

Written Response to the HWLG Committee Report On CAFCASS CYMRU by Gwenda Thomas, the Deputy Minister for Social Services

September 2009

Executive Summary

This document sets out the Welsh Assembly Government's response to the report and recommendations published by the National Assembly for Wales' Health Wellbeing and Local Government Committee on 14 July following its inquiry into the operation of CAFCASS CYMRU.

The Welsh Assembly Government thanks the Health, Wellbeing and Local Government Committee for its thoughtful examination of the role played by CAFCASS CYMRU in delivering front-line services for children and families within the family justice system.

The Welsh Assembly Government's detailed response is set out below to each of the 26 recommendations identified by the Committee. Key amongst these are the Welsh Assembly Government's commitment to ensure that children and young people are able to access advocacy services and to maintain relationships with their parents at very difficult times, where it is safe to do so.

Delivering greater collaboration and awareness, enhancing relationships across advocacy services, underpinned, where appropriate, by formalised agreements and promoting partnership working across all levels from ministerial portfolio to service delivery are fundamental to ensure that children and young people are informed about the availability of, and understand how to, access advocacy services and through those services children and young people have a voice within the family justice system.

The Welsh Assembly Government has put in place arrangements that clearly set out the service standards that families can expect from CAFCASS CYMRU, underpinned by the implementation of an assurance and improvement framework and mechanisms to scrutinise and report on performance as part of our agenda for delivering better public services for Wales.

Maintaining and influencing developments within the private and public law arena at UK Government level will enable the Welsh Assembly Government to promote our rights based policies for children and in doing so deliver on our commitment to the United Nations Convention on the Rights of the Child.

Detailed responses to the report's recommendations are set out below:

THE WELSH ASSEMBLY GOVERNMENT'S RESPONSE TO THE

HEALTH WELLBEING AND LOCAL GOVERNMENT COMMITTEE
INQUIRY TO THE OPERATION OF CAF/CASS CYMRU

Recommendation 1

The Committee recommends that:-

The Welsh Government ensure that CAF/CASS's operational guidance includes a firm commitment to a rights based approach to its work, within the context of the legal framework within which it operates.

Response : Accept

The Welsh Assembly Government has adopted the UN Convention on the Rights of the Child as the foundation of the development and delivery of policies, programmes and services in Wales.

CAF/CASS CYMRU as a front-line service of the Welsh Assembly Government ensures the UNCRC is at the core of its operational policies and procedures. The work of its practitioners will continue to be underpinned by our Seven Core Aims and our Rights to Action agenda and will be clearly reflected in all CAF/CASS CYMRU future training, guidance and publications

Financial Implications

None. Costs will be accommodated within existing budgets.

Recommendation 2

The Committee recommends that:-

Welsh Ministers ensure that the UK government is fully aware of the need for CAFCASS Cymru to operate as a child-focused organisation and discusses with UK Ministers how the rights of Welsh children in family proceedings and CAFCASS services in Wales can be delivered within a rights-based framework.

Response : Accept

My role as co-chair of the National Family Justice Board (NFJB) provides an effective platform from which I can continue to influence reserved matters and to ensure that our rights based approach for children and families is at the centre of the Family Justice System.

The NFJB's vision for family justice is to put children at the heart of the system and specifically reflects the Welsh Assembly Government's Seven Core Aims.

Financial Implications

None. Costs will be accommodated within existing budgets.

Recommendation 3

The Committee recommends that:-

The management role of CAFCASS officers in relation to children's guardians is strengthened and clarified with a greater emphasis put on quality assurance of individual case work.

Response : Accept

Robust governance and quality assurance of the effectiveness of an organisation, its staff and the service they provide is fundamental within every public organisation, to ensure the public have confidence in the service they receive.

CAFCASS CYMRU has a number of assurance arrangements in place, and further developments planned. These include the following:

- a new Assurance and Improvement Framework has recently been introduced, which has assessed and prioritised improvement for the future.
- new Service Standards which will set out what service users can expect will shortly be published
- existing assurance arrangements include assessing the standard of reports, together with supervision and performance review meetings with Family Court Advisors.

I have also announced an inspection of CAFCASS CYMRU by the Care and Social Services Inspectorate. The inspection framework will be underpinned by our Seven Core Aims and consider outcomes for children and young people and their experience of the service.

Financial Implications

None. Costs will be accommodated within existing budgets.

Recommendation 4

The Committee recommends that:-

CAFCASS officers work cooperatively with a child's existing advocate wherever possible and encourage legal guardians to do likewise.

Recommendation 5

The Committee recommends that:-

CAFCASS officers inform children as a matter of course of the availability of independent advocacy services particularly the Welsh Government's new Advocacy Service when it is fully established and encourage legal guardians to do likewise.

Response : Accept

The Welsh Assembly Government is committed to ensure that all children and young people are able to access advocacy services. Through the National Advocacy and Advice Service, that aspiration is beginning to be realised when later this year the national advocacy and advice helpline will be available to all children and young people.

Existing guidance and practice tools in public law cases emphasise the important roles and relationship between CAFCASS CYMRU, the child, their IRO including where other advocates are engaged with the child.

CAFCASS CYMRU will build on its current relationships with independent advocates to ensure that the wishes and feelings of children and young people are always heard and taken into account. CAFCASS CYMRU will consider the need to formalise this through agreements to ensure that this is taken forward.

CAFCASS CYMRU is a frontline major advocacy provider in its own right within the context of family court proceedings. It is, however, appropriate for CAFCASS CYMRU to inform children of any support available to them, and the new National Advocacy and Advice Service will be an additional service which Family Court Advisors will signpost.

Financial Implications

None. Costs will be accommodated within existing budgets.

Recommendation 6

The Committee recommends that:-

The Welsh Government clearly sets out how it will provide independent advocacy support to children and young people involved in family court proceedings, highlighting what services will be provided by the Welsh Government's Model for Advocacy Services and how this will fit in to the existing advocacy service provided by CAF/CASS Cymru.

Response : Accept

This will be considered as part of the development work strands within the national advocacy framework.

The development of additional advocacy services for children and young people involved in family court proceedings in Wales will be consulted upon widely with children, professionals, practitioners and the judiciary to ensure clarity of purpose and a fit with the existing advocacy services.

CAF/CASS CYMRU will be working with the Assembly Government Advocacy Unit to ensure CAF/CASS CYMRU is up to date with developments and will inform children and young people of these developments, including the National Advocacy and Advice Service. Promotional materials will be produced for the National Advocacy and Advice Service which CAF/CASS CYMRU will make available.

Financial Implications

None. Costs will be accommodated within existing budgets.

Recommendation 7

The Committee recommends that:-

Ministers should ensure that CAF/CASS Cymru is sufficiently well resourced to ensure its officers have the time and flexibility to deliver a tailored child-centred service to children and young people, which is determined by the child or young person's individual needs and requirements, including establishing and reporting their views, wishes and feelings.

Response : Accept in Principle

Significant additional resources have been provided for CAF/CASS CYMRU in 2009/10 and additional staff appointed. Demand across the Family Justice system has increased in recent years and this has been reflected within our review of Assembly Government budget allocations. Where pressures arise as a result of non-devolved functions, we will continue to ensure that resource implications are effectively evaluated and resourced by the UK Government.

The Welsh Assembly Government is committed to support the delivery of more efficient and effective high quality citizen-centred public services across Wales by embedding a quality approach to the delivery of services. We will continue to maintain our commitment to delivering our rights based agenda for children through an effective approach to investment whilst achieving value for money within the current economic situation

Financial Implications

Future resource implications will be considered as part of annual budget discussions.

Recommendation 8

The Committee recommends that:-

CAFCASS examines its working practices to ensure a consistent and appropriate approach is adopted when making contact with children, family members and other agencies.

Response : Accept

CAFCASS CYMRU Operational Policies and Procedures, Practice Guidance, and Professional Standards and Competences make explicit reference to the working practices required of their practitioners when making contact with children, families and other agencies.

These areas will be further addressed as part of the CAFCASS CYMRU new Assurance and Improvement Framework, and Service Standards as outlined in my response to Recommendation 3.

Financial Implications

None. Costs will be accommodated within existing budgets.

Recommendation 9

The Committee recommends that:-

CAFCASS develops a multi-disciplinary team approach to the conduct of assessments to ensure that experienced social workers, child psychologists and other health professionals and therapists are involved as appropriate in assessments.

Response : Accept in Principle

New arrangements and statutory guidance under the Public Law Outline implemented last year bring greater rigour and accountability within proceedings. Local authorities, CAFCASS CYMRU and others such as NHS and education professionals are required to take a multi-agency and multi - disciplinary approach to improving assessments, care management and the review of care plans.

The guidance provides clear direction on the duties of other agencies in contributing to the development of a robust, holistic assessment and a quality care plan. The new procedures will be measured on a number of fronts through WAG and MoJ performance framework /indicators and CSSIW inspections.

The need for, and the commissioning of, expert witnesses to provide specialist advice are matters for the court and non-devolved.

Financial Implications

None. Costs will be accommodated within existing budgets.

Recommendation 10

The Committee recommends that:-

CAFCASS ensures that it builds strong relationships with other partner agencies in order to support the need for increased multi-agency working in relation to families where domestic violence is an issue.

Response : Accept

Domestic abuse is unacceptable; it destroys families and can have a profound impact on children. CAFCASS CYMRU has a critical role, as one of a number of key partners, in delivering on the Assembly Government's strategic action plan to address domestic abuse and to ensure children living in such situations are protected and supported.

Changes in 2006 strengthened CAFCASS CYMRU's role in respect of private law to undertake risk assessments for children who may be at risk because of domestic abuse. CAFCASS CYMRU also provides advice to the courts about the suitability of contact activities to address a person's violent behaviour.

In safeguarding children and supporting families to change behaviour CAFCASS CYMRU have developed a number of tools including; -

- a Domestic Abuse Assessment and Resource Pack to enable its practitioners to identify, assess the associated risks and impact and to appropriately report their concerns and assessments to local support services;
- protocols to enable the sharing of information with the Police and local authorities where concerns have been raised.

CAFCASS CYMRU is also a key contributor to a cross-portfolio group, working to build capacity on a range of perpetrator programmes to address violent behaviour; including how best to strengthen the connections across key statutory and other agencies in sharing information and delivering a co-ordinated approach to domestic abuse.

Financial Implications

None. Costs will be accommodated within existing budgets.

Recommendation 11

The Committee recommends that:-

CAFCASS ensures, when carrying out assessments of very young or vulnerable children, that independent advocates, through the Welsh Government's new Advocacy Service are used to build relationships with children and help them to articulate their views.

Response : Accept in principle

CAFCASS CYMRU practitioners are skilled and experienced in building rapport with children and young people and adapt their approach to reflect the chronological, developmental and cognitive abilities of individual children and young people.

Family Court Advisors also draw upon specialist support required by children with whom they are working. Independent advocates provide invaluable insight and advice to assist practitioners in the formulation and reporting of recommendations to the courts that reflect the wishes, feelings and best interests of the child concerned.

My responses to Recommendations 4 to 6 also set out my proposals in respect of the National Advocacy and Advice Service.

Financial Implications

None. Costs will be accommodated within existing budgets.

Recommendation 12

The Committee recommends that:-

CAFCASS takes urgent action to ensure that it is providing a high quality service to Welsh speaking children and families, to ethnic minority groups and to children and families with learning difficulties, disabilities and multiple needs.

Response : Accept

CAFCASS CYMRU has completed an analysis of Welsh Language skills in order to meet possible demand. This will ensure that service users wishing to receive a service through the medium of Welsh language may do so.

CAFCASS CYMRU also has access to translation and interpretation services for minority languages (including British Sign Language) where the linguistic needs of children and their families require or request it.

Meeting the needs of diverse and minority groups will be considered as part of the proposed inspection arrangements by CSSIW.

Financial Implications

None. Costs will be accommodated within existing budgets.

Recommendation 13

The Committee recommends that:-

The Welsh Ministers amend statutory guidance to ensure that CAFCASS Cymru is represented on all local safeguarding children's boards.

Response : Accept

CAFCASS CYMRU is represented on every Local Safeguarding Children Board in Wales as advocated by the Welsh Assembly Government's statutory guidance "*Safeguarding Children: Working Together Under the Children Act 2004*".

Issued in 2006, "*Working Together*" sets out the arrangements governing the establishment and operation of Local Safeguarding Children Boards to ensure that agencies and professionals co-operate to safeguard and promote children's welfare and protect them from harm.

The guidance clearly establishes that in view of CAFCASS CYMRU's statutory duty to safeguard and promote the welfare of children, LSCB's should ensure that CAFCASS CYMRU representation is included within its membership.

Financial Implications

None.

Recommendation 14

The Committee recommends that:-

The Welsh Ministers consider, with Child Contact Centres in Wales and the NACCC, how centres in Wales can best be represented and supported at an all-Wales level and in the wider UK context.

Recommendation 15

The Committee recommends that:-

CAFCASS offers Child Contact Centres in Wales that they already fund, immediate three year funding arrangements at the level of their current funding.

Recommendation 16

The Committee recommends that:-

CAFCASS and the Welsh Ministers draw up a funding strategy for Child Contact Centres in Wales, including those not currently funded, based on the principles outlined in this report.

Response : Accept

Contact centres and services enable non-resident parents and wider family to maintain relationships with children during difficult times in their lives. Demand for support has grown substantially in recent years and there are a number of providers from across the voluntary and private sectors working in partnership with the Welsh Assembly Government to engage and deliver assistance to children and families.

I have commissioned CAFCASS CYMRU to prepare an evaluation of the effectiveness of the current arrangements, including the provision of funding, in order to identify how balanced provision of contact services across Wales can be achieved.

The Welsh Assembly Government will want to ensure that the enhancement of contact services provides sustainability for providers whilst building upon our achievements and investment in the mainstream services such as Flying Start, Cymorth, integrated children's centres available for children and families.

The development, planning and delivery of services for families crosses a number of ministerial portfolios, particularly those of the Ministers for Social Justice and Local Government and Children, Education, Lifelong Learning and Skills. I will wish to ensure that any proposals are consistent with their priorities and responsibilities.

Good links have been established with the National Association of Child Contact Centres (NACCC). CAF/CASS CYMRU has already commissioned NACCC to provide intensive training and support to the seven centres contracted to provide Supervised Contact, to facilitate accreditation with NACCC. NACCC will also be working with the eleven Contact Centres contracted to provide Supported Contact to enable them to either renew or reach accreditation.

Further discussions will be held with NACCC about representation of their members and relationships with non members of the Association.

Financial Implications

None at this stage. Future resource implications will be considered as part of annual budget discussions.

Recommendation 17

The Committee recommends that:-

The Welsh Ministers consider how a nationally co-ordinated range of direct support services for children and young people experiencing parental separation, familial conflict and domestic violence can be provided and the role that CAFCASS should play in directing children and young people toward these services.

Response : Accept

I will consider this alongside the outcomes of CAFCASS CYMRU's evaluation of contact services highlighted in my response to Recommendations 14 to 16.

CAFCASS CYMRU is well placed to promote awareness of support services and greater collaboration between the courts, statutory partnerships and other sectors. Their contact with children, families and other professionals positions CAFCASS CYMRU to signpost and make effective use of existing strategies and programmes such as Flying Start, Cymorth, the Advocacy Framework and the Schools Counselling Service.

Financial Implications

None. Costs will be accommodated within existing budgets.

Recommendation 18

The Committee recommends that:-

CAFCASS Cymru develop and implement a Participation Strategy that is in line with the All Wales National Children and Young People's Participation Standards.

Response : Accept

CAFCASS CYMRU's existing Child and Young Person's Participation Strategy is in the process of re-development to ensure it provides children and young people with a voice in respect of CAFCASS CYMRU.

In the Autumn, children and young people's participation events will assist in the development of an action plan in line with the All Wales Participation Standards.

CAFCASS CYMRU will also draw on the Welsh Assembly Government Participation Consortium to ensure developments continue to reflect good practice, particularly the development of a kite mark for interagency standards concerning children and young people's participation.

Financial Implications

None. Costs will be accommodated within existing budgets.

Recommendation 19

The Committee recommends that:-

“Made in Wales” performance indicators are drawn up, involving UK Ministers as necessary, between the Welsh Government and CAFCASS as a matter of urgency with clear accountability by CAFCASS to Welsh Ministers for delivery against these indicators.

Response : Accept in Principle

The CAFCASS CYMRU Operational Plan will continue to set out a range of performance indicators with in-year targets.

The proposed inspection arrangements will enable the Care and Social Services Inspectorate for Wales to report on CAFCASS CYMRU performance and service standards across its operation. The analysis of evidence from inspection reports, service users’ views, the Assurance and Improvement Framework, will all have a key role in developing and demonstrating performance improvement plans and relevant measures that will direct and add value to its operation.

The specific circumstances and needs of Wales can be addressed through the National Family Justice Board, particularly where this relates to the development of a whole system performance measure for children who are subject of Family Court Proceedings.

Financial Implications

None. Costs will be accommodated within existing budgets.

Recommendation 20

The Committee recommends that:-

CSSIW's inspections of CAF/CASS should include a clear focus on compliance with the United Nations Convention on the Rights of the Child and should be undertaken on a regular basis.

Response : Accept

The voices and experiences of children and families will be a key feature of our inspection framework. Our preparatory works are embedding the Seven Core Aims and, through those Aims, the United Nations Convention on the Rights of the Child, within the inspection framework.

These arrangements build on CAF/CASS CYMRU's responsibility to ensure the effective delivery of its statutory functions and to report on its performance and plans for improvement that reflects the UNCRC. It will be a continuous and iterative process, with the level of inspection being proportionate to service users and court experiences and improvements required.

Regular inspections of CAF/CASS CYMRU by CSSIW will commence in 2010/11.

Financial Implications

None. Development and delivery of the inspection arrangements will be met from CSSIW forward work programme.

Recommendation 21

The Committee recommends that:-

CSSIW's inspections of CAF/CASS should draw on relevant expertise from Her Majesty's Inspectorate of Court Administration with respect to interrelationships with the court and safeguarding issues.

Response : Accept in Principle

The CSSIW is actively engaged with fellow inspectorates in developing the framework, including Ofsted, who now exercise the functions of HMICA. This collaboration will provide synergy across our respective standards and enable effective analysis and benchmarking of services. This will provide further opportunity to evaluate and report on performance, identifying key issues to be addressed through the improvement planning process.

Financial Implications

None. Development and delivery of the inspection arrangements will be met from CSSIW forward work programme.

Recommendation 22

The Committee recommends that:-

The CAFCASS Advisory Board should be more closely involved in the planning process across a much broader range of issues. Its remit should include the ability to challenge CAFCASS officers and senior managers on the child-focused aspects of the organisation's performance.

Recommendation 23

The Committee recommends that:-

The Welsh Assembly Government reviews and clarifies the CAFCASS Advisory Board's relationship with Ministers.

Response : Accept

The Advisory Committee should be an effective source of challenge and support to CAFCASS CYMRU, if they are to be of assistance to the Chief Executive and the senior management team.

A review is underway on membership which will be extended to consider:-

- the continued effectiveness of the current terms of reference;
- its role in assisting the Chief Executive; and
- the appropriateness of independent reporting arrangements to Welsh Ministers.

The review will be completed early in the New Year and take full account of the Advisory Committee's positive and significant contribution to the development of the Assurance and Improvement Framework; operational policies and procedures; the planning cycle, the operational plan and annual priorities.

Financial Implications

None. Costs will be accommodated within existing budgets.

Recommendation 24

The Committee recommends that:-

The Welsh Government seeks urgent discussions with the UK government on its financial contribution to the work of CAFCASS in Wales.

Response : Accept

The Welsh Assembly Government will continue to make explicit to the UK Government that any burdens falling upon, Welsh Ministers, CAFCASS CYMRU or public sector bodies in Wales as a result of non-devolved legislation is taken into account in the overall settlement or through resource transfer from individual UK Departments.

The National Family Justice Board, which I co-chair, acts as the gateway for policy and procedural developments across the Family Justice System, including scrutiny and evaluation of the resource implications arising from any proposed changes.

Financial Implications

None.

Recommendation 25

The Committee recommends that:-

The Welsh Government seeks changes to the law to allow the Children's Commissioner to enquire into how CAFCASS carries out its functions.

Response : Reject

The existing legislative provisions already allow the Children's Commissioner to consider the way in which Welsh Ministers' functions exercised by CAFCASS CYMRU under Part 4 of the Children Act 2004 are performed.

Additional scrutiny of CAFCASS CYMRU performance will be provided through the inspection arrangements I have set in place, and the Complaints process.

The Committee recognise that under the exemption provided by section 77 of the Care Standards Act 2000, the Commissioner is not authorised "to enquire into or report on any matter so far as it is the subject of legal proceedings before, or has been determined by, a court or tribunal".

Where individuals are unhappy with decisions of the court there are existing legal mechanisms to address these through existing appeals and fresh court applications.

Financial Implications

None.

Recommendation 26

The Committee recommends that:-

CAFCASS agrees partnership arrangements with the Children's Commissioner that would allow them to work together in cases where children have raised concerns about CAFCASS with the Commissioner.

Response : Accept

A Memorandum of Understanding is being drafted to clarify the roles and the relationships between CAFCASS CYMRU and the Children's Commissioner in cases of children who are subject to Family Court Proceedings. The Commissioner and Chief Executive are working toward reaching agreement on the full text before the end of the year.

Financial Implications

None.