



## **CHILDREN AND FAMILY COURT ADVISORY AND SUPPORT SERVICE**

**Paper for the Board meeting on 05 October 2006**

### **CHILDRENS RIGHTS POLICY**

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#### **1 AIM AND PURPOSE**

- 1.1 The draft Childrens Rights Policy was consulted on between November 2005 and February 2006 and reflects recent policy and practice developments in CAFCASS. The policy is now submitted to the Board for approval.
- 1.2 Endorsement by the Board is an important step towards mainstreaming children's rights at all levels of the organisation, particularly in front-line practice.

#### **2 ACTION FOR THE BOARD**

- 2.1 To play their part in the mainstreaming push.
- 2.2 To endorse the Shared Values Framework as being consistent with the good governance of CAFCASS.
- 2.3 To note the commitment to specific United Nation Convention articles set out in the policy.

#### **3 RECOMMENDATION**

- 3.1 The Board is asked to fully endorse the Childrens Rights policy as set out.

#### **4 DIVERSITY**

- 4.1 The current policy is fully diversity compliant.

#### **5 TRAINING**

- 5.1 All training modules have been re-evaluated to ensure this policy can be fully implemented and to ensure its impact is more visible and tangible to children and young people and supports improvements in direct work with them.



## **6 LEGAL**

- 6.1 Domestic legislation and guidance remain the primary basis for promoting children and young people's welfare in England. Working within the spirit of the United Nations Convention on the Rights of the Child (UNCRC) will be further assurance for children that their contribution to issues that affect their lives will always be respected.
- 6.2 The UNCRC is non-enforceable, and cannot be effectively challenged directly under any of its Articles. It is not incorporated into UK Law, and no external court is empowered to pass judgement on it. It is merely cited by different courts domestically and internationally as an indication of the aspirations of most countries in the world towards children. The UK had reservations when ratifying the UNCRC. The reservations related to the care of young offenders, immigration, and employment regulations regarding over 16 year olds and children's hearings in Scotland. The latter two reservations have since been removed.
- 6.3 It is an existing policy position that CAFCASS practitioners will promote the principles of the UNCRC (Service Principles and Standards 2003) and that the organisation will seek to promote the rights of children set out in the UNCRC Corporate Plan 2003-6. This remains an organisational signal that we put children first.

## **7 THE APPROACH OF OTHER ORGANISATIONS**

- 7.1 The Commission of Social Care Inspection ('CSCI') - is guided by the UN Treaty, to strengthen Domestic Legislation and National Inspection Standards. They take the view that the Convention articles are 'principles for decisions', and as a 'yardstick for auditing child focus'.
- 7.2 The CSCI recognises that the UK expressed reservations when ratifying the UNCRC. The CSCI's current position is that they adopt the convention with a specific position on the same reservations expressed by the UK government. If a reservation arose it would be considered on a case-by-case basis.
- 7.3 The Children's Commissioner's Office has due regard for the UNCRC and it underpins their work.

## **8 KEY STRATEGIC ISSUES FOR THE BOARD TO CONSIDER**

- 8.1 Endorsement of the policy will mean that CAFCASS will continue to actively consult all children and young people whose lives are directly affected by our service and provide the opportunity to be heard – should they so wish.
- 8.2 Compliance with the policy will be achieved through the existing performance management framework.
- 8.3 A degree of culture change will be crucial to the full and successful implementation of the policy. The time-scale is the same as that for the entire Practice Development Programme. March 2009 is the final date for all necessary practice developments and improvements to have taken place in every local service area.



## **9 FINANCIAL IMPLICATIONS**

- 9.1 These changes will be managed within existing resources. There are no specific costs incurred for writing and disseminating the policy, as the costs are met by existing staff. Knowledge, learning and development costs are already funded within existing allocations.

## **10 RISKS**

- 10.1 Full implementation of the policy across the organisation needs to be phased to ensure that practitioners can be fully trained to work within this framework. This will be addressed over realistic timescales.
- 10.2 It is existing CAFCASS policy to promote the principles of the UNCRC. Some of those principles are not to be found in domestic law. However, there is nothing wrong legally in CAFCASS giving a commitment to promote such principles, and the risks of policy or legal challenge are minimal as long as any specific recommendation about a child is made in good faith, with an evidence-base, and having taken their needs, wishes and feelings into account.
- 10.3 Public awareness of our more explicit focus on children's rights may lead to a greater expectation of their views being heard in family court proceedings. If this is not demonstrated, there will be a greater risk of criticism. Similarly, pressure groups representing other interests in the family justice arena may suggest their own rights are being undermined by the stronger focus on children's rights. However, no group is likely to disagree with the principles set out in this policy, merely its application in individual cases. In this sense, the most important aspect of the policy is how it will be reflected in everyday practice.

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**September 2006**