



CHILDREN AND FAMILY COURT ADVISORY AND SUPPORT SERVICE

Paper for the Board meeting on 05 October 2006

CHILDRENS RIGHTS POLICY: FOR ENDORSEMENT

1 AIM AND PURPOSE

- 1.1 The draft Childrens Rights Policy was consulted on between November 2005 and February 2006 and also reflects recent policy and practice developments in CAFCASS. The policy is now submitted to the Board for approval.
- 1.2 Endorsement by the Board is an important step towards mainstreaming children's rights at all levels of the organisation, particularly in front-line practice.

2 ACTION FOR THE BOARD

- 2.1 To play their part in the mainstreaming push.
- 2.2 To endorse the Shared Values Framework as being consistent with the good governance of CAFCASS.
- 2.3 To note the commitment to specific Convention articles set out in the policy.

3 RECOMMENDATION

- 3.1 The Board is asked to fully endorse the Childrens Rights Policy (Appendix 1) as set out.

4 DIVERSITY

- 4.1 The current policy is fully diversity compliant.

5 TRAINING

- 5.1 All training modules have been re-evaluated to ensure this policy can be fully implemented and to ensure its impact is more visible and tangible to children and young people and supports improvements in direct work with them.

6 LEGAL

- 6.1 Domestic legislation and guidance remain the primary basis for promoting children and young people's welfare in England. Working within the spirit of the United Nations Convention on the Rights of the Child (UNCRC) (Appendix 2) will be further assurance for children that their contribution to issues that affect their lives will always be respected.
- 6.2 The UNCRC is non-enforceable, and cannot be effectively challenged directly under any of its Articles. It is not incorporated into UK Law, and no external court is empowered to pass judgement on it. It is merely cited by different courts domestically and internationally as an indication of the aspirations of most countries in the world towards children. The UK had reservations when ratifying the UNCRC. The reservations related to the care of young offenders, immigration, and employment regulations regarding over 16 year olds and children's hearings in Scotland. The latter two reservations have since been removed.
- 6.3 It is an existing policy position that CAFCASS practitioners will promote the principles of the UNCRC (Service Principles and Standards 2003) and that the organisation will seek to promote the rights of children set out in the UNCRC (Corporate Plan 2003-6). This remains an organisational signal that we put children first.

7 THE APPROACH OF OTHER ORGANISATIONS

- 7.1 The Commission of Social Care Inspection (**'CSCI'**) - is guided by the UN Treaty, to strengthen Domestic Legislation and National Inspection Standards. They take the view that the Convention articles are 'principles for decisions', and as a 'yardstick for auditing child focus'.
- 7.2 CSCI recognises that the UK expressed reservations when ratifying the UNCRC. CSCI's current position is that they adopt the convention with a specific position on the same reservations expressed by the UK government. If a reservation arose it would be considered on a case-by-case basis.
- 7.3 The Children's Commissioner's Office has due regard for the UNCRC and it underpins their work.

8 KEY STRATEGIC ISSUES FOR THE BOARD TO CONSIDER

- 8.1 Endorsement of the policy will mean that CAFCASS will continue to actively consult all children and young people whose lives are directly affected by our service and provide the opportunity to be heard – should they so wish.
- 8.2 Compliance with the policy will be achieved through the existing performance management framework.
- 8.3 A degree of culture change will be crucial to the full and successful implementation of the policy. The time-scale is the same as that for the entire Practice Development Programme. This has March 2009 as the final date for all necessary practice developments and improvements to have taken place in every local service area.

9 FINANCIAL IMPLICATIONS

- 9.1 These changes will be managed within existing resources. There are no specific costs incurred for writing and disseminating the policy, as the costs are existing staff time. Knowledge, learning and development costs are already funded within existing allocations.

10 RISKS

- 10.1 Full implementation of the policy across the organisation needs to be phased to ensure that practitioners can be fully trained to work within this framework. This will be addressed over realistic timescales.
- 10.2 It is existing CAFCASS policy to promote the principles of the UNCRC. Some of those principles are not to be found in domestic law. However, there is nothing wrong legally in CAFCASS giving a commitment to promote such principles, and the risks of policy or legal challenge are minimal as long as any specific recommendation about a child is made in good faith, with an evidence-base, and having taken their needs, wishes and feelings into account.
- 10.3 Public awareness of our more explicit focus on children's rights may lead to a greater expectation of their views being heard in family court proceedings. If this is not demonstrated, there will be a greater risk of criticism. Similarly, pressure groups representing other interests in the family justice arena may suggest their own rights are being undermined by the stronger focus on children's rights. However, no group is likely to disagree with the principles set out in this policy, merely its application in individual cases. In this sense, the most important aspect of the policy is how it will be reflected in everyday practice.

Christine Smart
Childrens Rights Director
September **2006**



Putting children and young people first.



CHILDREN'S RIGHTS POLICY

"Seen & Heard"

8th September 2006

(Final version for ECDG and Board)

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INTRODUCTION

CAFCASS is committed to developing its services to children, young people and their families in accordance with the requirements of domestic legislation and international human rights conventions. Legislation and conventions central to the work of CAFCASS include -

- The Children Act **1989**
- The Adoption and Children Act **2002**
- The Children and Adoption Act 2006
- The Convention for the Protection of Human Rights and Fundamental Freedoms **1950** (ECHR) which came into force in **1958** and was incorporated into our domestic legislation by the Human Rights Act **1998** implemented in October **2000**.
- The United Nations Convention on the Rights of the Child (UNCRC) now ratified by all but two countries in the world.
- The European Convention on the Exercise of Children's Rights 1996.

Taken together, Children's Rights conventions and legislation represent an important international consensus on what has to be done to safeguard and promote the best interests of children and young people. For CAFCASS, this means we aim to secure the best possible outcomes from our interventions, for each individual child or young person referred to us.

CAFCASS' core responsibility is to represent the interests of children and young people and their interests in a range of family court proceedings. Central to this ethos of the service is Article **12** of the UNCRC¹ that has been identified as one of the guiding principles of the convention. Article **12** focuses on consultation and participation. It gives children, who are capable of forming their own views, the right to express their views freely in all matters affecting them. For this purpose, the child shall be provided with the opportunity to be heard in any judicial or administrative process affecting them. Historically the voices of children have often been too weak to be heard, often with disastrous consequences.

Articles **14** and **17** give children and young people the right to hold their own opinions and to access information. Article 3 states that parties should ensure that the child is afforded such protection and care as is necessary for his or her wellbeing, taking into account the rights and duties of parents and those with parental responsibility.

CAFCASS is committed to promoting the principles of the UNCRC and providing the highest standard of information, consultation, support and representation to the children and young people who use our services.

¹ The UNCRC was ratified by the UK in 1991 but is not part of English law as such.

We aim to support, empower and safeguard children and their interests through the framework of 'Every Child Matters'. We are working proactively to facilitate the participation of children and young people in service development and we seek to achieve a culture of continuous improvement by incorporating the principles of respect for children's rights, participation and consultation into our organisational planning and thinking.

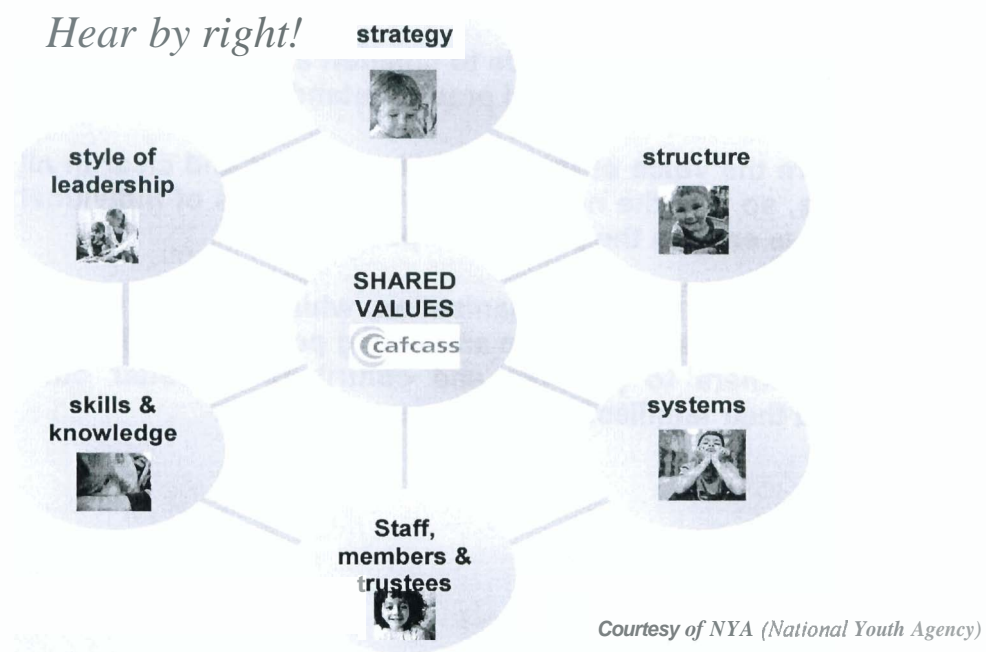
POLICY AIM

- To actively promote the rights of children and young people referred to us.
- To promote and embed a culture of listening to children and valuing their contribution as citizens.
- To be directly accountable to children and young people for the services we provide to them.
- To ensure the service we provide to children and young people complies with diversity legislation and national practice standards.
- To make sure the voice of the child is heard loud and clear in all family court proceedings, so that the needs wishes and feelings of individual children are understood as early in the process as possible.
- To become a child centred organisation, which focuses its interventions on improving outcomes for children and young people in family proceedings, and works with others to promote and contribute to better outcomes for all children and their families.

THE IMPLEMENTATION OF A CHILD CENTRED SERVICE IN CAFCASS

This policy has been informed by several consultations, some of which have included young people. They have let us know about the key issues that must be taken into consideration in developing child-centred practice. This is summed up through the model developed by the National Youth Agency, which is a shared values framework.

This shared values framework will be demonstrated in all policies, strategies and professional practice within CAFCASS, based on the principle of 'start with the child and stay with the child'.



To make the rights of children and young people an integral part of our organisation we will:

- Increase our understanding of the needs of the children and young people that we work with in order to enable us to continuously improve the quality of our work.
- Promote good practice in keeping with the responsibilities CAFCASS has to consult with all children with whom we have an involvement.
- Strike the right balance between listening to children and young people but at the same time not allowing adults to overlook or abstain from their own responsibility in relation to these same children.
- Enable children and young people to express their views about our services and if

necessary be supported by an Independent Advocate, should they wish to complain.

- Facilitate and promote children and young people's involvement, and to provide opportunities for children to contribute to the development of CAFCASS both in terms of national and local policy, as well as in specific court proceedings in which they are involved.
- Develop knowledge learning and development opportunities that promote practice models that are child centred and based on research evidence.
- Ensure that all organisational policy and practice is compliant with Article 12 of the UN Convention on the Rights of the Child and contributes to the outcomes envisaged in 'Every Child Matters' especially as every day matters for a child in proceedings.
- Recognise that children and young people are diverse and communicate in different ways. We will be open to diverse means of communications be it through other first languages than English, play, art, drama, media or computer assisted software.
- Work in partnership with child centred organisations to promote better outcomes for children e.g. Alliance for Child Centred Care, Family Justice Council, ADCS.
- Work as members of local safeguarding boards to promote the voice of the child, and work within our own organisation to promote the provision of better information to children and young people about the service and their right to express their views.
- Quality-assure our practice outcomes in relation to child protection, children's rights, children's participation and children's provision through the use of supervision, appraisal, user feedback, and inspection reports. **(CAFCASS Business Plan 2005 – 2007 and Delivering Quality Services for Children - Our Performance Framework – Guidance on Use of Competences)**
- Develop practice guidance through feedback mechanisms, e.g. Viewpoint, in order to refine and enhance our practice in relation to how children should be involved throughout the court process.
- Understand and support the values held by children and young people we work with in relation to family life.
- Make sure the values held by children and young people are reflected in needs wishes and feelings statements.
- Appreciate any conflicting values between child, family, community and those in authority and the reasons why.

REVIEWING AND MONITORING ARRANGEMENTS

- Compliance with this policy will be reviewed biannually and promoted by the Children's Rights Director and Team with the active support of the Children's Rights Champions and regional Children's Rights Groups. All staff have a responsibility for the effective implementation of this policy.
- A progress report will be produced biannually for the CAFCASS Extended CDG and Board.
- Regional champions will report on regional work plans to Regional Directors and the Children's Rights Director on progress in embedding child centred practice locally.
- The CAFCASS and FJC Young People's Board has been set up to offer their views and inform and influence future practice and policy development. The Children's Rights Director will make sure their views are presented to the CAFCASS Board and Extended CDG at regular intervals.
- An annual e-bulletin will be sent to partner agencies on pilot initiatives, progress and policy implementation.

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This final version has been produced following consultation within CAFCASS and with external partners. We had over 20 responses back from external partners.