Inspection of CAFCASS CYMRU 2010

November 2010
CONTENTS

SECTION 1

Introduction
Overall effectiveness
Overall strengths
Areas for improvement
Capacity for improvement
Strengths
Risks
Recommendations

SECTION 2

Quality of service provision
Service responsiveness
Case planning and recording
Assessment, intervention and direct work with children
Reporting and recommendations to the court
Complaints

Leadership and management
Ambition and prioritisation
Performance management
Workforce development
User engagement
Partnerships
Equality and diversity
Safeguarding
Evaluation

ANNEXES

1 Acknowledgements
2 Definitions
3 CAFCASS CYMRU statutory functions
Section 1

Introduction

1.1 CSSIW carried out the inspection of service provision by the Children and Family Court Advisory Support Service in Wales (CAFCASS CYMRU) in the weeks commencing 28 June, 12 July, 19 July and 26 July 2010.

1.2 CAFCASS CYMRU looks after the interests of children involved in family proceedings in Wales. It works with children and their families and then advises the courts on what it considers to be in the children’s best interests. CAFCASS CYMRU main duties are set out in the Children’s Act 2004. In family proceedings where the welfare of children is in question, its role, on behalf of the Welsh Ministers, is to:

- safeguard and promote the welfare of children;
- give advice to any court about any application made to it in such proceedings;
- arrange for the children to be represented in such proceedings;
- provide information, advice and other support for children and families.

1.3 It also has other legal responsibilities under the Children and Adoption Act 2006. CAFCASS CYMRU practitioners have to tell the court immediately of the potential dangers if, while working on a case, they suspect that a child may be at risk. It is also legally required to monitor contact and compliance with contact activities in cases where this is directed by the court.

1.4 In 2007 Ofsted assumed responsibility for inspection of CAFCASS England functions. In December 2008, Welsh ministers used their
powers under Section 71 of the Government of Wales Act 2006, which
provides for Welsh ministers "to do anything which is calculated to
facilitate or is conducive or incidental to the exercise of any of their other
functions", to instruct CSSIW to conduct an inspection of CAFCASS
CYMRU in 2010/11. The Chief Inspector for Care and Social Services
Wales, decided, with the kind permission of Her Majesty’s Chief
Inspector of Education, Children’s Services and skills in England, to
adapt the tested inspection framework and methodology of Ofsted for
use in Inspecting CAFCASS CYMRU.

1.5 During the fieldwork, inspectors held meetings with stakeholders,
advocacy providers, the judiciary, local authorities and with interest
groups such as Women’s Aid and Families Need Fathers. Interviews
were held with members of staff, including the CAFCASS CYMRU Chief
Executive, executive directors, family court advisers, area and assistant
directors and business support staff. Interviews were also held with
children and young people, parents and carers whose files were
examined. Inspectors also examined an extensive range of
documentation and management information. Inspectors evaluated
private and public law reports, case files, complaints records and
supervision records. Inspectors surveyed the views of CAFCASS
CYMRU staff, adult service users, children and young people.
Inspectors observed CAFCASS CYMRU practice with service users; in
courts, and in the homes of children and young people.

1.6 Inspectors evaluated CAFCASS CYMRU in accordance with the CSSIW
Evaluation Schedule adapted with permission of Ofsted, and the findings
are presented according to the following judgement grid:
<table>
<thead>
<tr>
<th>Grade</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Outstanding</td>
<td>The service provided is well above the minimum requirements and makes a demonstrable contribution to improving outcomes for children and young people.</td>
</tr>
<tr>
<td>Good</td>
<td>The service provided is consistently above the minimum requirements and contributes to improving outcomes for most children and young people.</td>
</tr>
<tr>
<td>Satisfactory</td>
<td>The service provided meets minimum requirements and contributes to improving outcomes for children and young people.</td>
</tr>
<tr>
<td>Inadequate</td>
<td>Minimum requirements are not met by the service and it makes little or no contribution to improved outcomes for children.</td>
</tr>
</tbody>
</table>

1.7 Inspectors examined the quality of service provision, including timeliness and the quality of the direct work with service users; and the effectiveness of CAFCASS CYMRU’S leadership and management, including performance management and strategies to engage service users and partners. Judgements have been made against each area, on the **overall effectiveness** and the **capacity to improve**. The inspection findings are set out in the table overleaf:
<table>
<thead>
<tr>
<th>Quality of service provision</th>
<th>JUDGEMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Service responsiveness</td>
<td>Satisfactory</td>
</tr>
<tr>
<td>Case planning &amp; recording</td>
<td>Inadequate</td>
</tr>
<tr>
<td>Assessment, intervention and direct work with children</td>
<td>Satisfactory</td>
</tr>
<tr>
<td>Reporting &amp; recommendations</td>
<td>Satisfactory</td>
</tr>
<tr>
<td>Complaints</td>
<td>Inadequate</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Leadership and management</th>
<th>JUDGEMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ambition &amp; prioritisation</td>
<td>Inadequate</td>
</tr>
<tr>
<td>Performance management</td>
<td>Inadequate</td>
</tr>
<tr>
<td>Workforce development</td>
<td>Satisfactory</td>
</tr>
<tr>
<td>User engagement</td>
<td>Inadequate</td>
</tr>
<tr>
<td>Partnerships</td>
<td>Inadequate</td>
</tr>
<tr>
<td>Equality &amp; diversity</td>
<td>Satisfactory</td>
</tr>
<tr>
<td>Safeguarding</td>
<td>Satisfactory</td>
</tr>
</tbody>
</table>
Overall effectiveness

1.8 The overall effectiveness of CAFCASS CYMRU is satisfactory.

1.9 However, there are some important areas where the judgement is inadequate and these are of key importance in enabling CAFCASS CYMRU to improve its service and performance and in responding to increasing demands within a tight fiscal climate.

Overall Strengths

1.10 Inspectors found that the service delivers all the statutory functions and most resources are deployed adequately. Most work is allocated and delivered on time and there is a small waiting list. Oversight of safeguarding risks in cases on the waiting list is satisfactory, as is the process for managing waiting lists, and ensuring equity of service provision across the organisation.

1.11 Most reports to court, assessments and interventions are satisfactory. Direct work with children and young people is satisfactory with good features and work is appropriately child focused, and all safeguarding issues are dealt with adequately. In public law cases, there are some good chronologies of case history and rigorous assessments. The family court advisers demonstrated knowledge of the Human Rights Act and the United Nations Convention on the Rights of the Child, and their applicability in family justice social work. Most children and young people surveyed consider that their views are accurately reflected in the court report. Most children and young people also said that their views made some difference to what happened in their case.

1.12 CAFCASS CYMRU benefits from very skilled and experienced practitioners amongst its staff. Staffing policies and practices are robust with good systems to support safe staff recruitment. In addition staff
support, development and training are satisfactory. Members of CAFCASS CYMRU staff feel supported by their teams and area directors. CAFCASS CYMRU takes effective action to ensure the promotion of equality and diversity across all its functions and activities, and Welsh language services are strong.

**Areas for improvement**

1.13 Key areas of leadership and management are inadequate. CAFCASS CYMRU does not have effective lines of accountability that reach across the whole of the organisation. Management oversight of the service to children and families is inadequate. Performance management and quality assurance activity is weak. Management information is inadequate and the management information systems are ineffective for driving improvement in service quality. Some policies and procedures have only been devised recently, and have not yet been implemented, while others have inadequate implementation plans. There are project and programme plans in place to manage change, however these lack adequate impact analysis and review mechanisms.

1.14 No established systems for involving and engaging service users are in place. The organisation has very little information about the views of children and young people. Consequently their opinions about the service they receive from CAFCASS CYMRU are not taken into account in service planning and development. Most adult service users surveyed had very mixed views about the quality of service they received, and the fairness of reports. While relationships with courts and the judiciary are good, relationships between key social care providers in Wales and CAFCASS CYMRU need to be strengthened and improved. Commissioning is underdeveloped within the organisation.
1.15 Family Court advisers need to clearly demonstrate assessments and evaluations in their reports, as well as the legislation, research and policy that guides their recommendations. They need to demonstrate the rationale for their recommendations in order to assure service users as to the basis of their judgement.

**Capacity for improvement**

1.16 Capacity for improvement is inadequate.

**Strengths**

1.17 There are effective arrangements for tackling delay, which can be built upon to manage the increasing risks to service allocation. Service plans, backed by branch plans and individual performance development plans are in place to help support effective service delivery. Staff morale is generally high, and turnover continues to be low with most staff having an optimistic outlook for the future. Many staff told us they would not wish to work anywhere else. The implementation of the new tool for assessing children will serve to improve the quality of assessments and the evidencing of assessments in reports. There is a recently signed protocol with the Association of Directors of Social Services Cymru, aimed at cultivating good working relationships with local authorities. Strategic priorities have been agreed with all legal stakeholders; and engagement with all courts across Wales is very effective.

**Risks**

1.18 CAFCASS CYMRU faces significant risks in the short and medium term, which the leadership at present are only partly prepared for. Leadership at the top of the organisation is in the midst of significant change. The increasing rise in both private and public law referrals will require careful management. The introduction in Wales of the private law programme
together with the scheduled implementation of the case management IT system at the same time poses some significant risks and likely disruption unless carefully managed, particularly when taken together with the inadequacies in current performance management and quality assurance systems. Relationships with children and young people and their families are inconsistent. Without effective user engagement, it will be difficult to assure quality of services and deliver improvement.

1.19 Some judges expressed concerns that the introduction of the private law programme in Wales will pose a risk to service responsiveness, and will not necessarily bring about all the benefits envisaged. There is a risk that the anticipated significant reduction in referrals to CAFCASS CYMRU may not be realised, because much of the proposed work at early stages, (such as in court conciliation) is already being done in Wales to divert people from more detailed court reports. The commissioning strategy is at present inadequate and this poses a risk to developing the services necessary to realise the benefits of the private law programme. Further, the changes in the external environment, including constraints on resources will serve to place considerable pressure on service responsiveness and cause possible delays. A key challenge for the leadership will be resolving the current conflict between accountability of family court advisers to both CAFCASS CYMRU and the Courts. This will require professional challenge and accountability to be developed within the organisation.

Recommendations

1.20 In order to improve the quality of provision and services for children and young people in Wales, CAFCASS CYMRU should take the following action:
• review the overall structure of the organisation to ensure effective leadership, management oversight and accountability of the service;
• develop and implement systematic user feedback and evaluation, including regular feedback from children and young people which contributes to change in practice and policy;
• conduct a complete review of the complaints processes, procedures and practice and improve complaints handling across the organisation;
• improve services to children with disabilities;
• develop an effective model for commissioning that will meet the needs of children and young people, including advocacy services;
• develop and implement effective performance management and quality assurance frameworks;
• prioritise strengthening relationships with local authorities and other social care and advocacy agencies, building on existing good practice in some areas;
• develop effective change management strategies that identify risks and impact and effectively engage staff at all levels.
Section 2

Quality of service provision

Service responsiveness

2.1 Service responsiveness is satisfactory.

2.2 Inspectors examined whether CAFCASS CYMRU avoids delays in allocation, intervention and reporting on cases. Specifically, inspectors verified whether CAFCASS CYMRU meets its key performance targets set for allocation and delivery, and the methods it uses to ensure equity of service for children and young people across Wales. Finally, inspectors checked whether the services offered are accessible to all those entitled to them, and the range and quality of information given to young people and their families.

2.3 There is currently a small waiting list and the organisation makes use of a workload formula to ensure that the maximum resource potential of the organisation is utilised, while effectively managing the work pressures on staff. In addition, the area directors meet periodically to share case allocations between branches. This block allocation system works very well to ensure equity of service provision and good management of the waiting list. All staff are aware of the increased pressures of workload. Although some staff reported reservations, most members of staff understand the need for the block allocation system and are enthusiastic to cooperate. There is a small level in variation of performance between branches usually due to staffing changes.

2.4 Inspectors’ observations of direct practice provided evidence that service users were aware that family court advisers were coming and
what the role of CAFCASS CYMRU would be from the information they received. Children and young people told us that they were clear about the role of the family court adviser. Evidence from the files shows that most of the time, information about the service is sent out in advance. Inspectors saw a clear administrative process for service responsiveness on site. However, improvements are needed in consistency and quality of information. Some members of staff noted that more thought could be given to presenting information in different ways:

“The quality of the information is like a set of takeaway menus, easily thrown away. A more consistent presentation, with a contents page that could be used for long term reference by service users would be better.”

2.5 Most other stakeholders felt that CAFCASS CYMRU provide a timely service to the courts and service users, although, there were some, including judges, who felt that the nationally agreed time of 12 weeks for private law cases, is too long for people to wait for a report.

Case planning and recording

2.6 Case planning and recording is inadequate.

2.7 Inspectors looked at case plans and case records on CAFCASS CYMRU files. The quality of case records, and whether effective and timely corrective action is taken to ensure the quality of records and plans is satisfactory was examined. Case plans should specify the key issues in the case, the steps to address those issues, the outcomes to be achieved and how these will be reviewed. Inspectors queried whether case plans are comprehensive and based on thorough needs assessment and analysis, and whether they are implemented effectively,
monitored and evaluated. Inspectors also checked whether case planning is shared with children and young people and adults.

2.8 The majority of case plans and records seen are inadequate. There are still many handwritten files, with scribbled notes rather than formal social work case records. There are no outcome reviews or evaluation of the impact of the intervention upon children evident on files. Most case records seen were not up to date, and do not contribute to a good understanding of what has happened or enable accountability to managers. Although family court advisers often do plan their work, this is not evidenced by written case plans, and practitioners do not uniformly accept the usefulness of the case planning. This is not helped by a very basic case planning form that does not enable the family court adviser to provide evidence of a good needs analysis. Some members of staff told us:

"We want … a useful tool not just a document on the front of a file. It should enable practice to be more dynamic and capable of being revisited when necessary"

2.9 CAFCASS CYMRU, like all social work organisations, must keep up to date records and case plans in order to detail and justify interventions, and professional decisions. However, most files show little evidence of management oversight and case plans are not being shared with service users on a routine basis. The organisation has acknowledged that the case planning and recording policy is not functioning adequately, and a staff group has been convened to implement improvements in 2011. Inspectors concur that CAFCASS CYMRU are significantly hindered by having to comply with the filing policy of the Welsh Assembly Government, which is not designed for a service provision organisation. This policy to remove documents from files before they are archived could cause difficulties if files need to be reopened. It would be better if
CAFCASS CYMRU could develop a filing and archiving policy suitable for its purposes.

2.10 Amongst family court advisers and area directors, there was general agreement that the proposed case file structure that is currently being piloted in some areas was a great improvement. Improvements were still needed such as a summary of actions and chronology, and there was a general consensus that these should be easier when the electronic case management system is implemented in the near future. Some staff felt that file structure was designed without sufficient regard to front line professional needs. However evidence from file reading and discussions with family court advisers indicates that having robust, up to date and relevant information on case files remains an attitudinal issue and at its simplest, is still not seen by some practitioners as a core professional task. The chief executive and executive directors of the organisation need to ensure that the systems, culture, standards and professional practice in respect of case planning and recording are clear and explicit. They need to put in place arrangements to ensure that these are owned, accepted and consistently applied by practitioners.

Assessment, intervention and direct work with children

2.11 Assessment, intervention and direct work with children is satisfactory.

2.12 Inspectors investigated the quality of assessment and intervention in public law cases, private law cases and adoption. When conducting assessments, the decision making processes and criteria used should be transparent to children and young people and adults. The Inspectors looked at how well key issues such as safeguarding and domestic abuse and attachment were assessed and the effectiveness of actions taken by family court advisers. The quality of assessments was examined to check whether they are undertaken through an externally validated
effective framework and whether they result in a comprehensive understanding of the individual needs of children and young people. Inspectors examined the value added to local authority assessments and care plans to see if it is consistently and demonstrably significant. The skills of practitioners in working with children and the quality of their direct work were also scrutinised.

2.13 Practitioners are very enthusiastic and are able to talk comprehensively about their intervention skills and techniques. Most assessments seen involved the active participation of each child wherever practicable; as well as the family and other significant people including relevant professionals. Appropriate checks with police and local authorities are made routinely in almost every case. Inspectors saw a range of assessment tools being used by practitioners. CAFCASS CYMRU has developed the child and adolescent welfare assessment checklist (CC-CAWAC), which assesses the psychological, emotional and social risks of children who are experiencing or have experienced inter parental conflict. This is a useful tool for the benefit of some children, but it is not currently adapted for disabled children, its external accreditation is satisfactory, but it is not yet implemented across the organisation. CAFCASS CYMRU also has a toolkit for use in cases where domestic violence is a factor but this is not used consistently, and it needs reviewing. Family court advisers told inspectors that they find it a little cumbersome. Inspectors found that as a result, the impact of violence on children is not consistently assessed.

2.14 The welfare checklist is inappropriately considered by managers to be an assessment tool. Evidence on files shows that this is sometimes used in conjunction with appropriate tools to provide well assessed and analysed work, but, equally, some of the time, it serves simply as headings for the evaluations of the family court adviser. While these evaluations may be correct, they are presented as statements made
with no evidence given to back them up. Where tools and techniques are used, they are usually evidenced in reports. But where the assessment is done without the use of specific tools there is very little evidence of the assessment presented in the reports. Whilst this satisfies judges, it can be difficult for children and young people, parents, carers, other applicants, and even other professionals to understand how the family court adviser arrived at the recommendation. Inspectors found that at times, this can in turn lead to allegations of bias or unfairness.

2.15 In public law cases, there are some good chronologies of case history and rigorous assessment of the current position, with the child’s needs, wishes and feelings being given full and sensitive consideration. However, inspectors found that they could not always substantiate that the work of the family court advisors adds value in every public law case. Some reports prepared in public law cases do not demonstrate an evaluation of a local authority’s work, although the implementation of the public law outline has begun to improve this. Many local authority staff told us that, when the children’s guardian opposes their viewpoint, they do not understand why, as it is not apparent from the report. Some local authority staff complained that family court advisers have a tendency to encourage unnecessary use of independent social work assessments and expensive residential assessments; or to insist upon unnecessary kinship placement assessments that cause harmful delays in the court process. Conversely, judges told inspectors that family court advisers are valuable to the courts as independent professional advisers, many of whom have had experience in local authorities, and can be relied upon to make independent assessments and recommendations, unfettered by resource considerations, in the best interests of children. Judges believe that for this reason, family court advisers do add value to the local authority’s work. Solicitors welcomed the forensic approach and analysis that family court advisers bring to public law cases.
2.16 The inspectors found that intervention with children and their families is mostly purposeful, planned, time limited and focussed on improving outcomes for children. Direct observations revealed that dispute resolution and contact arrangement work is particularly skilled, and the new in-court conciliation services being offered in some areas are of a high quality. However, parents and family members of children were very mixed in their views about the quality of service that they receive from family court advisers of the 37 adult service users who answered the survey, 50% found their worker accessible and easy to contact. 59% said that the family court adviser had listened to them during interviews, 44% felt the worker understood their point of view, and 57% of adult service users reported feeling they had been treated fairly. Not surprisingly, much seems to rely on the personal relationship built up between the family court adviser and the service user, as well as effective management oversight to ensure good conduct by CAFCASS CYMRU workers. The following quote illustrates this:

“[Family Court Adviser A] was fabulous - listened to me and my daughter, was very kind and understanding to me and has an ability to get children to trust her by listening to them. She is a credit to your organisation. I found [Family Court Adviser B] to be absolutely useless at his job, he is a disgrace to your organisation. Caused nothing but distress for me and my daughter.“

2.17 Inspectors saw evidence on files, and in practice observations of good and on occasion outstanding direct work with children. Some very creative and innovative tools were used with children. Observations of interventions carried out in court indicated that family court advisers keep the welfare and rights of the child at the forefront of the work. 80% of children and young people surveyed said that they had enough time to talk to the family court adviser. 74% of children and young people
inspectors spoke to found the family court advisers approachable and easy to engage with:

“I felt quite nervous and didn’t know what to expect, it was after school, the room was inviting and quite friendly. (The family court adviser) asked the questions in a friendly way. He was listening… I knew because he was writing things down and if I got stuck he asked the question in a different way”

2.18 By contrast, intervention and direct work with disabled children is not well developed. Parents of disabled children informed us that not enough time was spent with their children during the preparation of the reports. Managers told us that cases are allocated more time if the child has disabilities or other complex needs, however, it is not clear whether this works in practice. A few family court advisers have experience of working with disabled children, or work in a location where they are able to access support engaging disabled children. However, inspectors saw cases on file where disabled children were not consulted about their wishes and feelings, because family court advisers did not have the skills to do so and had not taken action to rectify this deficit.

Reporting and recommendations to the court

2.19 Reporting and recommendations to the court are satisfactory.

2.20 Inspectors examined the quality of the reports written, whether recommendations are determined by robust, evidenced and comprehensive assessment, and flow from the content of the reports. Reports were analysed to determine whether they are proportionate to assessed need, and where relevant comply with the requirements of the public law outline. The understanding and application of the Human Rights Act, the United Nations Convention on the Rights of the Child,
and the seven core aims and their influence over recommendations made to courts was scrutinised. Service users were interviewed to determine whether reporting is shared effectively in advance of hearings with all relevant parties including, when appropriate, the child /young person. The inspectors also ascertained whether the voice of the child has sufficient prominence in reports.

2.21 The majority of reports read by inspectors are satisfactory. They contain sufficient information to help courts make decisions and they provide clear recommendations. While some public law reports lack evaluation and added value, there is some evidence on more recent files of better evaluation of local authority work, through the improved focus of the public law outline. Judges indicated that on the whole, the quality of reports is high, although there are some that are better than others. One judge observed that there is sometimes too much caution, a temptation to go for the option that cannot be criticised rather than be imaginative and ambitious and aspirational for children. Magistrates are satisfied with the reports, and they are satisfied that most family court advisers conduct sufficient assessment and evaluation. Most reports have a good focus on the child and are proportionate to assessed need in the case.

2.22 The family court advisers demonstrated knowledge of the Human Rights Act and the United Nations Convention on the Rights of the Child, and their applicability in family court social work. They also demonstrated a good understanding of policy, and research pertaining to their work and to children's rights. Most children and young people consider that their views are accurately reflected in the court report and most reports comply with CAFCASS CYMRU policy and procedures. Inspectors found that the voice of the child is sensitively and subtly presented to the court in most reports. There is evidence of very skilled and subtle work undertaken to ensure the courts have all the information and to enable the child to express wishes and feelings. Family court advisers take care
to protect children from the adverse effects of having to take responsibility for their parent’s feelings. They also work well to minimise repercussions of parents and carers discovering that their children hold views that parents or carers may not agree with or may be distressed by. One child told us:

“She [the family court adviser] has helped me to see that I can be honest in my views and not always try to be fair to both my parents”

2.23 However, while most reports set out the options available to the court where appropriate, they do not always show how each option has been evaluated in order to arrive at an appropriate recommendation. Family court advisers also need to evidence assessments and evaluations in the report, as well as the legislation, research and policy that guides their recommendations, so that children and their families can be better informed about the basis for the recommendation. Inspectors saw a small number of reports that are poor. They were overly repetitive, contain irrelevant information, lack analysis and describe rather than evaluate the information provided to courts. In some cases where domestic violence was an issue, the reports did not provide enough evidence of evaluating the child’s views or the impact of violence on the child. One such child told us:

“When I talked to the [CAFCASS CYMRU] woman I felt she wasn’t listening to me and I felt that I had no option but to see my dad. Me and my brothers are scared of our dad and the woman has not seen my dad angry before and this would not happen during a supervised visit. I don’t think the woman believed what I was saying and I felt she twisted my words.”

2.24 Such situations demonstrate the possible role for advocacy services, to help the voice of children be heard.
2.25 In private law cases, reports are rarely shown to children, because family court advisers have a duty to protect children from emotional harm, and there may be information in reports about their parents that they might find distressing. Most reports are shared with children by telling them the parts that are pertinent to the child, the recommendations, and if relevant, explaining why the child’s view is not supported by the family court adviser.

2.26 Inspectors saw good practice and the exercise of good professional judgements in some very complex situations in both private and public law. Reports are not usually shared with parents by CAFCASS CYMRU workers, rather they are sent to solicitors. In public law, reports should be discussed with children and young people, but CAFCASS CYMRU need to monitor this more effectively.

2.27 The Court Rules require that the work of CAFCASS CYMRU in private law Section 7 cases is task-focused and time-limited such that engagement with families is ceased at the point that the report is filed in Court. However, inspectors found that ending engagement with families at the point that the report is filed in court, does not serve the needs of children and their families, who frequently need some short term support, after the report is written. Inspectors were told by staff that they frequently work around this policy, and accept phone calls, do home visits, and even communicate the outcome of the court process to children after the case as been closed. This could leave both members of staff and families in a vulnerable position. Again, advocacy services could be used by CAFCASS CYMRU to ensure that the child is supported throughout the whole process, including, if necessary for some after care.
Complaints

2.28 Complaints handling is inadequate.

2.29 The inspectors investigated responses by CAFCASS CYMRU to complaints from service users to see if they are timely and meet the CAFCASS CYMRU policy and procedures; and whether members of staff undertaking any parts of the complaints procedure are trained to do so. Inspectors queried whether the majority of service users and key stakeholders know how to make suggestions, compliments and complaints, and whether, where necessary, children and young people and adults receive assistance in making a complaint including access to advocacy. Inspectors also examined whether the majority of children and young people and adults are satisfied with the way their complaint was handled. Inspectors looked at how the analysis of complaints is used by CAFCASS CYMRU to inform service development, and checked to ensure that safeguarding is identified effectively in complaints and appropriate action is taken.

2.30 The timeliness of dealing with complaints varies across the organisation, and the internal performance indicators are inadequate to ensure equity of complaints handling for all service providers. The organisation does not provide consistent complaints training for all area directors. Inspectors saw a few examples of satisfactory responses to service users by some area directors, but this was not consistent across the organisation. Some area directors attempt to resolve complaints informally by discussing the situation with service users and finding a solution. However, in other parts of the organisation, inspectors saw no proactive approach within the complaints process. Complaints were seen by inspectors that did not appear to lead to any resolution. The matters were shelved, waiting for the complainant to contact the
organisation again. Complaints are sometimes responded to in a very procedural fashion without any recognition of the complainant's personal circumstances. In some areas offices, inspectors observed that there is no systematic approach to tracking complaints, no pro-active follow up and no robust system of feeding back to staff the messages of lessons learnt from complaints.

2.31 CAFCASS CYMRU informed inspectors that it is negotiating contracts with advocacy services to provide support for children and young people during complaints, but this service is not yet in place. It has also devised a complaints policy especially for children and young people, in December 2009.

2.32 The introductory letter sent out to service users does not contain an explanation of how to make a complaint and the evidence on case files indicates that complaints leaflets are not routinely sent out. Whilst family court advisers do very good introductory meetings with families, they struggle to introduce the topic of complaints and explain the complaints policy. The complaints policy for adult service users does not support open access to complaints, it is not easily understandable and contains apparent contradictions. The policy, the leaflet and the wording that appears in reports create confusion about what issues can be raised in a complaint. It is not clear why some groups of service users, such as family members who are spoken to in order to prepare reports, are excluded from the complaints process. The policy refers to assistance in making complaints but does not make clear who gets this assistance and why. The timescales for making complaints could disadvantage some groups of service users.

2.33 Local authorities, advocacy providers and other organisations report that they do not have access to the complaints procedure. In some areas they were told categorically that CAFCASS CYMRU does not accept
complaints from anyone except parties involved in court proceedings and children. There was some evidence of complaints being made by solicitors and court stakeholders; however, there is no complaints procedure for professionals from other organisations that deal with CAFCASS CYMRU. Informal networks work well to an extent, but they rely on consistent satisfactory communications between professionals, and since good relations do not always exist, a formal protocol for complaints is needed. There is a recently agreed protocol between CAFCASS CYMRU and the Association of Directors of Social Services Cymru which covers professional disputes but it does not cover complaints about the behaviour of CAFCASS CYMRU staff. CAFCASS CYMRU needs to develop a policy for receiving professional complaints, including timescales and actions.

2.34 Staff told us that the approach to complaints investigation has developed over the past 18 months due to the appointment of a specialist Complaints Manager. Inspectors saw evidence that in some areas complaints and the lessons learnt from them are monitored. However, the quality of complaints files seen by inspectors is variable with some being very disorganised which would obviously affect the quality of the report to executive directors.

Leadership and management

Ambition and prioritisation

2.35 Ambition and prioritisation are inadequate.

2.36 Inspectors analysed the quality of leadership in CAFCASS CYMRU, and its effectiveness in achieving the organisation’s primary duty to safeguard and promote the welfare of children and young people. The organisational structure was assessed to determine whether it is
sufficient to deliver the CAFCASS CYMRU strategy effectively. Management information was scrutinised to determine whether resource deficits are understood and risk assessed, and resource allocation reflects priorities and supports the delivery of statutory responsibilities. Service plans were studied to establish whether they are linked effectively to the mission, vision, values and ethics of CAFCASS CYMRU and are based on a risk assessed business plan. Inspectors examined strategies, policies and procedures to see if they support practice and comply with statutory requirements and guidance. Inspectors also checked whether polices and plans are supported by current, realistic and deliverable implementation plans.

2.37 CAFCASS CYMRU does not have effective lines of accountability in key parts of the organisation. The organisation’s structure overall does not provide sufficient management oversight of the quality of the work done with children and families. Members of staff in some areas appeared to be working in isolation, while in others, family court advisers and area directors are unclear about where the lines of accountability lie. The area directors on the whole perform their functions well and they are appreciated by staff, stakeholders and service users. However their remit is very broad, and there is a risk they will be overstretched affecting outcomes for children and young people. CAFCASS CYMRU recognises that the role of the area directors needs to be reviewed.

2.38 CAFCASS CYMRU has developed an organisational planning cycle including the development of a business plan, which has a cohesive connection to short term service plans, and to performance plans of individual staff. Policy developments do not contain implementation plans, monitoring and evaluation methods at the outset. The method of management communication is not very collaborative there tends to be a top down policy development that has insufficient influence on
operational imperatives. This leads to a lack of awareness of real operational barriers and blocks in communication.

2.39 At the time of the inspection, the post of chief executive was vacant, and an interim chief executive was in post. Since the fieldwork was completed a new chief executive has been appointed who will take up post in November 2010. The interim leadership team have completed a comprehensive risk analysis of their organisation, and they have identified appropriate action within their power to resolve these in the short term, where possible. The risk analysis has also identified key priorities for improvement.

2.40 The chief executive and executive directors have recognised that events in the external environment and upcoming change programmes represent a resource risk, and they have presented business cases in January and February 2010 regarding workload and resource issues to the Welsh Assembly Government. Management of change has some shortcomings. Project planning, the communications plan and the risk management strategy are in place, but there is no evaluation of the impact of the plans. CAFCASS CYMRU has purchased a new case management system, but its implementation has been subject to delays. It is likely that this ICT system will be implemented at the same time as the private law programme. There is no evidence of a risk analysis of the impact of several changes on service productivity in the short term.

**Performance management**

2.41 Performance management is inadequate.

2.42 Inspectors looked at the quality of management information and management information systems. They examined the impact of CAFCASS CYMRU’S performance management framework on the
equity of service delivery to the different groups of service users around the country. Inspectors also looked at whether CAFCASS CYMRU has a quality assurance framework that would adequately ensure equality of outcomes for service users.

2.43 Achievement against the key performance indicators is met. The block allocation system operated by the organisation ensures that service users receive a similarly timely service regardless of where in Wales they live. The new case management system will have the capacity to collect quantitative management data. Until the system is in place, CAFCASS CYMRU does not have sufficient management information to manage performance satisfactorily.

2.44 CAFCASS CYMRU has developed a set of performance indicators, and has put in place audit and reporting systems aimed to ensure quality for service delivery. It also has a gate keeping system for reports before they are presented to the courts. However, the gate keeping system is used inconsistently across the country, and the nature of the policy and its implementation does not serve to prevent inadequate reports from being presented to the courts. The gate keeping system represents a good start for quality assurance and professional challenge but it needs some development and embedding into the organisation. The performance measures and targets are at a very early stage of development. The quality assurance systems are similarly at a very early stage of development. CAFCASS CYMRU has made attempts to develop measures for compliance and delivery, as well as measures for quality. However, area directors do not make effective use of performance data and are not fully conversant with performance management systems. Additionally, data is not sufficiently robust to be utilised effectively, and the measures that have been developed are not well defined for their purpose. The cases being used by the organisation for the purpose of performance management and quality assurance are
too small a sample for CAFCASS CYMRU to assure themselves of performance, quality or improvements. Monitoring at times focuses on irrelevant processes, and the collection of unnecessary data that does not inform performance management and assist service improvement. Some members of staff have commented on the impact of recent developments of ineffective monitoring and assurance systems on their work. The following quote from a staff member is a typical example:

“There are too many forms to be completed on each case that have nothing to do with the work. The forms are uncoordinated and repetitive. Much of the requested information is unnecessary.”

2.45 The evaluation of service delivery and outcomes, including the voice of the service users, which is a vital part of quality assurance, is not developed. This means that at present CAFCASS CYMRU is not able to demonstrate that it can deliver improvements in service delivery to children and families. The organisation needs a clear strategy to implement effective performance management across the whole organisation to drive change and improvement, including reliable management information systems, improved quality and use of data, and the development of quality assurance frameworks. The challenge will be to monitor equity of service delivery and the quality of service provided, without disproportionately and unnecessarily increasing the bureaucratic burden.

Workforce development

2.46 Workforce development is satisfactory.

2.47 Inspectors examined documents, interviewed and surveyed staff to ascertain whether CAFCASS CYMRU delivers a clear vision and standards for performance and conduct expected of staff. Inspectors
analysed recruitment and retention planning to see if it ensures a suitable and competent workforce is established, and that there is an effective system for ensuring checks, including criminal record checks are carried out fully. Inspectors also checked that recruitment processes comply with recognised standards, are managed well and are carried out by suitably qualified persons. The workforce strategy and learning and development programme were examined for their suitability to enable staff to acquire the skills to safeguard and improve outcomes for children and young people. Supervision notes were read to check for professional challenge and effective support to frontline staff, and inspectors ascertained whether all staff have their work performance monitored effectively using a nationally agreed framework.

2.48 One of CAFCASS CYMRU’S prime objectives is to make the organisation a good place to work. Staffing policies and practices are robust with good systems to support safe staff recruitment. Safe working practices have recently been updated. All line managers have been trained in them, and regular workforce assessments take place. The majority of staff told us that they are clear about the expectations that CAFCASS CYMRU has of them and they are clear about the standard of work expected. Almost all staff have received an appraisal in the last 12 months and performance development plans reflect the branch planning and strategic business planning priorities of the organisation.

2.49 There has been an increase in overall workload over the last year, but staff morale remains good despite these pressures. There is a workload formula used to ensure that staff are not overloaded with case work. Staff told us they appreciate being - 'treated like a trusted professional'. Most staff told us that they find their team very supportive, and work very well with their area director. There is a mentoring system in place for new staff to be guided by more experienced staff. Staff retention rates are good, and the organisation has very high staff satisfaction scores in
the recent Welsh Assembly Government staff survey. However, family court advisers indicate a clear difference in their evident approval for their area directors and their criticism for the assistant directors and executive directors. Most staff felt that the overall leadership in the organisation was not effective in helping them to deliver good quality work. Staff and managers spoken to by inspectors showed commitment to improving services to children and families.

2.50 While individual staff members report that they feel well supported by area directors and value the supervision they provide, the quality and frequency of recorded formal supervision which was seen by inspectors indicates that there is insufficient constructive challenge to staff to improve practice and performance. There are some good examples of professional challenge in supervision records, but this is not consistent across the organisation, as not everyone is clear about the lines of accountability. The policy is for supervision to take place every eight weeks, but this is not consistently applied across the organisation with a lot of supervision given informally. This is because many area directors are overstretched and cannot comply with supervision timescales.

2.51 The quality of training available is highly valued by staff and the current core mandatory training is reported to be of good quality. The staff learning and development plan details the priorities for the organisation, includes multiagency training and in-house practice development days. Induction training for all staff is clearly explained and new legislation and policy developments are taken into account. Knowledge and skills development forms a substantial part of the plan. The plan also describes systems to disseminate research and case law and outlines developmental secondments, shadowing, co-working, mentoring and coaching opportunities. Learning and training procedures have been recently updated and are available to all staff on the intranet.
2.52 The organisation has recognised the need to improve its training database so that it will provide better information and reports. CAFCASS CYMRU has developed a post qualifying accredited training programme in partnership with Glyndwr University and has made it mandatory for all newly joining staff. However, there were concerns amongst new staff about being overwhelmed by the number of things to master when new in the job. They were also concerns about some of the quality of teaching and learning on this course. Furthermore existing members of staff were unclear about the status of the post qualifying accreditations they already possess.

2.53 The business support staff receive satisfactory performance reviews, and reported that they are included in the appraisal and supervision processes of the organisation. However, some feel somewhat isolated from the organisation, especially when they are often not consulted about the developments that occur.

User engagement

2.54 User engagement is inadequate.

2.55 Inspectors examined the range of opportunities available to children and young people and their families to contribute to the service design and development within CAFCASS CYMRU. They looked for evidence that the views of children and young people have made a difference to improving service provision, and that the majority of service users were satisfied with the service they received.

2.56 CAFCASS CYMRU does not communicate effectively with children and families about the quality of the service they receive. Children and young people do not get a chance to comment on the services, after they have received them. CAFCASS CYMRU has recently written a participation
plan, but this has yet to be implemented. In addition, in 2009/10 CAFCASS CYMRU contracted an organisation that facilitates participation with children and young people, to help develop its young people’s complaints policy. The organisation facilitated a workshop with 98 children who contributed to the policy. However, CAFCASS CYMRU needs to develop systematic processes for regularly receiving the views of all service users, as well as one off events. The direct involvement of 98 children represents a good start and CAFCASS CYMRU now needs to consider how it can effectively engage with the majority of all children who use its services. The organisation team already has plans to make better use of the website and to develop surveys with children young people and their families. These need to be embedded within a routine collection of views from service users, and within the culture of every service user being routinely given the opportunity to freely give their views about the quality of the service. Just over half of children and parents who responded to the CSSIW survey felt that the involvement of CAFCASS CYMRU has been helpful.

2.57 There are no established local systems for involving and engaging service users in place within local area offices. This leaves some family court advisers and area offices vulnerable to allegations of bias and unfairness against which they cannot defend themselves, as they do not have the evidence of using service users views to improve their general relationships with children, young people and their families. It also risks there being an inconsistent quality of experiences by children and their families across areas.

Partnerships

2.58 Arrangements for working with key stakeholders, relevant agencies, community groups and commissioned services are inadequate.
2.59 Inspectors spoke to stakeholders and partners to ascertain whether they have effective links with CAFCASS CYMRU. Inspectors also looked for evidence that work with stakeholders and partners has lead to improvements in service provision and outcomes for children and young people.

2.60 A small number of information-sharing protocols have been developed to improve service responsiveness and effectiveness, e.g. with the Children’s Commissioner, and the probation service, both of these were very recent and had not been implemented yet. Area directors attend many meetings with local forums; however, the organisation has not yet evaluated their effectiveness in improving outcomes for children and young people. Local commissioning and monitoring arrangements for contact centres do not focus on the experience of the service user and evaluating outcomes achieved for children. Inspectors saw little evidence of strategic partnership arrangements and protocols with individual local authorities, although many local authorities reported good working relationships with area directors. Relationships between local authority team managers and social workers; and family court advisers at the front line are generally poor. However, CAFCASS CYMRU has a good relationship with court stakeholders, in particular the judiciary and magistrates.

2.61 Most stakeholders told us that their organisation had effective links with CAFCASS CYMRU, however, these stakeholders also told us that the relationships still need substantial development, in particular some felt that their involvement was tokenistic. Most stakeholders felt that CAFCASS CYMRU did not seek the views of their organisation to improve their service, and they are unable to make a real impact on service design.
2.62 The Welsh Assembly Government has made advocacy provision for all children looked after, mandatory in Wales, and CAFCASS CYMRU has recognised the need to engage and form relationships with advocacy services. In the meantime, evidence indicates that engagement with advocacy services depends very much on the individual family court adviser or area director and can, on occasion, be poor.

2.63 Links with community groups at a local regional level are underdeveloped; this includes the need to make better links with local Women’s Aid projects and other providers for support to families in domestic violence cases.

**Equality and diversity**

2.64 Work to promote equality and diversity is satisfactory.

2.65 The inspectors examined whether CAFCASS CYMRU takes effective action to ensure the promotion of equality and diversity across all its functions and activities. Inspectors scrutinised the organisation’s diversity and equality strategy, policies and procedures to decide if they are appropriate and are implemented effectively by CAFCASS CYMRU. In order to ensure equity of service delivery to all social groups in Wales, all services must be available through the medium of Welsh upon request; all services must be delivered with regard to the rural/urban diversity of the local community; children and young people and adults should feel that CAFCASS CYMRU treated them with dignity and respect; and that their needs are understood in the context of their culture, religion and identity. Inspectors also checked that direct work with children and young people and adults is conducted in appropriate locations that ensure confidentiality is maintained, and information about service users is held and used securely in line with the data protection act and other relevant legislation.
2.66 Most of the files and court reports seen by inspectors demonstrate satisfactory practice in relation to equality and diversity. Some gave careful consideration to the relevance of race, culture or gender in the context of family breakdown. CAFCASS CYMRU has a development manager responsible for equality and diversity. It has a single equality plan and a Welsh language action plan in place, and implementation has started but there is still a long way to go. Although completion of diversity monitoring returns is low, there are moves to improve this, and the information is adequately analysed to assist in service improvements. Gender conflict issues are generally dealt with well in supervision and with service users.

2.67 However, services for disabled children are not well developed. Although in some areas, there is access to specialist resources where there is a sensory loss or disability when required, this is not consistent across the organisation. Similarly, while inspectors saw a few examples of effective work using specialist resource with parents and other family members, there was a lack of consistency across Wales. CAFCASS CYMRU needs to develop a strategy for working with disabled children, and cultivate partnerships and commissioning arrangements with organisations that are skilled in communicating with disabled children.

2.68 The organisation has a Welsh language strategy, and its impact is evident from the service delivery observed. All services are available through the medium of Welsh upon request and some of the staff interviewed are fluent Welsh speakers. Mandatory training has been introduced which is aimed at developing understanding and breaking down barriers. If a Welsh speaking member of staff is required, branches have satisfactory reciprocal arrangements in place. A manager has been appointed to develop and implement a Welsh Language Action Plan. CAFCASS CYMRU is currently undertaking a language
skills analysis and looking to develop language skills through the training plan. There is also sufficient access to translators and services providing ethnic minority languages, and service users can request information in languages other than English and large print. However, most service information is only available in print. Formats for people with literacy problems are underdeveloped.

2.69 A majority of children and young people report that they are treated with respect and dignity by CAFCASS CYMRU practitioners. Most direct work with children and families is undertaken in accessible locations. Information about service users is held and used securely.

Safeguarding

2.70 The contribution of CAFCASS CYMRU to safeguarding children and young people is satisfactory.

2.71 The Inspectors examined the effectiveness of safeguarding children and young people, across all CAFCASS CYMRU’s functions. In all cases examined by inspectors they checked whether safeguarding needs are assessed effectively and effective intervention is taken to ensure that children and young people are safe. Inspectors spoke to local authorities and other safeguarding agencies to ascertain whether CAFCASS CYMRU contributes to the work of local safeguarding children boards (LSCBs), to address safeguarding needs of children and young people. Inspectors checked whether there are clear safeguarding remits for commissioned services which are monitored effectively by CAFCASS CYMRU; and whether there are robust, operational policies for dealing with allegations against members of staff. Inspectors sought assurance that CAFCASS CYMRU premises and other locations used by CAFCASS CYMRU are safe for children, young people and adults and
that the majority of children and young people report feeling safe as a result of the CAFCASS CYMRU service.

2.72 Safeguarding has an appropriately high priority throughout the business plan and in induction and ongoing training for all staff. Safeguarding is satisfactory in all of the files and court reports inspected. Case files demonstrated that assessments are completed, needs are identified and effective interventions undertaken to ensure children, young people and vulnerable adults are safe. The needs of children and young people are the primary focus throughout almost all cases. All staff are aware of their responsibilities and fully conversant with the All Wales Child Protection procedures. In cases involving domestic violence CAFCASS CYMRU conducts satisfactory checks with the local authority, police and domestic violence units, they also communicate effectively with the probation service if either party is a known offender. Risks to the child are assessed within the context of their family relationships, and relationship between the parties. Information about any risk to children is provided to courts at the earliest part of proceedings which is good safeguarding practice. However, the impact of domestic violence on children and young people needs to be better assessed. Furthermore, more needs to be done to focus on the safety of adults when making recommendations to the court.

2.73 63% of adult service users surveyed felt that the safety of their children was ensured throughout the process of the engagement with CAFCASS CYMRU and 57% felt that their own safety was ensured during the process. CAFCASS CYMRU needs to consider how it can improve this perception.

2.74 Attendance at LSCBs varies across the organisation, as does attendance at domestic abuse forums. Local authorities told us that the contribution of CAFCASS CYMRU staff to the work of LSCBs varies
considerably across the country. Most staff received an update in their child protection training over 12 months ago, however, there has been recent training on specific child protection issues (e.g. trafficking). Referrals are appropriately made to the local authority and a record is kept. The process for referral tracking is not robust across the organisation and the monitoring and recording of outcomes is not consistently done, however, there are plans in place to improve this. There is dissemination of learning from serious case reviews. Themes and patterns are analysed and disseminated through regional meetings, and discussed in team meetings. The process employed by the organisation to manage waiting lists has a satisfactory approach to safeguarding children and young people.

2.75 However, safeguarding measures are not well embedded in arrangements for commissioned services. There are few information-sharing and joint working protocols in place, that effectively ensure good communication about children identified as at risk of harm.

2.76 CAFCASS CYMRU premises and other locations used by CAFCASS CYMRU are generally safe for children, young people and adults; although some of the contact centres need to implement continuous risk assessments.

Evaluation

2.77 Evaluation is satisfactory.

2.78 Inspectors analysed the self evaluation form completed for this Inspection, and other management information documents to ascertain whether CAFCASS CYMRU has the level of self awareness of its strengths and weaknesses required to ensure improvement of services for children and young people. Inspectors analysed whether the various
methods of self-evaluation deployed appropriately identify most of the service area’s strengths and weaknesses. Inspectors also examined whether self-evaluation is based on appropriate levels of monitoring and analysis.

2.79 An assurance and improvement framework has been devised by CAFCASS CYMRU and was reviewed by the Welsh Assembly Government internal audit services. The audit office was able to provide substantial assurance on the controls in place over the development, approval and initial operation of the framework up to the point which the assurances have been identified, assessed and appropriate recommendations made. The inspectors found that the framework is a useful way of monitoring the development of the required management processes and practice policies. However, in the inspectors’ view, although the assurance framework comprehensively covers all areas of CAFCASS CYMRU responsibilities, it concentrates on process, rather than service delivery. For instance in the review of assurance actions, undertaken in March 2010, the organisation reported that it was assured of case planning and recording, based on the fact that a case planning and recording procedure has been introduced. However, this procedure was not being followed by staff, and in fact, the self evaluation form revealed that case planning and recording is inadequate. Care must be taken by CAFCASS CYMRU not to take assurance from the existence of written policies and procedures, without considering whether they have been implemented, and measuring their effectiveness in improving outcomes for children and young people.

2.80 The self evaluation form completed for this inspection is satisfactory because for the most part the judgements within it are realistic and accurate. The organisation correctly identified key weaknesses and challenges in case planning and recording, user engagement, and partnerships. However, it failed to recognise the important issues and
weaknesses, evident in performance management and ambition and prioritisation. The evidence cited was specific and demonstrated a good understanding of the most important impact the organisation makes. Examples are given from individual case work as well as some strategic outcomes that can be identified.
Annex 1

Acknowledgements.

Inspectors:
Marya Shamte
Bryan Isaac
Sheila Booth
Cheryl Beach
John Llewellyn Thomas
Karen Tudor
Margaret Wearing
Arran Poyser
Special thanks to Jeremy Gleaden HMI

CSSIW would like to thank the children and young people, and their families; the staff and managers of CAFCASS CYMRU for all their help and cooperation with this inspection.
Annex 2
Definitions

Private and public law

Family law is that area of the law which regulates and deals with family and domestic relations including, but not limited to, marriage, civil and domestic partnerships and the welfare of children. Where these matters are dealt with by courts, they are known as family proceedings. The person or body that brings the issue to court is known as the applicant and the person or body opposing the application is known as the respondent. In general terms applicants and respondents are known as parties to the proceedings.

Private law is that part of the family law where the state does not normally need to be involved. Private law proceedings involving CAFCASS CYMRU are usually about situations where parents have separated and they cannot agree where a child should live or with whom they should have contact. The law that established CAFCASS CYMRU states that it should only become involved in family proceedings where the welfare of the child is, or may be, in question.

Public law is that part of the family law which deals with relationships between parents, or those with a parental role, where the state does need to be involved to ensure that a child does not suffer significant harm. Court proceedings are usually initiated by a local authority applying for a care or supervision order. This may result in the child being looked after by the local authority under a care order. Adoption-related applications are also normally public law proceedings.

Public Law Outline:

The Public Law Outline (PLO) came into force on Tuesday 1 April 2008. It is part of changes which are designed to bring about a cultural change in care and other children’s proceedings.

The PLO incorporates an overriding objective of, “enabling the court to deal with cases justly, having regard to the welfare issues involved.” It states that this includes factors such as fairness and expedition, proportionality, saving expense and ensuring that the parties are on an equal footing.

The PLO is based on an assumption that proceedings may take place over a six month timescale. It is trying to ensure that there is more thorough preparation by local authorities for care and supervision order applications. It
stresses however, that the timescale of a case needs to accommodate those of the child.

The Revised Private Law Programme

The Revised Private Law Programme is guidance given to courts and CAFCASS CYMRU about how to conduct private law proceedings. The revised programme came into force in Wales on 1st October 2010.

The programme is designed to assist parties like separating parents, to reach safe agreements where possible, to provide a forum in which to find the best way to resolve issues in each individual case and to promote outcomes that are sustainable, that are in the best interests of children and that take account of their perspectives.

Welfare checklist

The Children Act 1989 section 1(3) sets out what is known as the welfare checklist. It comprises seven features that should be balanced equally when courts consider whether an order should be made. The welfare checklist considers: children’s wishes and feelings; their physical, emotional and educational needs; the likely effect of any change in circumstances; characteristics that make up their identity; any harm suffered or at risk of suffering; parental capability; and the court’s powers. The Adoption and Children Act 2002 section 120 extends the definition of harm within the meaning of the Children Act 1989 section 31 ‘including, for example, impairment suffered from seeing or hearing the ill-treatment of another’. Under court rules, CAFCASS CYMRU practitioners are under a statutory duty to have regard to ‘the matters set out in section 1(3)’.
Annex 3

CAFCASS CYMRU statutory functions

Criminal Justice and Court Services Act 2000 section 12

In respect of family proceedings in which the welfare of children is or may be in question it is a function of the Service to:

- safeguard and promote the welfare of the children;
- give advice to any court about any application made to it in family proceedings;
- make provision for the children to be represented in family proceedings;
- provide information, advice and other support for the children and their families.

Children Act 1989 section 16A (as inserted by section 7 of the Children and Adoption Act 2006) namely risk assessment:

- The requirement of CAFCASS CYMRU to carry out a risk assessment in private law cases where risk of harm is suspected. This requirement also applies when CAFCASS CYMRU monitors contact orders.

Children Act 1989 section 11 (as inserted by section 1 of the Children and Adoption Act 2006) namely contact activity and enforcement:

- provision that a court may ask CAFCASS CYMRU to report about the appropriateness of contact activity or contact conditions (section 11E);
- courts may ask CAFCASS CYMRU to monitor compliance with contact activity (section 11G);
- provision that a court may ask CAFCASS CYMRU to report about the appropriateness of making an enforcement order (section 11L);
- courts may ask CAFCASS CYMRU to monitor compliance with enforcement orders & report to court (section 11M).

CAFCASS CYMRU practice will include:-

- contact activities arising from the Adoption and Children Act 2006 (as above);
- practice changes arising out of the Public Law Outline;
- practice changes arising out of the pathways for (a) private law proceedings (b) section 31 proceedings (c) placement and adoption proceedings (d) witnessing consent in adoption.
Children Act 2004 section 13(3h)

- Membership of local safeguarding children boards.

The Human Rights Act 1998 in particular:

ECHR Article 6

RIGHT TO A FAIR TRIAL

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgement shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interest of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court.

ECHR Article 8

RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE

1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.