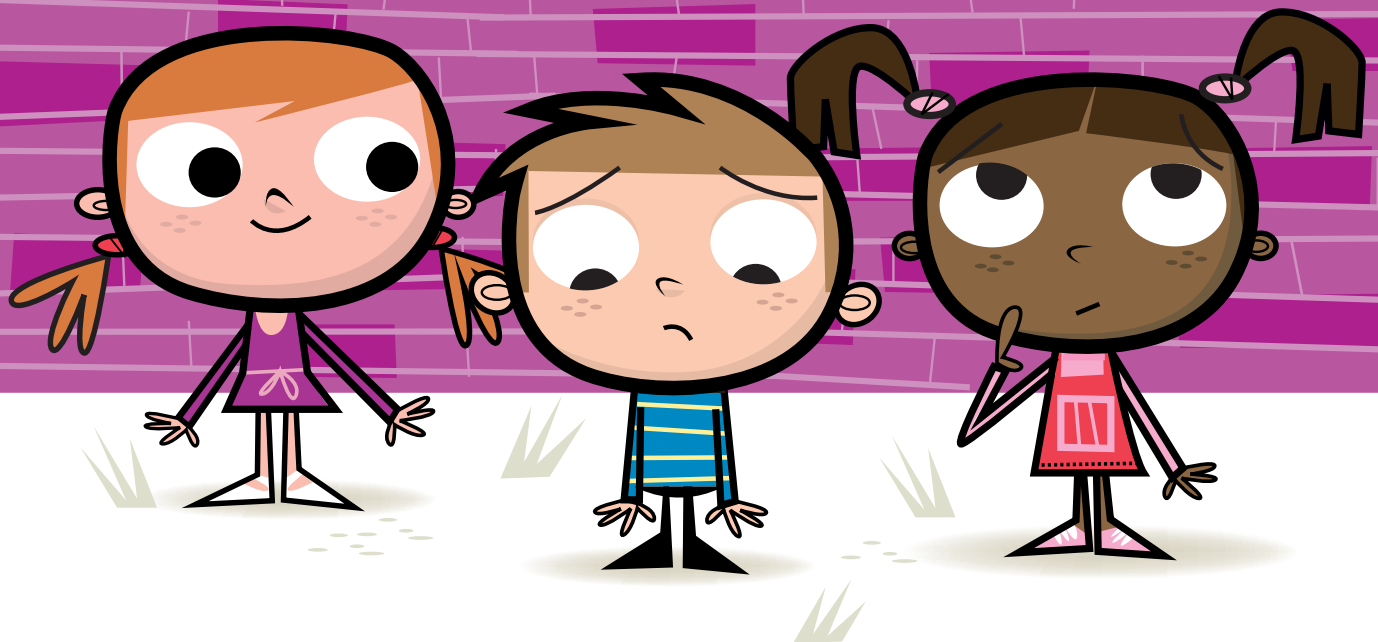
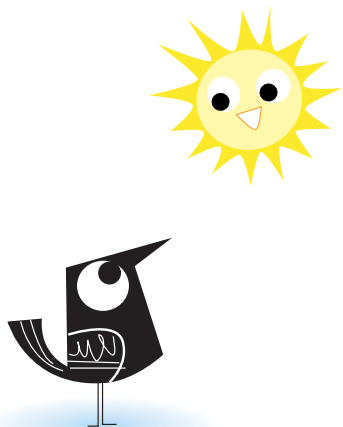


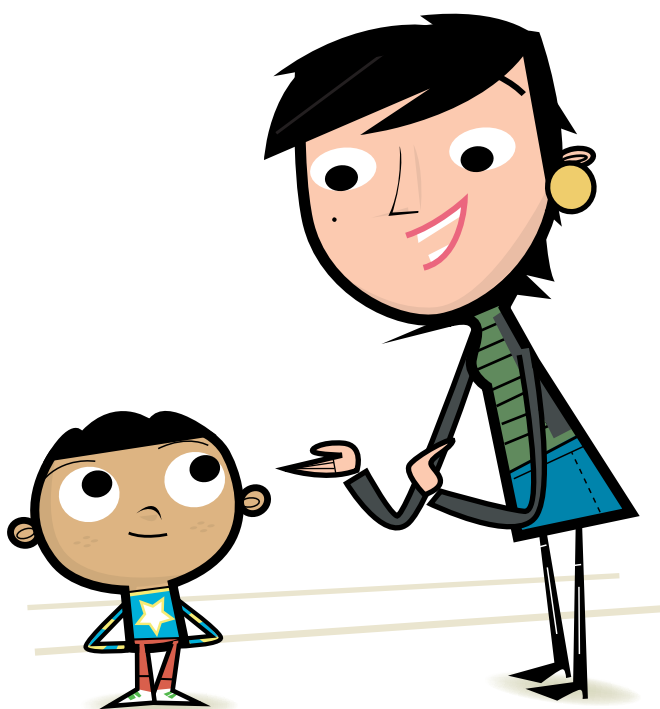
# Children's Rights in Practice





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# Introduction

The basic practice rights below have been developed following formal consultation with our Young People's Board. Inspection reports and feedback from Cafcass practitioners and children have also been taken into consideration. The rights will be supported in all Cafcass case work with children, and serve as a gentle reminder of the importance of engaging with children and giving them a positive experience of our service.

- **The right to be seen and heard**
- **The right of reply**
- **The right to be fully informed**
- **The right to be actively involved**
- **The right not to be put under pressure**

Children and Cafcass practitioners also contributed to the rest of this booklet, including the "Practice tips" and "Young person's experience" sections. The articles and books referenced are available to Cafcass staff from the Library and Information Service.

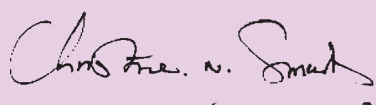
These basic practice rights are in addition to a child's fundamental right to safety<sup>\*\*</sup>. The rights of children are central to Cafcass, as reflected in the requirements of the Children Act 1989 and the rights embedded in the Human Rights Act 1998 (especially Articles 3, 6, 8 and 14), which applies to young people just as it does to adults.

<sup>\*</sup>Throughout this booklet, the terms "child" and "young person" are used interchangeably to refer to any person under 18 years of age.

<sup>\*\*</sup> See the Cafcass Safeguarding Framework for more information on safeguarding.

Cafcass is also committed to the principles set out in Article 12 of the United Nations Convention on the Rights of the Child, which enshrines the right of a child to express their views and to be heard in any proceedings concerning them.

These rights are integrated within Cafcass National Standards 1 (safeguarding), 3 (case planning), 4 (active intervention and case management), 5 (children's active involvement) and 8 (customer care).



**Christine Smart**  
Children's Rights Director  
Cafcass



**Anthony Douglas**  
Chief Executive  
Cafcass



**Roger Morgan**  
Children's Rights Director  
for England

# Right to be seen and heard

Children need to be seen, heard and understood, if they are to be adequately safeguarded. From the start children need to know how much say they have and the extent of their involvement and their freedom to choose.

Their voices will be heard and their wishes acted upon only if sympathetic and impartial adults are prepared to listen and understand what needs to happen to promote their future wellbeing.

Research and experience tell us that if children are not seen and heard, this may put them at risk as mistakes may be made in the decisions we make for them.

This is evident in the Victoria Climbié Inquiry Report, which states that social workers should not just passively accept all the information they hear from adults about children, but should listen to the children themselves.

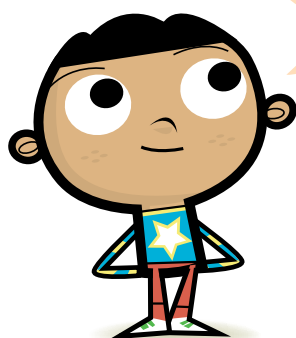
## A simple rating scale to assess the extent to which a child has a say in any particular decision

### *How much say do I have in this decision?*

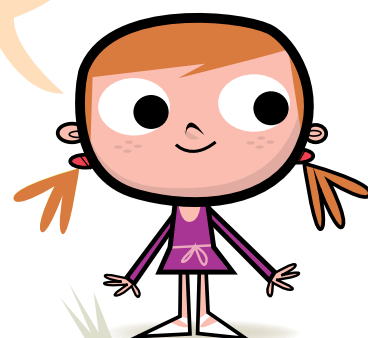
- |   |  |
|---|--|
| <p>10. I (the child) decide – you've no preference.</p> <p>9. I can decide, but it's clear what you want me to say.</p> <p>8. I can say no to what you want, and that will stop you.</p> <p>7. If I want to stop you, I've got to argue my reasons with you.</p> <p>6. I can object, and you will take some notice of that.</p> | <p>5. You'll only listen if I can convince you.</p> <p>4. I'm allowed to object, but I don't think it will make any difference.</p> <p>3. You'll decide your way unless something serious happens to change your mind.</p> <p>2. You've already decided whatever anyone else says.</p> <p>1. There is no decision just for me – it's the same policy for everyone.</p> |
|---|--|

Roger Morgan, Children's Rights Director for England

10. I decide – you've no preference.



1. There is no decision just for me – it's the same policy for everyone.



*"While I accept that social workers are not detectives, I do not consider that they should simply serve as the passive recipients of information, unquestioningly accepting all that they are told by the carers of children about whom there are concerns... Seeing, listening to and observing the child must be an essential element of an initial assessment for any social worker, and indeed any member of staff routinely working with children, and this can be of great importance when dealing with child protection cases."*

Lord Laming Victoria Climbié Inquiry Report,  
January 2003

This framework becomes progressively more important as a child grows up. Approximately 60% of children who are the subject of care proceedings are six years of age or under and therefore lack a strong conceptual understanding. Professional intervention will therefore be different to when working with a 14 year old.

Whilst chronological age is not the exclusive determinant of maturity and understanding, it is an indicator of a greater ability to take control of personal circumstances and to be supported in doing so. The rights-based approach should be integrated into work with children in a way that is consistent with the child's age, understanding and situation.

A child's view should be taken as seriously as an adult's view. They are neither more nor less likely to be mistaken or confused than an adult experiencing the court process.

Giving children the chance to be seen and heard can enhance their self-respect and self-esteem. It is also vital that children see that their story is acknowledged, understood and followed up. It is important to give them clear feedback and to explain the reasons for any decisions made.

### Young person's experience\*

"When I was six my dad pushed my mum down the stairs. This really upset me and the arguments used to upset me too. When they separated I was frightened about seeing my dad. But no-one asked me how I felt about seeing him."

Charlie, 11

### Practice tips

- Fully discuss important choices with the child.
- Focus on what is good for the child, not just what is good for the adults.
- Speak to children where they feel at ease. Give them a choice of spaces where they can have a confidential conversation.
- The child should be told that the information they share will be passed on and the reasons for this.
- Consider how best the child's views can be presented to the court in a visible way.
- To ensure that the child feels they have been understood, reflect back to them the information they have shared with you.
- It is important to be approachable and easy to talk to – remain calm and have a sense of humour.
- Give feedback to children, including an understandable explanation of any decision made and the reasons for this.

### Good practice by Cafcass practitioners

- "When I meet a young person, I take games, beads and other activities to help them relax and give them another focus. Children are often more open to talking about themselves if they are also doing something else."
- "Using leaflets to give information helps them to consider the issues in a relaxed way."
- "One way to start a conversation is to ask 'Who would you take on a bus/holiday with you?'" You may need to give children the space to talk about general, less sensitive issues as well as specific issues. You have to gauge your approach based on each child's ability and attitude."
- "Seeing the child with the person they are most comfortable with should be considered initially. They need to trust you before they see you on their own."

\* Personal details have been changed in the "Young person's experience" sections in this booklet.



## Legal framework

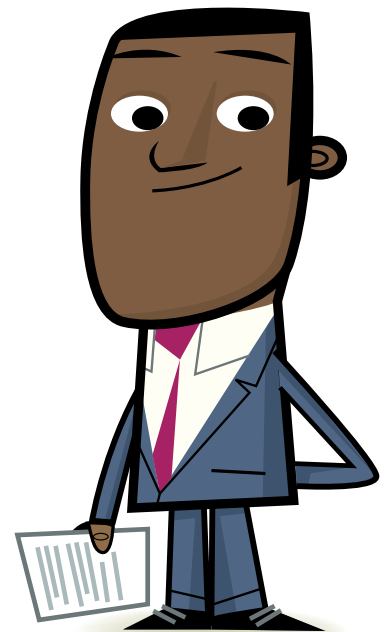
The Children Act 1989 places a duty on the court to have regard to the wishes and feelings of the child, although when the court makes any decision about a child's upbringing the child's welfare is paramount. Inevitably some decisions will go against the wishes of children, but children should still be given the opportunity to share their views and feelings about their future.

When a court is considering whether to make an order it has to take into account the wishes and feelings of a child who is the subject of the proceedings. In most cases a child will have their views put to the court by a Cafcass practitioner or another Guardian ad litem. In some circumstances a child can act in proceedings without a Guardian and make direct representation to the court (Rule 9.2A Family Proceedings Rules 1991). However it is at the judge's discretion whether a child can attend a hearing.

Where a local authority is considering whether to provide accommodation and/or services for a child or deciding whether to take any action with respect to a child, the authority has to ascertain the wishes and feelings of the child (Section 53 of Children and Adoption Act 2004).

Articles 3 and 6 of the European Convention on the Exercise of Children's Rights 1996 give children the right to be informed and express their views in proceedings affecting them. Article 6 provides that before making a decision in the proceedings, the court must give due weight to the views that the child has expressed. The Convention has no force in domestic law, although it can be referred to.

The Human Rights Act 1998 includes in section 6 the right to a fair hearing and this applies to children as much as to the adults in a case.



## Research-based evidence

Listening to and involving young children:  
a review of research and practice

Alison Clark, University of London

*Early Child Development and Care*

Volume 175 Number 6 (August 2005)

"Listening is an active process rather than a passive process. This exchange is not about extracting information from children in a one-way event but is a dynamic process which involves children and adults discussing meanings."

"Listening is a necessary stage in participation. The two terms are interlinked. Participation is the process of becoming actively involved and implies a sharing of power (Miller, 1997)."

**Seen but not heard: young people's experience of advocacy**

Jane Boylan and Pauline Ing, Keele University

*International Journal of Social Welfare*

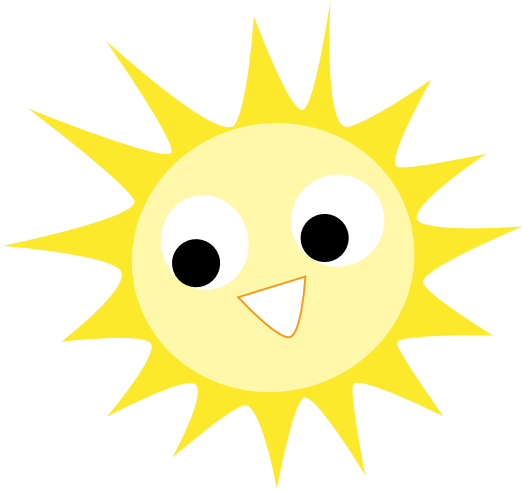
Volume 14 Issue 1 (January 2005)

A recurring theme of this research is that young people felt they seldom had experience of being asked their views by people who did not have a preconceived agenda.

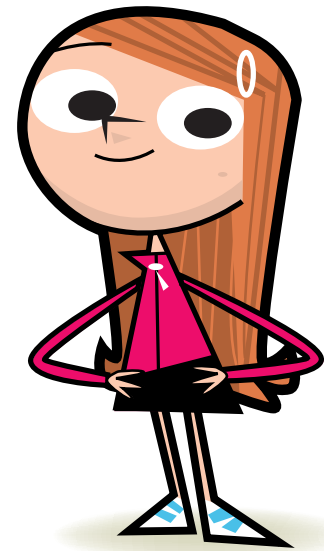
*Attachment Theory, Child Maltreatment and Family Support: A Practice and Assessment Model*

Marian Brandon, Diana Hinings, David Howe and Gillian Schofield (Basingstoke: Macmillan 1999)

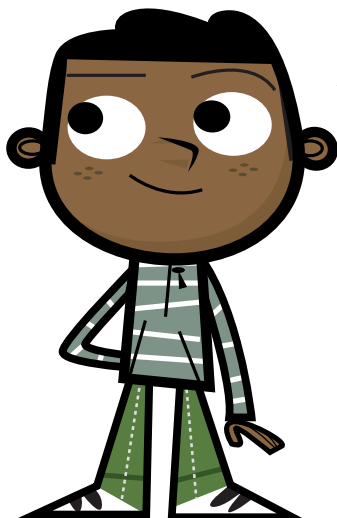
Understanding why young people feel unable to articulate their thoughts and views is documented in this research. It suggests young people's fear of abandonment by people who have power is a significant inhibitor. Other factors that hinder participation are low self-esteem, issues of confidentiality and repeatedly not being listened to.



If a young person wants to go to court they should be given the chance or have someone to do that on their behalf. It is important that they know that they can.



Young people should be allowed to have a different view or opinion on a matter that concerns them. They should still be allowed to express how they feel.



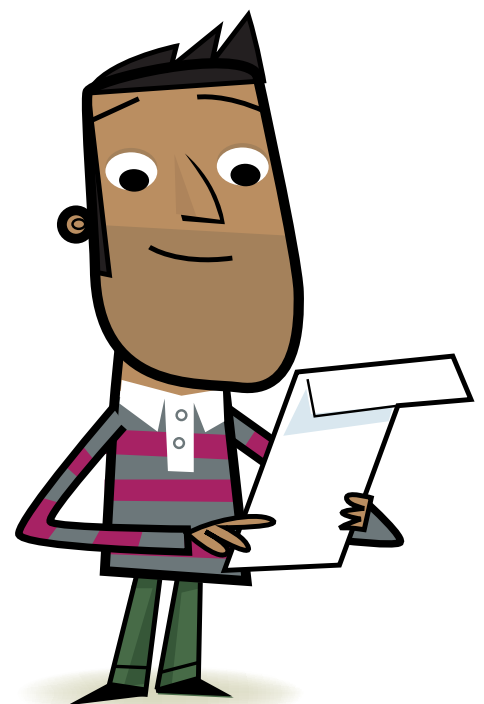
# Right of reply


In order to make effective decisions about children, courts have to make sense of complex information relatively quickly. This information has often been unfolding over a much longer period of time and can be analysed and interpreted from different, sometimes conflicting, perspectives. Evidence may be presented in different ways by those who represent the interest of different parties and it can sometimes seem that the young person's needs, wishes and feelings are not automatically at the heart of the process. In these circumstances, a well-prepared report is an essential part of the decision-making process.

A child's right to challenge the opinions expressed about them and presented to court is no different from adults rightly expecting to be able to challenge the accuracy of information presented to the court.

Giving a child a right of reply gives them a chance to challenge inaccuracies or misunderstandings in assessments. It empowers children to participate in the decisions that will affect the rest of their lives, a right no reasonable person would seek to thwart. Professionals and parents are also able to gain a greater understanding of the child's world through the eyes of the child themselves.

Where court reports and written material are made available, the reading age of the child needs to be considered. Such material should also meet the needs of the court. The use of simpler language and sentence construction (without being patronising for adults) could make materials suitable for court and children. Creating a different version for children could present the risk of altering some of the messages.





Seeing the file can give you an accurate account of what happened and what decisions were made and the reasons why.

#### Practice tips

- Children should be given the opportunity to reply to any view or opinion expressed about them. This could be enabled through the use of My Needs, Wishes and Feelings.
- Views and feelings of even very young children should be noted and shared within the proceedings.
- A copy of written information should be offered to the child with support to understand its implications. The child needs to be emotionally competent to be able to see all the paperwork involving them. Give the child the opportunity to agree or disagree with the information that relates to them.
- It may be appropriate to share the court report and its content with the child, provided it is explained to them in a simplified way.
- How written information is presented to the child will depend on their age and developmental understanding.

#### Good practice by Cafcass practitioners

"I helped a 13-year-old girl to video record her views and feelings about the case plan and her situation and filed it to court. This was accepted and worked well. I know that the girl found this a comfortable way of sharing how she felt about the situation. As her views were different to mine, it was a meaningful way for her to make sure her views were presented in the way she wished. My colleague helped her to film the statement so she was able to express her views freely and didn't feel under pressure."

## Legal framework

Within the Children Act 1989 there is a requirement that the court has regard to the child's wishes and feelings and, unless the child has been given permission to act without a Guardian, those views will be put forward by the Cafcass practitioner. The Cafcass practitioner also has to have regard to the child's wishes when carrying out his or her duties (Rule 4.11 Family Proceedings Rules 1991). A child acting without a Guardian may file written evidence with the court. When a child's views are put to the court by the Cafcass practitioner, it is possible for any written response to be attached to their report.

Article 12 of the United Nations Convention on the Rights of the Child 1989 states that the child who is capable of forming his or her own views has the right to express them freely in all

matters affecting him or her, and that the views expressed by the child must be given due weight in accordance with their age and maturity. It gives the child the right, in particular, to be heard in any judicial and administrative proceedings affecting him or her, either directly or through a representative or appropriate body.

Article 5 of the European Convention on the Exercise of Children's Rights 1996 gives children the right to be assisted by an appropriate person to help them express their views. Article 4 gives children of sufficient understanding the right to apply for a special representative where there is a conflict in proceedings between the child and his or her parents. The Conventions have not, however, been adopted into domestic legislation.

### Young person's experience

"My mum suffers from severe mental-health problems. She has been sectioned a few times. This is one of the reasons why I was in care. When she became really ill I could see my sister's care got worse. Her schoolwork was affected and she suffered in other parts of her life too. But as her older brother no-one spoke to me and asked me what it was like. I know my sister really well, but no-one included my views as part of the assessment. My sister (aged 12) was also not fully informed about the options and given a chance to share what she thought about everything."

**Ravin, 15**



## Research-based evidence

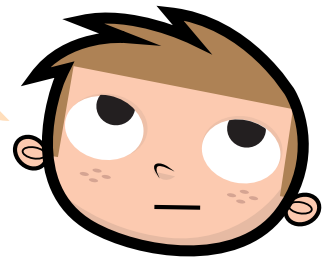
Silence in court? – hearing the children in residence and contact disputes

Vanessa May and Carol Smart, Centre for Research on Family, Kinship and Childhood, University of Leeds

*Child and Family Law Quarterly*  
Volume 16 Number 3 (2004)

"In the cases in our study, children were consulted in only one in four cases but their views could be important to the case and its outcome. The cases where children were not heard... were mainly cases where the children were seen as too young to express a view, where the issue was 'cut and dried', or where the parents came to an early agreement and no reports were ordered. In other words, children were only given the opportunity to be influential when there was serious conflict. This raises the question of whether children should have opportunities to participate in other, less hostile, cases that come to court."

If a young person is unhappy with certain decisions but had no say in the case this can make them feel voiceless.



"We gained the impression that the views of children over seven years of age were taken seriously... In such cases the courts were unwilling in the end to force children to stay with a parent or have contact... In particular, older children's wishes for flexibility of contact seemed to be taken into account in a number of cases. Older children seemed perfectly competent in expressing their views and feelings no matter how apparently sensitive the issues were."

"While there is room for improvement in terms of allowing older children to participate in decision making in courts, the main concern arising from our reading of court files was for younger children... It is particularly worrying that after a decision has been made which may go against their wishes, they typically have no access to support and no means of bringing the matter back to a forum outside the family, if they become really unhappy."

Letting young people see the opinions expressed about them, or at least talking to them about it, is important. If they don't match the young person's views, then they have a chance to reply.



# Right to be fully informed

When children are anxious or under stress they do not absorb all the available information and benefit from going through it more than once. This gives them the opportunity to clarify the information and reconsider issues. It avoids young people getting the “wrong end of the stick”, refreshes their memory and promotes understanding, so can be very empowering.

Children, like adults, need to be fully and promptly informed in language that they understand to ensure that they can fully contribute to the matters that relate to them. Receiving full information helps them to make better choices and to cope with the emotional trauma of parental separation and/or family breakdown.

## Practice tips

- Explain to the child:
  - why their matter is in court
  - the people involved
  - how this process could affect their future
  - what the options are, ie what can or cannot happen.
- Consider the different ways in which information can be shared with the child.
- Keep in touch through phone conversations, emails, letters or visits.
- Let the young person know how to contact you if they have questions or concerns about their case.
- Discuss with the child the ways in which they can get involved in the court process.
- Keep them informed even when nothing is happening. This prevents children from wondering if they have been forgotten. It is always helpful to be reassured that things are still on track. As adults we find it very frustrating when we don't hear anything about an issue that matters to us, for example if we don't hear anything from estate agents or solicitors when we are buying or selling a home.
- Keep the child informed of significant events and meetings that relate to them or their case.
- Young children and children with learning disabilities have a particular need to be given understandable information regularly. Remember that family court processes can seem complex even to adults.



### Good practice by Cafcass practitioners

- “I type the part of the report that deals with the child’s wishes and feelings in a child-friendly font . I then show the young person the report so they have the opportunity to check that section before it is filed in the court. Using My Needs, Wishes and Feelings is another way of ensuring the report accurately reflects the child’s views.”
- “I talk to the child about what I plan to recommend, depending on their developmental understanding. To help them understand the timescale, I offer them a timeline with key dates and events. We update it like a calendar and discuss the changes as needed.”
- “I advise older children that they are more likely to have their views actively listened to. This makes the young person feel more empowered and they feel it is worthwhile to share their views about how plans for their future should look.”
- “Sometimes children have become annoyed when a court is not listening to their views. One boy asked me, ‘Why are you asking me again when I have already told you what I want?’... ‘Why is the court not listening to what I want?’ Knowing how to respond to the child and take this forward is important.”
- “Sometimes I build a stage with teddies to explain what will happen in court. I tell it like a story for younger children.”

### Young person’s experience

“Not knowing makes you more frightened. I used to fill in the gaps with what I thought was happening. This makes you less secure and more worried. Running away, lying or even self-harming could possibly be reduced if you had some control of your own situation.”

**Becky, 16**



## Legal framework

The Children Act 1989 confirms that the child's wishes and feelings must be given due regard, taking into account age and understanding, but does not explicitly make reference to the disclosure of evidence to the child. However, Rule 4.11A of the Family Proceedings Rules 1991 confirms that the duty of a Children's Guardian is to accept service of documents on behalf of a child and, where the child has sufficient understanding, to advise him or her of the contents of those documents. It is also the duty of the Guardian to explain to the child any decision made by the court.

The Cafcass practitioner should, where appropriate, inform the child in an age-appropriate way of the contents of the report which is being sent to the court. Article 6 of Schedule 1 of the Human Rights Act 1998 confirms the right to a fair trial and that could include the right to access to information filed with the court.

Article 13 of the United Nations Convention on the Rights of the Child confirms the child's right to freedom of expression including the freedom to seek, receive and impart information and ideas of all kinds, either orally or in writing, in the form of art or through any other media of the child's choice.

Article 3 of the European Convention on the Exercise of Children's Rights 1996 gives children of sufficient understanding the right to receive all relevant information and to be consulted. It also gives the right to be informed of the possible consequences of compliance with any views that the child may express, and the possible consequences of any decision.

Article 6 of the European Convention on the Exercise of Children's Rights 1996 provides that the court, before making a decision affecting the child, shall ensure that the child has received all relevant information.

*It is important to take the time to make sure the child understands as everyone is has the right to be treated with respect.*



## Research-based evidence

Children's participation in family law proceedings: a step too far or a step too small?  
E Kay, M Tisdall, R Bray, K Marshall, A Cleland  
*Journal of Social Welfare and Family Law*  
Volume 26, Issue 1 (March 2004)

"The majority of children are unfamiliar with courts and find them intimidating. The main reason for the latter appears to be a lack of information about the place, process and the people involved and hence their inability to prepare themselves."

*Communicating with Vulnerable Children:  
A Guide for Practitioners*  
David P H Jones (London: Gaskell 2003)

This book considers how children develop in their ability to manage understandings and the ways we can support them. Adults generally correct each other when they do not understand each other; but children generally have not developed the capacity to question or correct adults. This is particularly the case when adults use complex language and if they are of a higher authority in the eyes of the child.

Key considerations in communicating with children are:

- intelligibility
- grammar or vocabulary
- conversational style.

Sit down with the young person and go through the process until they understand. It can make a difference to the whole experience if they know what to expect.



# Right to be actively involved

Children should not be seen as passive objects in receipt of decisions made on their behalf, but should be treated with the same respect as we expect for ourselves as adults. They should always be given the opportunity to convey their own perspective on their situation to the court.

All children should be enabled to participate to the extent that they desire or feel comfortable with, but should not be put in a situation where they feel responsible for the decisions made. Children's contributions should be seen as equally valuable as contributions from others involved. They are no more or less likely to be mistaken than adults and can be as good witnesses.

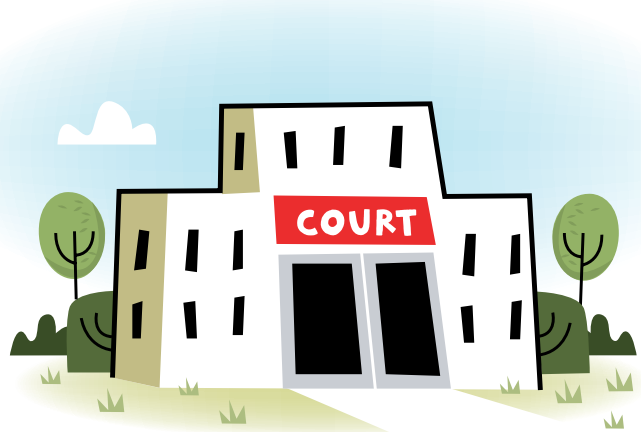
Being involved at a level appropriate for their age and understanding will help the young person to cope with changes in their lives. Input from the child will also help to make the plans more successful.

Sometimes a child might benefit from an advocate with whom they can consult and decide which issues they might wish to bring within the court proceedings. A child who is capable of forming their own views is entitled to express those views and these should be considered alongside the other available information.

Children feel that they have more control when they are engaged with you, and this transforms the process from one with an adult-driven agenda to one that offers them real opportunities to be heard. Participation in court proceedings is a step change in how we relate to them. It confirms our intention of being socially inclusive and respectful, and placing them at the heart of the process.

Children may have a mistrustful perception of court, which can only be counterproductive. As an alien environment it can appear daunting. Children may have gained an impression of court from the media or may have attended a youth court, which could colour their impression.

The concerns and fears a child has may be idiosyncratic and it is worth exploring what these could be. An exploration of the support the child may like will help him or her to share more freely if and how they wish to be involved.



The young person will make better decisions if they are guided by knowing all the options and possibilities.



### Practice tips

- Be specific about the purpose and brief when you meet with the child.
- Explore with the young person the choices available to them; this will help them to feel more in control.
- Consideration should be given to the young person meeting with those who are directly involved in their case. Any professional who directly comments upon the young person's wellbeing should be prepared to meet with them.
- If seeing these people would be helpful for the child, this should be arranged in an environment in which the child feels most comfortable.
- Wherever appropriate, support the young person to write down their needs, wishes and feelings, or at least ask them what they want to be put in the report.
- All young people should be given feedback on all court appearances and decisions made at any hearing.
- Older children may wish to attend court and hear the proceedings or the decisions made about them for themselves. This needs to be considered by all parties and the young person should be supported to participate in a way that is emotionally helpful to them.
- Some children will choose not to give you their view. Some children don't know what they want and rely on others to take responsibility. Just as many adults rely on independent financial advisers to give them the best advice based on their independent and detailed knowledge and expertise, children may rely on our advice and expertise.
- Recognise that children may not venture into choosing from several options if they are unsure what is right for their future or uneasy with the choices. They may even have a "choice panic" and feel under pressure to make decisions.

### Does a child understand enough to make a decision?

Consider the child's understanding, not their age. Give them an explanation first in terms they are able to understand.

Does the child now understand:

- the question
- the main reasons behind it
- what the alternatives are
- what will happen if they decide one way
- what will happen if they decide the other way?

And can they:

- weigh things up for themselves
- say what they want for themselves
- maintain the same view without constantly changing it?

Roger Morgan, Children's Rights Director for England

### Young person's experience

"I had to move to a foster placement miles away from my school. I liked the school and wanted to stay there with my friends. But the journey made me so tired and when I got back I just didn't feel like thinking about the work I had to do. I started missing days and not getting there. So my hope of having a secure education was dashed as they could not get a foster home near my school."

**Louise, 13**

### Good practice by Cafcass practitioners

"I have used the My Needs, Wishes and Feelings resource to help children explain to the court what they would like to see happen in the future. One child was keen to write a letter to the court and I helped her do this. It was very powerful as it helped everyone in court to focus on the main matter: the welfare of the young person."

## Legal framework

Participation in the court process by children is restricted by the Children Act 1989 to the effect that a child cannot act without a Guardian and cannot bring an application to the court without prior permission being given by the court (Section 10 (8) of Children Act 1989 and Rule 9.2A Family Proceedings Rules 1991) or unless the child is considered to have sufficient age, maturity and understanding to act on their own.

A child is automatically a party to public law proceedings, but will be a party in most private law proceedings only if the court so orders.

Where the child is not participating directly the child's views should be reported to the court by Cafcass, although there may be some cases in which Cafcass is not asked to become involved.

Article 12 of the United Nations Convention on the Rights of the Child 1989 gives children who are capable of forming their own views the right to express them freely in all matters affecting them, and provides that the views expressed by children must be given due weight in accordance with the age and maturity of the child. It gives children the right in particular to be heard in any judicial and administrative proceedings affecting them, either directly or through a representative or appropriate body.

Article 5 of the European Convention on the Exercise of Children's Rights 1996 gives children the right to exercise some or all of the rights of parties to proceedings that affect them.

Article 6 of the European Convention on the Exercise of Children's Rights 1996 gives children the right to be consulted in proceedings affecting them, unless this is manifestly contrary to their interests, and for their wishes to be given due weight by the court.

While the United Nations Convention has been referred to in a small number of cases, neither these rights, nor those set out in the European Convention, are confirmed in domestic legislation.

## Research-based evidence

**Participation in practice: making it meaningful, effective and sustainable**

**Ruth Sinclair, National Children's Bureau**

*Children & Society*

**Volume 18, Issue 2 (April 2004)**

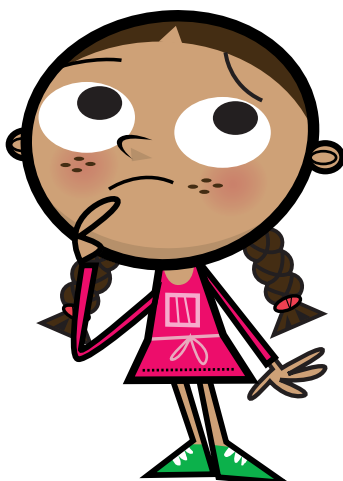
"Over recent years there has been a growing acceptance in Britain and elsewhere that children and young people should be more involved in the making of decisions that affect them... Sinclair and Franklin (2000) summarise the reasons for involving children in this way... Children are citizens and service users and share the same fundamental rights to participate as others... Participation leads to more accurate, relevant decisions, which are better informed and hence more likely to be implemented... A recurring theme of successive inquiries into abuse has been the failure to listen to children. Participation is an important aid to protection."

***Hear by Right: Setting Standards for the Active Involvement of Young People in Democracy***

**Harry Wade and Bill Badham (Leicester: National Youth Agency 2003)**

A theme of these standards is that for participation to be effective, children need to feel their contribution is meaningful and that they have an input into decisions and decision-making processes.

The judge should invite the young person to court or a less intimidating place before the final hearing so that they can voice their opinion before the most important decisions are made about the next few years of their life.



# Right not to be put under pressure

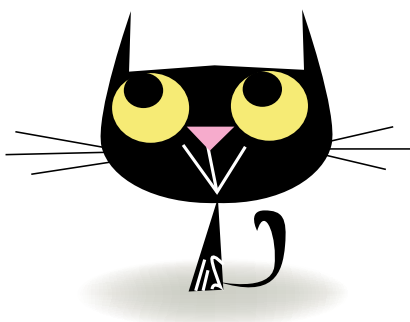
Greater participation is not just about children's rights, but leads to better decision-making. The evidence from all the professionals, the carers and the child must be considered together in order to make good decisions on the child's behalf.

However, to ensure that children's interests are properly safeguarded, it is vital that we do not allow them to feel that they are burdened with

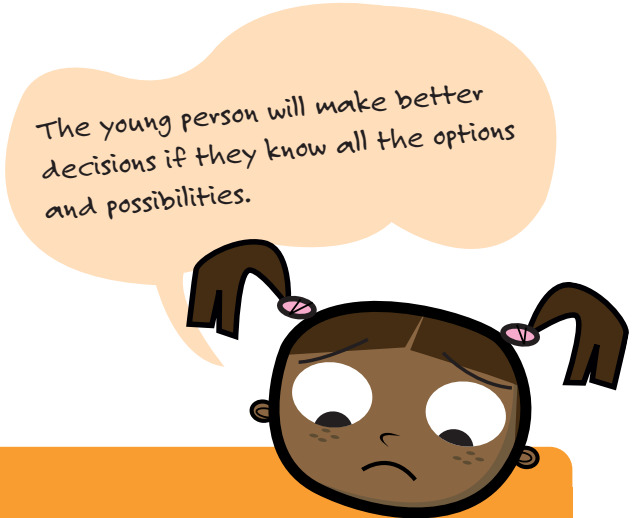
the responsibility to choose what is right for them. Instead they have a right to participate in the proceedings in a manner that they are comfortable with. It is important to work with children, so they don't feel under pressure from the court or their carers.

## Practice tips

- Children should be told exactly what information will be passed on and the reasons for this.
- Children should be clear about the court process and the issues relating to confidentiality.
- Each child's emotional capacity to cope with the court process needs to be evaluated as part of the Cafcass assessment and analysis.
- Information that is passed on to others should be shared with the child. Remember that children, like adults, can change their views when new information becomes available to them.
- Children should not be guided to conform to adults' views if they do not feel comfortable with these.
- Children need to be made aware of concerns that Cafcass workers have about their safety.
- Support and advice needs to be offered throughout proceedings to ensure the young person isn't burdened or feels under pressure.
- Find out from the child what they would find pressurising; don't assume – ask!
- Consider how best to meet the child's needs. Should they be seen alone? If not, with whom? Where would be the best place?







The young person will make better decisions if they know all the options and possibilities.

### Good practice by Cafcass practitioners

- “I ask parents to put themselves in the young person’s shoes and think about what it’s like to be their child at the moment. How would it feel to stay with someone, like their mother-in-law, every other weekend? Would they like to go to work from a different home on alternate days?”
- “Sometimes I explore the parent’s favourite activity, like playing golf. Then I explain to them how it feels to be forced to do something else rather than doing that. I do this with the hope that the parent has an insight into how their child feels about doing something they dislike or don’t want to do as often as the adult.”
- “I advise parents not to ask children to phone them. Children can feel under pressure because they don’t wish to upset the parent they are not living with. Children recognise the problems it can cause if they don’t respond positively to the non-resident parent’s requests. I explore with the parent the extent to which children get caught up in conflict and the confusion and sadness that they can feel. We discuss how they can make time to talk with their children openly about how they are feeling.”
- “Likewise I explore with the children simply how they can feel safe and not put under pressure. I talk to them about their hopes and fears and what’s happening in their lives.”

### Young person’s experience

“I would really like to keep a positive relationship with both my parents. I miss my dad not being around and I worry about how my mum will cope. Sometimes I might want you to decide what’s best and at other times I may just want to tell you how I feel and it may not all be through words. Sometimes having the support to share my worries and know what’s going on is enough.”

**Mai Ling, 14**

## Legal framework

The restrictions on the participation of children in court proceedings have the effect of ensuring that if the young person does not choose to be involved they do not have to take part. Duties that exist are on the court and the Cafcass officer to have regard to the wishes and feelings of the child and that includes any wish the child may have not to take part in the process or to express a view with which no other party agrees.

Article 14 of the United Nations Convention on the Rights of the Child 1989 gives children the right to freedom of thought and conscience, and Article 13 gives them the right to freedom of expression.

## Research-based evidence

### Present and past: children and young adults' views of court ordered contact

A Buchanan

*childRIGHT* Number 233 (2007)

This article explores the results of two research projects into the views of children involved in court-ordered contact. The key finding is that the main problems for children in this situation are living with ongoing parental conflict and conflict when meeting with a non-resident parent. The research projects also found that children's views are often not heard.





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Cafcass practitioners

Cafcass Children's Rights Champions

More information about Cafcass, including the National Standards, Children's Rights Policy and Safeguarding Framework, is available on the Cafcass website, [www.cafcass.gov.uk](http://www.cafcass.gov.uk).



Published in October 2007 by Cafcass  
8th Floor, South Quay Plaza 3  
189 Marsh Wall, London E14 9SH  
[www.cafcass.gov.uk](http://www.cafcass.gov.uk)

ISBN 9789999083393



Printed on recycled paper