

## **Cafcass' response to the Victims and Courts Bill: Call for written evidence**

Cafcass (the Children and Family Court Advisory and Support Service) is a non-departmental public body sponsored by the Ministry of Justice. Cafcass is the largest employer of child and family social workers as Family Court Advisers and Children's Guardians. Cafcass has a statutory duty to safeguard the welfare of children in family law proceedings in England. We make sure that their wishes and feelings are heard and advise the courts about what is in their best interests. We are independent of the courts, local authority children's services, education, and health authorities.

Cafcass supports the aims of the Victims and Courts Bill to better protect victims through new measures across the justice system. We agree in principle with the proposal in relation to restricting parental responsibility for child sex offenders sentenced for four years or more for an offence against a child for whom they hold parental responsibility. There are however some important aspects that require qualification and further thought before this proposal can be operationalised:

- **Resource implications:** Under the terms of the current Bill, the local authority will not be responsible for making the application to the Family Court (as in Jade's law). If the local authority is not the applicant, lay parties will have to initiate court proceedings themselves. This is likely to increase the number of cases referred to Cafcass and the Family Court with potentially more complex welfare assessments, since the local authority will not be providing them. The number of children and families that would potentially be affected by these measures remains unclear, and a comprehensive impact assessment would be required to understand the full impact on the resources of both Cafcass and the Family Court, at a time when many children are already facing unacceptable delays to their proceedings and there are significant recruitment and retention issues in respect of judges and social workers.
- **Length of sentencing:** It is unclear how or why the four-year threshold of sentencing has been decided. Whilst sentencing guidelines are used in criminal cases to indicate the seriousness of an offence, they do not reflect the full extent of harm and trauma experienced by victims of sexual abuse. Cafcass is of the view that the measures under the Bill should be centred on the harm and risk to children rather than the length of sentence imposed by the criminal court. A child abused by a parent who is sentenced to 3 years and 11 months would fall outside of the Bill, however the impact on that child should not be considered to be any less harmful. This is a highly critical aspect for us in respect of the experiences of children, their safety and protection, and the importance of the social work assessment in establishing their best interests and the risks presented to them by an adult with a conviction for a serious sexual offence.
- **No automatic referral to the Family Court:** Unlike Jade's law, whereby the local authority is tasked with applying to the Family Court for review of the Prohibited Steps Order made at the point of criminal sentencing, under the Bill, the perpetrator themselves or another adult with parental responsibility (or interested party), may choose to bring an application to the Family Court and the period within which such an application could be made is unspecified. An application could come at a time when the child/ren and other parent have had to deal with the trauma of a recent criminal trial, forcing them into family proceedings if an application is made by the perpetrator. Alternatively, an application to the Family Court may come at a point years later, when the perpetrator is due for release

from prison which would be another potentially traumatic trigger point for the child/ren and the other parent. Instead, we would recommend that a timeframe should be specified within which the perpetrator or other parent must apply to the Family Court. A comprehensive impact assessment to understand the full impact on the resources of both Cafcass and the Family Court will be essential to determining if this approach is viable.

- **Understanding the child's needs:** It is unclear what impact the suspension of Parental Responsibility would have on any pre-existing contact arrangements / existing orders of the Family Court. The criminal judge is likely to have little or no information about the family's circumstances, or existing Family Court orders when making the decision about the suspension of Parental Responsibility. The risks include a lack of understanding of the child's needs and family context. This supports the need for a more structured process and timescale for an application to be made to the Family Court to consider the prohibited steps order.
- **Local authority considerations:** It is suggested that if the perpetrator successfully appeals their sentence or has it reduced to a term under four years, the responsibility for bringing the matter to the Family Court will lie with the local authority. Further consideration needs to be given to this, as it is unclear which local authority is intended to take up this responsibility – would this be the local authority where the child resides? where the perpetrator resided? or where the offence was committed? It should not be presumed that the local authority would have had any recent involvement (if any) with the family or relevant children. What would be the process/who would be responsible for notifying the relevant local authority of any appeal or reduction in the perpetrator's sentence? Precisely what information is the local authority expected to bring before the Family Court? It is unclear why it is proposed that a local authority should become involved in the event of an appeal or reduction in sentence only, when this situation is distinctly different to the circumstances under Jade's Law. Is the inference that if the sentence is reduced the Prohibited Steps Order made at the point of sentencing would automatically fall away? Instead, we would recommend for the perpetrator to apply to the Family Court within a specified timeframe so that the impact on the child can be fully considered. The suspension of parental responsibility should remain in place until the Family Court has reviewed the matter, regardless of any sentence reduction. This is to make sure that the child's welfare remains the paramount consideration.
- **Adult children:** The position is unclear in relation to a parent who is convicted of the historic abuse of their now adult child. Would the suspension of parental responsibility for younger siblings be included under the Bill?

Cafcass welcomes further discussion around these key points to ensure the impact on our resources is fully considered and that the best interests of the child are at the centre of the Bill.

For further information, please contact [policyteam@cafcass.gov.uk](mailto:policyteam@cafcass.gov.uk)

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