

12 March 2021

Napo briefing for the Justice Select Committee

Cafcass in crisis

Prior to the Covid-19 pandemic Cafcass had been impacted by a decade of austerity and impossibly high workloads. It was already on the verge of not being able to allocate all private law applications promptly. It is well known but not adequately recognised by the Government that staff consistently work above and beyond the call of duty.

Workloads

There is now a severe workload crisis within Cafcass. The organisation currently has the highest ever volume of open active casework in its history, and this is significantly compromising proceedings throughout the family court system, with cases taking longer to conclude. This in turn impacts on children, families and Family Court Advisors.

It is reported that the average caseloads for Family Court Advisors is 23, with some practitioners having many more. High caseloads are relentless. This is not safe or sustainable. In some areas the capacity to allocate cases is running out. The current Workload Weighting system is redundant, as a majority of Family Court Advisors are permanently in "high red", which is deemed as dangerous and unsustainable, both in terms of their health and wellbeing and in ensuring that safe and timely decisions are made for children. In addition to the volume of work, Cafcass is also implementing additional tasks for each case.

Family Court Advisors report that they feel anxious, distressed and overwhelmed and that there is insufficient time to reflect on a child's situation and to ascertain their wishes and feelings, which could compromise the recommendations that are made. Cafcass has acknowledged the workload crisis and is working on a plan. This plan is long overdue. We are concerned that an approximate caseload of 25 is being spoken

about as a reasonable caseload. Our experience would tell us that this is completely unmanageable.

More resources needed

Cafcass has appointed 160 additional Family Court Advisors in the last year, an addition of 10%, with the additional resources provided by the Ministry of Justice. Despite this, one Cafcass area, South Yorkshire and Humber, has already been in the Prioritisation Protocol, which means that lower-priority work will not be allocated upon issue – albeit this only makes up a small, although important, percentage of the work that Cafcass deals with. A number of other Cafcass areas are at serious risk of being put into the Prioritisation Protocol in the near future.

It is inevitable that more resources from the Ministry of Justice will be needed to tackle the workload crisis.

Coping with the Pandemic

Cafcass is implementing their recovery from the Covid-19 programme and is moving back from a default of seeing all children virtually (which was implemented in January 2021) to a default of seeing all children face to face within the currency of their proceedings. Family Court Advisors are anxious about how this can be implemented safely due to the risks posed by Covid-19 and the workload crisis.

Family Court Advisors, who are Social Workers, have not been prioritised in the Covid-19 vaccination programme, unlike many Local Authority Children Services Social Workers and support staff, when they also visit children and families in their homes. There is currently no Covid-19 testing programme in place for Family Court Advisors to ensure that they do not become transmission vectors from one family to the next.

Staffing

Cafcass has seen a 30% increase of new cases coming into the organisation between 2015 and 2020. During the same period, there has only been a 14% increase in the workforce and Cafcass staff have seen their average pay increase by only 6%. Cafcass pay is causing staff to fall behind their contemporaries in Local Authorities. Cafcass staff are also facing a pay freeze in 2021-2022 after a less-than-satisfactory award in 2020-21.

Cafcass has a highly skilled, committed and experienced workforce who need to be retained and appropriately rewarded. Cafcass is required to operate within the limits set out in the Civil Service Pay Guidance, which is adhered to rigidly by the parent MOJ department. It is our view that Cafcass should move to a new independent pay review model that recognises the challenges relating to recruitment, retention and workloads that must inform future pay awards.

Possible questions for the Chief Executive:

1. How will you manage what is now a further increase in demand, which shows no signs of abating, without having a staff retention crisis?
2. What is Cafcass' immediate and long-term strategy to tackle the workload crisis?
3. Does this need additional resources from the Ministry of Justice?
4. Does the CEO agree that staff need to be well and have the space and time to make the best decisions for children and families? How is the organisation protecting and promoting the health and wellbeing of its staff?
5. Does the Chief Executive think that a break from the Ministry of Justice pay structures would allow Cafcass to have its own (or be part of another) independent Pay Review Body and would that be seen as a positive step?