is deemed to apply, release of the information would not be lawful within the meaning of the first data protection principle. It has therefore been withheld under section 40 of the Freedom of Information Act. Section 40 is an absolute exemption and not subject to the public interest test.

If you are dissatisfied with our handling of your request, you can ask for an internal review within 40 working days of the date of this response. Requests for an internal review should be addressed to:

Nigel Brown
Chief Executive
Cafcass Cymru
cafcasscymru@gov.wales

Please remember to quote the ATISN reference number above.

You also have the right to complain to the Information Commissioner. Normally, however, you should pursue the matter through our internal procedure before you complain to the Information Commissioner.

The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Telephone: 0303 123 1113
Website: www.ico.org.uk

Yours sincerely