

Study into Cafcass' role at First Hearing Dispute Resolution Appointments

Summary

This report presents the findings of a study which aimed to investigate to what extent Cafcass FCAs were meeting the expectations set out in the CAP in relation to FHDRA's. The study consisted of: a survey of Family Court Advisers in respect of 300 FHDRA's; interviews with a small sample of FCAs; and interviews with a small sample of judges and one legal adviser.

Key points:

- Data from the survey indicates that Cafcass is generally meeting the expectations set out in the CAP in respect of safeguarding letters: letters are generally filed on time and inclusive of all requested safeguarding information.
- FCAs' ability to engage in successful dispute resolution was cited in the judicial interviews as a key part of the value of FCAs attending FHDRA's, with FCAs seen as possessing social work expertise, having the ability to engage with parties and gain their trust and putting the focus back on the children instead of the parental issues.
- There was a high rate (68%) of agreement between parties where the FCA had attempted to resolve the issues at the FHDRA, this was higher than the cases where FCAs chose not to (e.g. for safeguarding reasons), at 42%.
- There was a high correlation between the advice of the FCA at the hearing and the outcome of the hearing: in at least 81% of cases not resolved by agreement there was at least one match between the FCA's advice and the court outcome; and in 61% the FCA's advice and the court outcome matched exactly.
- Attending the hearing helps FCAs to refine Cafcass' advice to the court; there was greater congruence between the advice of the FCA attending the FHDRA and the court outcome than the advice in the safeguarding letter and the court outcome.

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Introduction

Cafcass receives around 35 000 private law applications each year and in most of these cases a Cafcass Family Court Adviser (FCA) will attend the First Hearing Dispute Resolution Appointment (FHDRA). Cafcass' role before and at these hearings is set out in Practice Direction 12B, the Child Arrangements Programme (CAP). Before the FHDRA, Cafcass is required to carry out safeguarding checks on the parties, undertake risk identification interviews with the parties and report the outcome of these enquiries to the court in the form of a safeguarding letter. Two key expectations of Cafcass at the FHDRA are that 1) the FCA will speak separately to each party at court before the court hearing and 2) the FCA will seek to assist the parties in conciliation and in resolution of all or any of the issues between them and will advise the court of any recommended means of resolving any remaining issues.

Aim

This study aimed to investigate to what extent Cafcass FCAs were meeting the expectations set out in the CAP in relation to FHDRAs.

Methodology

There were three strands to the project:

1. An online survey completed by FCAs in relation to 300 of the 674 FHDRAs taking place in the first week of August. (Questionnaire at appendix A)
2. Interviews with a small sample (15) of the FCAs who completed the survey (Schedule at appendix B)
3. Interviews with a small sample of five judges and one legal adviser (Schedule at appendix C)

The aim of the survey was to provide quantitative information about whether the attendance of FCAs at FHDRAs was fulfilling the expectations set out in the CAP. The FCA interviews asked FCAs more detailed questions about the hearing in respect of which they had completed the survey in order to find out more about what was happening at FHDRAs and why. Judicial interviews were carried out to explore judicial perspectives on the value of FCAs attending FHDRAs to the management of the case.

Survey response rate

A random sample of 300 cases was selected from the 674 cases listed for the week beginning 3rd August 2015. Fifty-nine cases were removed from the sample due to the FCA or Office Manager informing us that the hearing had been vacated, adjourned or was not on the Cafcass list for the day. Out of the 241 remaining cases, there were 200 valid completed survey returns; the response rate was therefore 83%.

Survey results

Providing a safeguarding letter no more than 3 working days before the FHDRA

In the majority of cases (almost 90%) the safeguarding letter was filed at least three working days before the hearing. In only one case (<1%) there was no letter filed on or before the hearing date where this was required by the court.

Letter filed at least three working days before hearing	Frequency	Percent
Yes	179	89.5%
No	16	8%
Non applicable	5	2.5%
Total	200	100%

Letter filed on or before hearing date	Frequency	Percent
Yes	194	97
No	1	0.5
Non applicable	5	2.5
Total	200	100

Letter filed with some safeguarding checks missing	Frequency	Percent
Yes	19	9.5
No	181*	90.5
Total	200	100

*includes cases with no letter filed or no letter requested by the court

Attending the hearing

Fifty-nine cases where the FCA did not attend the hearing, due to it being adjourned, vacated or not being in Cafcass' list for that day cases were removed from the sample without a survey being completed. As the survey was not completed in these cases we did not record the reason for non-attendance in each case. In 19 cases the FCA did not attend the hearing but still completed the first two questions of the survey to confirm that they had not attended and provided a reason for this. The most common reason for this (39% of the 19 cases) was because the hearing was not on their list.

Reason for not attending	Frequency
Not on list	7
Not required	4
Discussion with judge/legal adviser prior to hearing	3
Vacated	4

Adjourned	1
Total	19

In all of the following sections any percentages given will refer to survey responses where the hearing was attended (n=181) rather than total responses (n=200), unless otherwise specified.

Speaking separately to each party (in particular, where it has not been possible to speak by phone beforehand)

In over half, 106 of 181, cases attended (59%); the FCA spoke to both parties. In almost a fifth (19%) of cases the FCA spoke to neither party at the hearing. In the majority of cases where only one party was spoken to, that party was the applicant; in three-quarters (24) of these cases the reason that only the applicant was spoken to was because the respondent did not attend.

Parties spoken to	Frequency	Percentage
Neither	34	19
Applicant only	32	18
Respondent only	9	5
Both parties	106	59
Total	181	100

Work with the judge to “assist the parties in conciliation and resolution of all or any of the issues between them” and advising the court of recommended means of resolving any remaining issues (with the court then giving directions for the future resolution of such issues), following a local procedure agreed between the Cafcass manager and the DFJ (or Justices’ Clerk)

Most (n=104, 71%) of those 147 FCAs who spoke to either one or both parties sought to resolve the issues between them. The most common reason (n=19/43) for not seeking to resolve the issues was that there were safeguarding issues requiring further assessment. The second most common was that one party did not attend (n=15).

Reasons for not resolving issues:

Reason for not resolving issues	Frequency	Percentage
Safeguarding requiring further assessment/information	19	44
Party did not attend	15	35
There was prior agreement between the parties	5	12
The issues were discussed and resolved within the hearing	1	2
There was not an interpreter present	1	2
The respondent had died	1	2
The parties were unwilling	1	2

Total	43	100
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Agreement between the parties

FCA's were asked whether there was agreement between the parties at the end of the hearing. In just over a sixth of cases (31/181 cases, 17%) there was full agreement between the parties when the proceedings ended.

Level of agreement	Frequency	Percent
Full agreement - end of proceedings	31	17
No agreement	78	43
Partial agreement	72	40
Total	181	100

There was a significant relationship between whether the FCA had sought to resolve the issues with the parties and whether there was any degree of agreement between the parties at the hearing¹. In the cases where the FCA had sought to resolve the issues, there was more likely to have been some agreement (partial or full) between the parties than cases where the FCA had not sought to resolve the issues. Of the 77 cases where the FCA did not seek to resolve the issues with the parties (including 34 cases where the FCA did not speak to either party), there was partial or full agreement in only 42%. Of the 104 cases where the FCA did speak to the parties and seek to resolve the issues, there was partial or full agreement in 68%. It is important to note that this does not imply causation: we know that the cases in which the FCA did not seek to resolve the issues differed from the other cases in ways relevant to the likelihood of an agreement being reached. Specifically, as described in the above section, the most common reason not to seek to resolve the issues was safeguarding issues which needed further assessment, and the second most common reason was one party not attending.

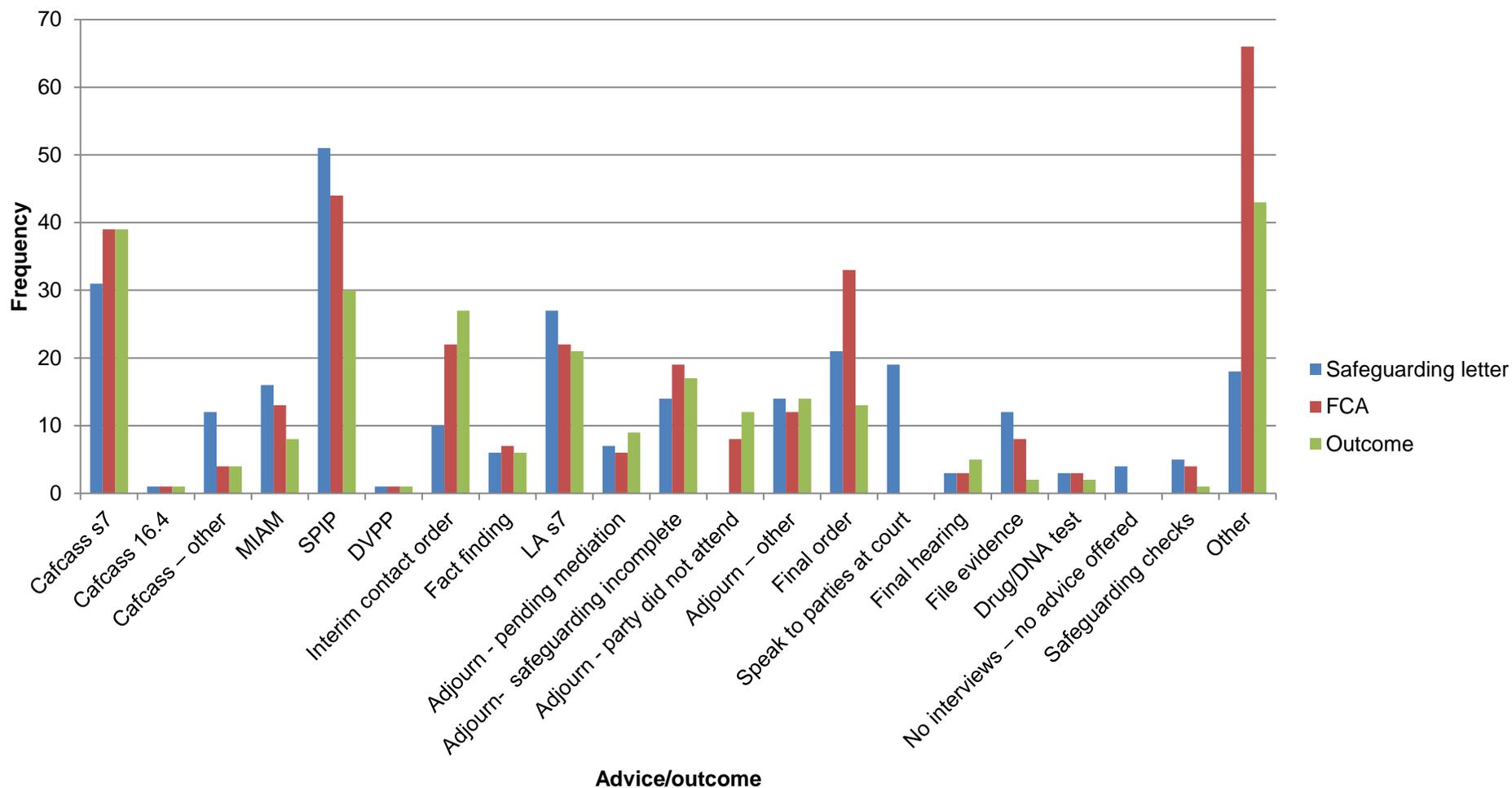
Advising the court of the recommended means of resolving any remaining issues

FCA's were asked what advice they provided at the hearing. A list of options was provided with FCA's able to select as many that applied and specify any advice not in the list (these were subsequently coded into new options as far as possible). The most common type of advice given by FCA's was a SPIP (44 cases), followed by Cafcass to complete a section 7 report (39), followed by final order (33). We also asked FCA's to tell us what the advice in the safeguarding letter was and what the outcome of the hearing was.

¹ Chi-square: 12.872, p=0.000334

The following graph shows the frequency of the advice given in the safeguarding letter, by the FCA and the outcome of the hearing by type. All figures are provided in table 1, appendix D

Advice given in safeguarding letter and by FCA and outcome by type



Congruence between the advice in the safeguarding letter, the FCA's advice at the FHDRA and the court outcome

Number of matches, number of non matches by advice/outcome type

Findings on the number of matches between the advice given by the FCA and the outcome calculated by advice/outcome type (i.e. if more than one type of advice given, there could be more than one match per case) are presented in this section. The detailed figures are provided in tables 2-4 in appendix D. It should be noted that where something appears only as an outcome but not as what the FCA advised this should not be taken to mean that the FCA was necessarily opposed to this course of action but simply that it did not feature in the advice they gave to the court.

Overall, 69% of the courses of action advised by FCAs matched actions the court took. For most advice/outcome types there were considerably more matches between the FCA advice and the outcome than there were non-matches (i.e. where it is advised by the FCA but not an outcome of the hearing or where it is not advised by the FCA but is the outcome of the hearing). This is in contrast to safeguarding letters and outcomes, where for most advice/outcome types there were more than or almost as many cases with a non-match as with match for outcome and safeguarding letter. The picture in respect of congruence between safeguarding letters and FCA advice was more mixed with the proportion of matches varying considerable between advice types.

The advice types where there was less likely to be a match between the FCA's advice and the court outcome were SPIPs, interim contact orders and final orders. There were a high number of cases where an FCA recommended a SPIP but this was not an outcome of the hearing, in comparison with the number of matches (26) and instances where this was not advised by the FCA and was the outcome of the hearing. There were only 10 cases where a final order was advised by the FCA and was an outcome of the hearing and only three where this was not advised by the FCA but was an outcome of the hearing, against 23 cases where the FCA advised a final order should be made but this was not the action the court took. In contrast, in 10 cases an interim contact order was an outcome of the hearing without having been advised by an FCA against 5 where the FCA advised it and it was not the outcome and 17 where there was a match between the FCA advice and the outcome.

There were a high number (15) of interim contact orders which were advised by the FCA at court but not in the safeguarding letter, whilst very few (3) were advised in the safeguarding letter and not by the FCA and there were no matches between the FCA and the safeguarding letter for this advice. Section 7 reports followed a similar pattern, whereas, in the case of MIAMs and SPIPs, the balance is the other way round, with more instances of this advice only being given within the safeguarding letter than by the FCA only.

Matches Outcome-FCA by case

Looking at the congruence between FCA advice and court outcome by case rather than by advice/outcome type, out of the 150 cases in which there was not full agreement between the parties, in 121 cases (81%) there was at least one piece of matching advice between the FCA and the outcome. In 91 (61% of the 150 cases) cases all of the advice matched all of the outcomes (i.e. the FCA gave no advice which did not match the outcome and court did not make any directions over and above the advice given).

Completing any outstanding safeguarding check or risk assessment work within 28 days of the FHDRA

Of the 19 cases where there were outstanding safeguarding checks when the safeguarding letter was filed, in all but three cases this information was subsequently provided to the court. In eight cases this was in the form of an updating letter filed within 28 days of the FHDRA, in four cases the court specified a filing date for the updating information more than 28 days after the FHDRA and this date was met by Cafcass and in four cases at the FHDRA the court requested a section 7 within which Cafcass included the outstanding safeguarding information. In two of the remaining cases the court decided that the outstanding information was not required, in one case dismissing the application and in another making an order, and in the third case, Cafcass was ordered to provide a section 7 report but the application was subsequently discontinued and the section 7 report was not completed.

Outcome	Frequency
Update to safeguarding letter provided to court within 28 days of the FHDRA	8
Update was requested by the court by a later date (i.e. after 28 days) and filed by Cafcass on time	4
Information reported as part of section 7 report	4
Other	3
Total	19

FCA interviews

Telephone interviews were carried out with 15 FCAs who consented to be interviewed at the end of the online survey. Interview questions were based on the hearing about which the FCA had answered the survey but FCAs were also asked to give general views on some issues based on their experiences of other FHDRA. The interview schedule is available at appendix B.

Litigants in Person

As a follow up to the question in the survey about the parties' representation, FCAs were asked whether the representation (or lack of) of the parties had had an impact on the hearing. The answers to this varied; in some cases, as might be expected, parties having representation was considered to have been helpful. However there were also cases where FCAs said that one or both parties being a litigant in person had not had an impact on the hearing and in some cases that legal representation had made issues more difficult to resolve because legal representatives seemed disinclined to reach agreements. However, even in the cases where FCAs said that a lack of legal representation had not had an impact on the hearing they did also speak of having to spend more time explaining the court process and their role to the service user. In general FCAs reported that cases with litigants in person can be more challenging for a number of reasons:

- The FCA becomes the 'first line' who speaks to the party.

- It takes more time to manage parties' expectations.
- Parties may not understand the legal process.
- Parties may feel less confident and the court atmosphere may be more tense.

Speaking to the parties at court

FCAs' views on speaking to parties varied somewhat. Most FCAs spoke to the parties at the hearing, however, a small minority of FCAs said that they would not speak to the parties at court if safeguarding interviews had been carried out as part of the safeguarding letter process. In contrast, one FCA said that they use the safeguarding letter as a basis for speaking to the parties at the hearing. FCAs said that it was more difficult to carry out safeguarding interviews at court (when they had not taken place as part of the safeguarding interviews) as there was limited time to do so and in some courts there was not always an appropriate private space for interviews.

In some areas the same FCA who writes the Safeguarding Letter will attend the hearing. FCAs from these areas felt that it was helpful at the hearing that they had already spoken to the parties by phone. It could be reassuring to the parties and also meant that the FCA knew what to expect at the hearing. FCAs confirmed that it was common for one party not to attend court. One FCA explained that they would still try to make progress in such cases where there was a legal representative present or where the party had at least been spoken to as part of the safeguarding letter process. In other circumstances they would be more limited in what they could do at the FHDRA.

Seeking to resolve the issues between the parties

In cases where parties were both present at the hearing, the primary reason FCAs for not seeking to resolve the issues between the parties was that there were safeguarding issues.

We asked FCAs about how they went about trying to resolve or narrow down the issues when speaking to the parties. There was variation in the methods used but some strategies were shared by most FCAs. For example, most FCAs mentioned that they would speak to the parties separately and then, where the FCA assesses this as safe and appropriate, ask them if they are happy to be spoken to together. FCAs found that speaking to parties together in this way could be highly effective. Other strategies employed by FCAs included:

- Emphasising to parties that it is better for them to make an agreement between themselves rather than have arrangements imposed on them by the court.
- Getting one party to provide evidence to reassure the other party as to the safety of contact
- Going through the Parenting Plan.
- Using a doll to get the parties to focus on the child: placing the doll on the table during the conversation between the parties and removing it from the table every time the parties lose sight of the child in their conversation.

We also discussed what barriers FCAs could face when trying to resolve issues between the parties. A key issue was very high levels of conflict between the parents, though; whilst FCAs did cite this as a barrier they also were confident in using the techniques described above to overcome this. As discussed above, some FCAs also cited legal representatives as

occasionally being a barrier to dispute resolution. One example of this was a hearing where the father's legal representative was seeking a further assessment from Cafcass which neither the FCA nor the court thought was necessary. In some cases FCAs also felt that the parties' expectations could be a barrier to them engaging in dispute resolution with some parties wanting to have their issue before the judge and not willing to discuss matters outside of court.

Advice provided to the court at the FHDRA

FCAs were asked, where their advice had been different to the advice in the safeguarding letter why this was or, where it was the same, whether anything happened at the hearing which confirmed to the FCA that this was the correct advice. FCAs commented that sometimes things do come up at the hearing which did not emerge in the safeguarding letter; one FCA described this as being like an extra safety net. In other cases FCAs may simply take a different view to the author of the safeguarding letter at the hearing, having met the parties in person. FCAs indicated that courts would be accepting of this as long as the FCA could give reasons and evidence for the change in advice.

FCAs felt that, in general, their advice was well received by the court. Whilst this did vary by area, in most areas FCAs reported having a good relationship with the judges and magistrates at their local courts and emphasised the importance of building such relationships.

Judicial interviews

Interviews were carried out with a small sample (n=6) of judicial participants consisting of 5 District Judges and a Legal Adviser. All participants were from different courts. Participants were given a topic guide to help them to prepare for the interview and were asked open questions (see appendix C for schedule) about four areas: Cafcass' role at the first hearing; value of the safeguarding letter; value of FCAs attending the first hearing; relationship between FCA advice and orders made.

Cafcass' role at the first hearing

Participants' understanding of the role of Cafcass at the FHDRA was largely in line with Child Arrangements Programme: participants mentioned the safeguarding role, dispute resolution between the parties, narrowing down the issues and advising the court on the way forward. More generally, providing a social work perspective and expertise was cited. Participants also mentioned the specific processes in their own courts: for example, the FCAs speaking to the judge before the hearing to help them to 'triage' the cases and identify which require the most input.

Value of the safeguarding letter

The safeguarding letter was considered essential by participants, in particular the results of the police and local authority checks. Without the results of the checks participants would not be able to make safe decisions at FHDRA's.

Although there were positive comments around the content and advice within safeguarding letters, several participants said that FCAs can be cautious in what they advise in the safeguarding letters and sometimes at court. One participant raised this specifically in respect of fact finding hearings which they and their colleagues at the court reported were being advised by FCAs in cases where judges did not feel they were necessary.

Value of FCAs attending the first hearing

Most participants stressed that FCAs 'add value' by attending court hearings to the point that they would struggle to do their jobs without them.

Cafcass was valued as a source of information to assist in managing the case and making decisions. FCAs were seen to provide expert input about the child to the proceedings. Through their conversations with parties outside court, Cafcass were considered able to gather information about parties which judges could not. Outside of the formal and potentially intimidating court room and when speaking to the Cafcass officer rather than the judge, parties were likely to act more naturally. Information about what they say to the Cafcass officer and their body language and behaviour outside court was considered highly valuable to the judge. Noticing something that comes up in person at the FHDRA which was not mentioned in the safeguarding letter was another benefit to having the FCA present at court. For example, two participants mentioned cases where the FCA noticed that a party was visibly frightened at the FHDRA despite there being no such concerns evident in the safeguarding letter. One participant however took a different view and preferred not to have the FCA speak to the parties outside court instead finding it more effective to have everyone in the same room. Another circumstance in which FCAs can provide valuable information to the judge at the FHDRA is where there is an issue with the safeguarding letter, for example something which the judge needs clarification on or disagrees with. In these cases participants find it helpful to have an FCA there to discuss this with. An area which was cited as one where Cafcass could improve their efficacy was knowledge of local services to which service users could be referred or signposted.

Participants also recognised the importance of Cafcass' role in dispute resolution at the FHDRA. When asked for an example of a positive contribution made by an FCA at an FHDRA, most of the examples provided involved effective dispute resolution. Participants gave examples of where FCAs were able to negotiate with parties, put the focus back on the child and agree a way forward. Cafcass was described as being able to gain the trust of the parties as a person who is independent of the dispute; saving time and resources by reaching agreement quickly. One example of this was where there was a disagreement between parents who cared for their child under a shared care agreement over a specific issue of whether the child should attend a school nearer the mother's house or a school nearer the father's house. The FCA explained to the parents that whether the outcome was that preferred by the father or that preferred by the mother the outcome for the child in terms of the distance they would have to travel would be the same. The Cafcass officer established the parties' trust as an independent person and gained their full support for the FCA to do a report into the child's wishes and feelings.

Participants were also asked for examples of times when Cafcass made a negative contribution to a FHDRA. Most participants struggled to give specific examples of hearings where FCAs made a negative contribution; one participant noted that, now courts were

seeing the more serious cases where all in theory should have some safeguarding issues, social worker input will always be helpful. The FCA's level of experience of FHDRAs was seen as an important determinant of their value at the hearing. Some participants also cited times when they disagreed with the FCA's proposed way forward and the FCA was unwilling or unable to work with them on an alternative solution, as examples of less positive or negative contributions from FCAs.

Participants were also able to describe factors which could limit the value of Cafcass' attendance at FHDRAs. As was clear from the FCA interviews, practical limitations had a significant impact on how FCAs carry out their work at FHDRAs. The lack of time was considered the primary limitation for Cafcass. The number of FHDRAs and time allocated for each varied between the courts at which participants were based, and participants noted that where there was more time allocated for each hearing FCAs were able to do more. Where one or both parties had not been spoken to by phone before the hearing this meant time spent carrying out the safeguarding interview at court would encroach into the FCA's time for dispute resolution. Other basic practical issues included FCAs needing to have sufficient and adequate space in the court building to talk the parties in and for both parties to attend the hearing.

Relationship between FCA advice and orders made

Most participants felt that the advice given by the FCA has a significant impact on their decisions. One participant explained that they were respectful of the depth and breadth of the FCA's knowledge and used the FCA as an expert. Participants explained, however, that they felt this varied depending on the experience and confidence of the FCA and also the experience and confidence of the judge. Several participants spoke in praise of the team of FCAs at their courts and the importance of a trusting relationship between the judge and the FCA was emphasised. One participant spoke of this as a partnership.

Other issues raised

In some interviews the presence of mediators at court was discussed. Some participants found this to be helpful though it was noted that they prefer for Cafcass to engage in dispute resolution as they also have the specific knowledge around children and safeguarding. A participant also thought that the parties themselves were more likely to engage with Cafcass than with mediators as Cafcass is seen as part of the court process.

The Parenting Plan was another measure discussed within some of the interviews. One participant was disappointed parties do not look at this before coming to court, whilst another said that these are given out at court sometimes but there is not time to go through it with the parties at court. In another interview, a participant commented that they did not think that the parties coming before the court would be able to complete it on their own.

Another issue mentioned by one judge was about the importance of judicial consistency; likewise consistency in the FCA working on a case could be helpful.

Discussion

The data from the survey indicates that Cafcass is generally meeting the expectations set out in the Child Arrangements Programme for FHDRAs in respect of safeguarding letters. Letters are generally filed on time and inclusive of the information requested from the police and local authorities.

Most of the judges and FCAs interviewed for the study shared the CAP's expectation that FCAs attending FHDRAs should speak to both parties at court before the court hearing, though a minority of FCAs interviewed said that this was something they would only do if safeguarding interviews had not been carried out as part of the safeguarding letter process. This was reflected in the survey responses, with FCAs speaking to at least one of the parties in the majority of cases and in those cases where only one party was spoken to the primary reason being that the other party did not attend. The non-attendance of parties and the lack of prior safeguarding interviews (meaning that FCAs had to carry out the interviews with limited time and space at court before the hearing) were issues raised by FCAs and judges as barriers to speaking to parties and resolving the issues.

In most of those cases in the survey where the FCA was able to speak to the parties at the FHDRA, they also tried to resolve the issues between the parties. In the FCA interviews, FCAs presented a number of strategies they used to resolve the issues in the interests of the child. FCAs' ability to engage in successful dispute resolution was cited in the judicial interviews as a key part of the value of FCAs attending FHDRAs, with FCAs being seen as possessing important social work expertise, having the ability to engage with the parties and gain their trust and, importantly, putting the focus back on the children instead of the parental issues. In addition, there was a high rate (68%) of agreement between parties where the FCA had attempted to resolve the issues at the FHDRA and, whilst it is likely that those cases where the FCA chose to attempt dispute resolution were more likely to be amenable to agreement than the cases where FCAs chose not to (e.g. for safeguarding reasons), the rate of agreement was lower where the FCA had not attempted to resolve the issues, at 42%.

Looking at the proportion and number of matches between the Safeguarding Letter and the court outcome and the FCA advice at the FHDRA and the court outcome, it is evident that the FCA advice is more likely to correspond with the court outcome. The fact that there were more matches between the FCA and the outcome than the safeguarding letter and the outcome may be a reflection of the inequality of information between the author of the safeguarding letter and the FCA attending the hearing, particularly when the author was unable to complete one or both safeguarding interviews before the hearing. This aspect of the added value the FCA attending the hearing is able to provide was supported by comments in the judicial interviews that there are things that the FCA is able to pick up in their conversations with the parties in person at the hearing which may not be evident during a telephone interview. Both the data and comments from the judicial interviews also support the conclusion that the advice in safeguarding letters tends to be more risk-averse than that provided by FCAs attending FHDRAs and court outcomes.

In general there was a high correlation between the advice of the FCA at the hearing and the outcome of the hearing: in at least 81% of cases not resolved by agreement there was at least one match between the FCA's advice and the court outcome; and in 61% the FCA's

advice and the court outcome matched exactly. In addition to this information about the correlation between FCA advice and court outcomes, the FCA and judicial interviews covered the participants' views on FCAs' influence on the court outcomes. In general, there were positive comments from both FCAs and the judiciary on the ability of FCAs' advice to affect the court outcome. In addition to respect for the knowledge and expertise of the FCAs, comments highlighted that the extent of the FCAs influence on the court outcome will depend significantly on the relationship between the FCA and the judge. In the judicial interviews some participants noted that the experience and confidence of FCAs attending hearings could vary but gave examples of being able to develop strong, trusting relationships with highly capable individual FCAs or local teams which they found extremely helpful in managing FHDRAs.

It was clear from all three elements of this study that FCAs face considerable practical and logistical challenges at court, whether through a lack of time or space, parties not turning up or other unexpected events or new information from parties on the day of the hearing. FCAs meet these challenges through resourcefulness and flexibility. Whilst there is some variability between FCAs, courts and local areas, overall the three elements of this study have painted a positive picture of the value which FCAs attending FHDRAs are able to add to the management of the case.

Appendix A – FCA Survey

1. Case name (please insert the case name included in the email you received asking you to complete the survey)
2. ECMS number
3. Did you attend the FHDRA for this case?
 - Yes
 - No

If no, please provide the name of the FCA who did attend or, if no FCA attended, provide the reason for this

4. Your name
5. Which, if any, parties had legal representation at the hearing? Select all that apply.
 - Applicant
 - Respondent
 - Neither party
6. Which of the parties did you speak to at the hearing? Select all that apply
 - Applicant
 - Respondent
 - Neither party

If you did not speak to both parties please set out the reason for this.

7. Did you seek to assist the parties in resolving any of the issues between them?
 - I sought to resolve some or all of the issues
 - I did not seek to resolve any of the issues

If you did not seek to resolve any of the issues please comment on the reasons for this.

8. What was the advice provided to the court in the safeguarding letter? Please select all that apply
 - Further work for Cafcass – section 7 report
 - Further work for Cafcass – rule 16.4 appointment
 - Further work for Cafcass - other
 - SPIP
 - MIAM
 - DVPP
 - Interim contact order (all types of contact including indirect, supervised or supported)
 - Fact finding hearing (for consideration or listing of)
 - Local authority to complete s7
 - Adjourn for mediation
 - Adjourn – safeguarding incomplete
 - Adjourn for other reasons
 - Final order
 - Don't know

- Other – please specify
9. What was your advice to the judge (for those who spoke to parties – following conversations with parties)? Please select all that apply.
- Further work for Cafcass – section 7 report
 - Further work for Cafcass – rule 16.4 appointment
 - Further work for Cafcass - other
 - SPIP
 - MIAM
 - DVPP
 - Interim contact order (all types of contact including indirect, supervised or supported)
 - Fact finding hearing (for consideration or listing of)
 - Local authority to complete s7
 - Adjourn for mediation
 - Adjourn – safeguarding incomplete
 - Adjourn – party did not attend
 - Adjourn for other reasons
 - Final order
 - Other – please specify
10. Was there agreement between the parties at the end of the hearing?
- Full agreement – end of proceedings
 - Partial agreement
 - No agreement
11. (Where FCAs indicate there was full agreement between parties and the proceedings ended) What was the outcome of the hearing?
- Consent order
 - No order
 - Other (please specify)
12. What was the outcome of the hearing? Select all that apply.
- Further work for Cafcass – section 7 report
 - Further work for Cafcass – rule 16.4 appointment
 - Further work for Cafcass - other
 - SPIP
 - MIAM
 - DVPP
 - Interim contact order (all types of contact including indirect, supervised or supported)
 - Fact finding hearing (for consideration or listing of)
 - Local authority to complete s7
 - Adjourn for mediation
 - Adjourn – safeguarding incomplete
 - Adjourn – party did not attend
 - Adjourn for other reasons
 - Final order
 - Other – please specify

Appendix B – FCA Interview Schedule

Parties' representation

1. In your response you've said that both parties/applicant/respondent/neither party was represented do you find that the representation of the parties has an impact on how the hearing goes and your ability to resolve the issues?
 - a. If yes, can you describe what that impact is? In the case you completed the survey about, how did you feel the parties representation/lack of representation affected what happened at the hearing?

Speaking to parties

2. If less than both parties spoken to: I can see from your survey that you spoke to only one party / neither party
 - a. If comment given on reason why: you've given the reason for this as insert reason given in survey, can you explain that a bit more for me? or ask any other questions stemming from comment.
 - b. If no comment, what were the reasons why you weren't able to speak to either party/applicant/respondent

Resolving issues between parties

3. You've indicated that you did/did not seek to resolve the issues between the parties, can you tell me a bit more about how you did this/the reasons why you didn't do this? (prompt questions: do you ever feel there are barriers to engaging with the parties, how do you try to overcome those barriers?)
4. Are there any other techniques you use when attempting to resolve the issues between the parties which you can tell me about?
5. If full or partial agreement: in this case, you've indicated that there was full/partial agreement between the parties, do you feel that you played a role in the parties reaching this agreement?
 - a. If no, what were the reasons for this,
 - b. if yes, how do you think you did this?

Advice to court

6. If the advice was different in all respects to the safeguarding letter, use (a), if the same use (b) if some the same and some different use both and specify in what respects it was the same/different:
 - a. I can see that your advice to the court was different to that in the safeguarding letter. Could you explain to me what it was that made your advice different to the safeguarding letter? Explore whether it was something at court that made their assessment differ and how often this is their experience.
 - b. If the same, was there anything that happened at the hearing which confirmed to you that the advice in the safeguarding letter was appropriate?

7. Thinking about the court outcome, I can see that your advice to the court was the same/different, do you feel that your advice did have an impact on the judge or magistrate's consideration of the case and on the outcome (even if the court did not go with your advice). How do you think you achieved this impact? What are your views in general about how your advice is received by the court at FHDRA's?

Appendix C – Judicial Interview Guide

Topic guide

Cafcass' role at the first hearing

Value of the safeguarding letter

Value of FCAs attending the first hearing

Relationship between FCA advice and orders made

Interview questions

1. Their understanding of the intended role of Cafcass at the first hearing
2. Value of safeguarding letter provided by Cafcass at the first hearing
 - a. expectations of potential value – what Cafcass can do,
 - b. and their assessment of the actual value – what Cafcass does do.
3. Added value (i.e. over and above the value of the safeguarding letter) of Cafcass FCAs attending the first hearing
 - a. expectations of potential added value – what Cafcass can do,
 - b. and their assessment of the actual added value – what Cafcass does do.
4. The extent to which the advice provided by Cafcass at the hearing typically contributes to/influence judicial decisions
 - a. Explore whether this varies between cases and what factors influence any variation between cases (factors associated with the case or with the FCA?)
5. Can you describe a time when the Cafcass officer made a significant positive contribution to a first hearing
 - a. What was the situation
 - b. What was the specific contribution made by the officer
 - c. How did they achieve this contribution
 - d. What was the outcome
6. Can you describe a time when the Cafcass officer did not make any positive contribution (or made a negative contribution) to a first hearing
 - a. What was the situation
 - b. What were the actions of the FCA
 - c. What was the outcome
 - d. What were your expectations of the FCA – what do you think they should have done
 - e. If they had met your expectations do you think the outcome would have been different

7. Circumstances or factors which can limit the value which FCAs are able to add at first hearings
 - a. Describe these and explain why they limit the value FCAs are able to add at FHDRAs.
8. Any other comments

Appendix D – Tables

Table 1 Advice given in safeguarding letter and by FCA and outcome by type².

Advice/ Outcome Type	FCA advice – frequency	Safeguarding letter advice – frequency	Outcome - frequency
Cafcass s7	39	31	39
Cafcass 16.4	1	1	1
Further work for Cafcass – other	4	12	4
LA s7	22	27	21
SPIP	44	51	30
MIAM	13	16	8
DVPP	1	1	1
Further safeguarding checks	4	5	1
Drug/DNA test	3	3	2
File evidence	8	12	2
Adjourn safeguarding incomplete	19	14	17
Adjourn party did not attend	8	na	12
Adjourn pending mediation	6	7	9
Adjourn – other	12	14	14
Fact finding	7	6	6
Final hearing	3	3	5
Interim contact order	22	10	27
Final order	33	21	13
Other	66	18	43

Number of matches, number of non matches by advice/outcome type

Table 2 Outcome – FCA match

Advice/outcome type	Match	FCA only	Outcome only
Cafcass s7	37	2	2
Cafcass 16.4	0	0	0
Cafcass – other	3	1	1
MIAM	7	6	1
SPIP	26	18	4
DVPP	1	0	0
Interim contact order	17	5	10
Fact finding	6	1	0
LA s7	18	4	3
Adjourn pending mediation	6	0	3
Adjourn safeguarding	16	3	1

² Note that whilst for some advice types these figures are the same, the figures do not necessarily represent the same cases and the above table does not indicate the numbers of matches between FCA advice, safeguarding letter advice and outcomes, this is dealt with in tables 2-4.

incomplete			
Adjourn – party did not attend	8	0	4
Adjourn – other	11	1	3
Final order	10	23	3
Other	-	-	-
Final hearing	3	0	2
File evidence	1	7	1
Drug or DNA test	1	2	1
Safeguarding checks	1	3	0
Total	172 (60)	76	39

Table 3 Outcome – safeguarding letter match

Advice/outcome type	Match	Outcome only	Safeguarding Letter only
Cafcass s7	22	17	9
Cafcass 16.4	1	0	0
Cafcass – other	2	2	10
MIAM	6	2	10
SPIP	21	9	30
DVPP	1	0	0
Interim contact order	8	19	2
Fact finding	5	1	1
LA s7	17	4	10
Adjourn pending mediation	4	5	3
Adjourn safeguarding incomplete	12	5	2
Adjourn – other	10	4	4
Final order	5	8	16
Other	-	-	-
Final hearing	0	3	1
File evidence	2	0	10
Drug or DNA test	0	2	3
SG checks	0	1	5
Total	116 (36)	82	116

Table 4 Safeguarding letter – FCA match

Advice/outcome type	Match	FCA only	Safeguarding letter only
Cafcass s7	22	17	9
Cafcass 16.4	1	0	0
Further work for Cafcass – other	2	2	10
MIAM	10	3	6
SPIP	33	11	18
DVPP	1	0	0
Interim contact order	0	15	3

Fact finding	6	1	0
LA s7	19	3	8
Adjourn pending mediation	3	3	4
Adjourn safeguarding incomplete	12	7	2
Adjourn – other	10	2	4
Final order	17	16	4
Other	-	-	-
Final hearing	1	2	2
File evidence	4	4	8
Drug/DNA test	1	2	2
Safeguarding checks	1	3	4
Total	143	91	84