

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 15 November 2012

**Public Authority:** Children and Family Court Advisory Support Service

**Address:** 6th Floor  
Sanctuary Buildings  
Great Smith Street  
London  
SW1P 3BT

### Decision (including any steps ordered)

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1. The complainant requested information from the Children and Family Court Advisory Support Service (CAFCASS) about the work it carries out with children. CAFCASS provided some information but said that it would exceed the cost limit to comply with one part of the request.
2. The Commissioner's decision is that CAFCASS was entitled to refuse to provide the requested information under section 12. He requires no steps to be taken.

### Request and response

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3. On 16 June 2012 the complainant wrote to CAFCASS and requested information in the following terms:

*'Of the 106,277 children for the period 2010 - 2011 per [reference redacted] which CAFCASS 'worked with' in Public Law matters*

*a) how many received any more than the undertaking of statutory checks?*

*b) How many had a Sec. 7 report prepared?*

*c) How many had a 'Wishes and Feelings' Report prepared?*

*d) How many of those children had direct work undertaken by a Family Support Worker?*

*e) How many of those childrens cases proceeded to a) First Hearing and b) Final hearing?'*

4. The complainant subsequently confirmed that 'public law' should read 'private law'.
5. CAFCASS responded on 16 July 2012, providing some information within the scope of the request but citing section 12 as the basis for being unable to provide information within the scope of part (a).
6. The complainant requested an internal review on 16 July 2012. He asked CAFCASS to confirm its response in relation to the number of children actually seen and how many children and young people it is working with, as opposed to carrying out statutory checks.
7. CAFCASS provided its internal review response on 3 August 2012. It confirmed that its CMS (case management system) does not record the number of children actually seen.

### **Scope of the case**

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8. The complainant contacted the Commissioner to complain about the way his request for information had been handled.
9. Although he acknowledged that CAFCASS had provided him with some relevant information, he asked the Commissioner to consider CAFCASS's response to the first part of his request.
10. With respect to CAFCASS' citing of section 12 he said:

*"As an 'arm of Government' surely CAFCASS ought to be able to say in more detail exactly what it is doing".*
11. The Commissioner considers the scope of his investigation to be whether CAFCASS is entitled to rely on section 12 as a basis for refusing to provide the information at part (a) of the request.

## Reasons for decision

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### Section 12 Cost of compliance

12. The effect of section 12 of FOIA is to render inapplicable the general right of access to information contained in section 1. In accordance with section 12, a public authority is not required to comply with a request for information where the cost of compliance is estimated to exceed the appropriate limit.
13. This limit is set in the fees regulations at £600 for central government departments and £450 for other public authorities. The fees regulations also specify that the cost of complying with a request must be calculated at the rate of £25 per hour. In other words, section 12(1) effectively imposes a time limit in this case of 18 hours before the £450 limit is reached.
14. In estimating whether complying with a request would exceed the appropriate limit, Regulation 4(3) states that an authority can only take into account the costs it reasonably expects to incur in:
  - determining whether it holds the information;
  - locating the information, or a document containing it;
  - retrieving the information, or a document containing it; and
  - extracting the information from a document containing it.
15. The four activities are sequential, covering the retrieval process of the information from the public authority's information store.
16. CAF/CASS told the complainant:

*"CAF/CASS does not collect information in a central system regarding the details requested. This level of detail is recorded in individual case files. It is not a requirement for Cafcass to keep it centrally. We only record the dates of statutory checks on our Case Management System, from which stored data can readily be retrieved".*
17. The complainant told the Commissioner:

*"This basically means that CAF/CASS is unable to provide what I regard as Core Information as to how many children & young people they actually undertook work with..."*

**CAFCASS's estimate**

18. Section 12 makes it clear that a public authority does not have to make a precise calculation of the costs of complying with a request. Only an estimate is required.
19. To determine whether CAFCASS applied section 12 of FOIA correctly the Commissioner has considered the submission CAFCASS provided to him during his investigation. In that submission, as well as providing the Commissioner with details of its role in accordance with the Private Law Programme, CAFCASS provided its detailed estimate of the work involved in complying with the first part of request.
20. In response to the Commissioner's questions, CAFCASS explained that statutory checks are logged on the CMS and that:

*"anything in addition to that is maintained on the case file".*
21. The Commissioner understands that CAFCASS will undertake additional checks – over and above the initial statutory checks – at the direction of the Court.
22. CAFCASS told the Commissioner that the case files are individual paper files and that the 2010/11 case files are held in either its approximately 80 offices or with its off-site storage provider. CAFCASS also explained that:

*"all cases are individual and no one case will have the same additional checks. In addition it may only become apparent that additional checks are done once the case files have been located and retrieved".*
23. The Commissioner notes that it is not in dispute that the information can be compiled by manually going through the paper files for the relevant period. During the course of his investigation, CAFCASS described the exercise that was undertaken to arrive at an estimated cost of complying with that part of the request under consideration in this case.
24. Having considered all the relevant evidence, the Commissioner is satisfied that CAFCASS's estimate that it would take more than 18 hours work to answer part (a) of the request is based on a reasonable assessment of the activities that are allowed by Regulation 4(3) of the Fees Regulations. He accepts the estimate in this case and therefore finds that CAFCASS applied section 12(1) correctly.

## Other matters

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25. In this case, the public authority did not provide the complainant with any breakdown of the estimated costs of complying with the request. Although FOIA does not require a public authority to provide a costs breakdown when refusing a request under section 12, the Commissioner considers that it is good practice to do so.
26. On a separate matter, the Commissioner notes that, in correspondence with the public authority, the complainant has taken issue with the way in which CAFCASS stores its information:
- "As an Organisation which purports to have children at its heart I find it astonishing that your CMS computer system does not record the number of children actually seen - is that correct?"*
27. In this respect, the Commissioner would advise that FOIA does not extend to what information a public authority should be collecting nor to how it should be using the technical tools at its disposal: rather it is concerned with the disclosure of the information a public authority holds.

## Right of appeal

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28. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504

Fax: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

29. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
30. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed .....**

**Jon Manners**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
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