



CAFCASS

What do the letters CAFCASS stand for?

The Children and Family Court Advisory and Support Service (CAFCASS).

What is CAFCASS?

CAFCASS is an organisation which looks after the welfare of children involved in Family Law proceedings. A CAFCASS Officer (also called Family Reporter or Family Court Advisor) is trained in social work but independent from Social Services. They carry out a number of different duties including mediation, investigation into family circumstances, make recommendations to the Court and may assist the family if ordered to do so by the court.

What are the standards which CAFCASS should adhere to?

CAFCASS works to standards set out in a document called the [National Standards](#).

What recommendations might a CAFCASS Officer make?

If ordered to carry out an investigation and report, recommendations might include:

- which parent the children should live with,
- the time the children should spend in each parent's care,
- the type(s) of Order which the CAFCASS Officer considers relevant to the family circumstance.

The Judge may direct CAFCASS to investigate certain issues related to the applications that the parents (or possibly others such as grandparents) are making. In some circumstances, a Judge may leave this to the CAFCASS Officer to decide which issues are relevant.

When writing a report, the CAFCASS Officer should be mindful of the Welfare Checklist. The Welfare Checklist is set out in the main legislation which covers family law, The Children Act 1989, and sets out the matters which should be considered by the court when making decisions which affect a child's upbringing. These include:

- (a) the ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding);
- (b) his physical, emotional and educational needs;



- (c) the likely effect on him of any change in his circumstances;
- (d) his age, sex, background and any characteristics of his which the court considers relevant;
- (e) any harm which he has suffered or is at risk of suffering;
- (f) how capable each of his parents, and any other person in relation to whom the court considers the question to be relevant, is of meeting his needs;
- (g) the range of powers available to the court under this Act in the proceedings in question.

Why would CAFCASS become involved in my court case?

In private Family Law proceedings, CAFCASS would become involved for one of four reasons:

1. to provide a conciliation service to the separating parents when requested to do so by a judge. Conciliation is intended to find agreement without the need for the Court's further involvement.
2. if so ordered by the judge, to carry out an investigation and provide an independent and objective assessment of the family's situation where there are welfare issues to be considered.
3. When a Judge makes a Family Assistance Order setting out that CAFCASS should assist the parties and the children for up to 12 months to help facilitate any other orders made. This commonly relates to such things as helping assist with contact difficulties.

How important is the CAFCASS Officer's recommendation to the Court?

While the Judge ultimately decides what will happen to the children, if asked to report, the CAFCASS Officer's recommendation will carry a great deal of weight, especially since the judge will consider their opinion to be impartial and focussed on the children's needs. For this reason it is important to familiarise yourself with their role and the standards they are supposed to adhere to.

When CAFCASS have concluded an investigation, they will write a report for the Judge. This report could include details of the family's circumstances, the wishes of the parents and children and the CAFCASS Officer's opinion as to the outcome which would be in the children's best interests.

In relation to the report, it is important to be aware of the standards that CAFCASS should adhere to. The CAFCASS Officer should:

- set out all relevant information which the CAFCASS Officer has acquired through his or her enquiries, making clear from which source the information has been obtained and distinguishing between matters of fact and opinion.



- make clear recommendations (or explain why recommendations cannot be made) which draw on relevant aspects of the Welfare Checklist.
- explain the basis upon which those recommendations have been made, including reasons both for and against those recommendations.
- consider all orders available to the Court when making a recommendation.

How will any investigation be conducted?

That depends on the issues which the Judge has asked CAFCASS to investigate. The investigation may include visits to both parents homes, discussions with relatives and family friends, and discussions with the family GP and the children's school.

Be aware that, if CAFCASS are asked to contact your GP, they should not be commenting on medical matters such as mental health. The OFSTED Inspection into East Midlands CAFCASS in March 2008 was critical of CAFCASS Officers having made comments on areas outside of their field of expertise or training.

Do I have a right to see the report?

Yes.

It is not unheard of for solicitors to mistakenly refuse to give their clients a copy of a CAFCASS Report, citing confidentiality as the reason. If this happens to you, ask them to read sections 4.13(1) and 4.23(a) of the Family Proceedings Rules 1991 and do not hesitate to demand a copy and make a complaint to the head of your solicitor's practice if he/she continues to refuse.

Will I see a copy of the report before the Court hearing?

The CAFCASS Officer has a duty to provide the parents and children with as much information as possible regarding the proposed report content and recommendations.

At the hearing where the Judge instructs CAFCASS to carry out an investigation, the Judge will set a timetable which should detail when the report should be filed with the Court and sent to each parents' solicitors. Court rules state this should be at least five days before the hearing where the recommendations of the report will be considered.

If you have not received the report by the date set out in the timetable, contact the Children and Family Reporter as a matter of urgency and discuss the delay with your solicitor if you have one.



Ensure you have sufficient time to consider what the CAFCASS Officer has said in their report. If you feel you have not, be prepared to ask the court in writing to adjourn the hearing (when the report would be considered) to a later date.

Depending on the circumstances, you might also consider writing a letter, addressed to the Judge, setting out that the report has not been filed in time, and that due to the delay, you will have insufficient time to consider the report's contents. In such circumstances, you may wish to ask the Judge to adjourn the hearing (set to consider the report).

What happens if I disagree with the findings and recommendations of the report?

If there are inaccuracies in the report, write to the CAFCASS Officer without delay asking for the report to be corrected.

A common mistake that parents make is to believe that a CAFCASS Officer is being critical of them, when the Officer is simply repeating allegations that the other parent has made. Your opportunity to defend against the other party's allegations, should they be sufficiently serious, should come in court.

If you disagree with the recommendations within the report and/or find it contains factual inaccuracies, you are likely to want to make the court aware of this, and cross-examine (question) the CAFCASS Officer in court. The Officer will normally only be attending court if directed to do so by the Judge. If there are aspects of the report which you disagree with, you should consider asking the Judge to direct that the CAFCASS Officer attend court for this purpose.

You also may wish to enter a 'Position Statement' into court upon receipt and consideration of the report, but before the next hearing. In this, you might choose to set out what parts of the report (if any) cause you concern. Briefly set out those concerns (or alternatively comment that you are in agreement with the CAFCASS Officer's recommendations) and hand your Position Statement into the court administration department. Also deliver it to the other party and CAFCASS, ideally 48 hours before the next hearing. This pre-warns the Judge of any issues which may need to be considered and allows time to consider your 'position' on their report.

While technically, any statement should be requested by the court, in practice, most Judges are appreciative of being pre-warned of any issues which may arise at a hearing. Be aware though that on rare occasions, a Judge may refuse to accept the Position Statement if he did not direct that the parties should prepare one. The key is to keep a Position Statement short, ideally to a couple of pages. Do not assume that any statement has been read prior to walking into court, as time pressures on the judiciary sometimes prevent this. Make sure you raise any issues verbally as well.



How long does a CAFCASS investigation take?

Delays are commonplace, and the President of the Family Court in association with CAFCASS and the Department for Children Schools and Families recently set new guidance regarding timetables:

- a. wishes and feelings report in not more than 6 weeks.
- b. a single issue report in not more than 6 weeks.
- c. a report covering more than one particularised issue in 6-12 weeks, depending on the nature/complexity of the issues to be addressed.
- d. where an officer of the Service is required to make a risk assessment under s.16A Children Act 1989, in 6-8 weeks.

Be aware that in some areas, reports are taking in excess of 20 weeks, and in the worst cases I am aware of reports taking more than 40 weeks due to backlogs.

What other organisations might prepare a welfare report for the Court?

A Judge may sometimes request that the charity, the National Child Advocacy Service prepare a report for the court as an alternative to CAFCASS. NYAS is generally well regarded by the courts and families.

If Social Services have previously been involved with your family, the Judge is likely to wish them to write a report, or have CAFCASS or NYAS contact them to find out the circumstances of their involvement.