

Office of the Children's Commissioner:

Do more than listen. Act

Consultation response to the Family Justice Review undertaken for the Family Justice Council's Voice of the Child sub-group

July 2011



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## Foreword from the Deputy Children's Commissioner for England and the Chair of the Voice of the Child sub-group

The Voice of the Child sub-group asked the Office of the Children's Commissioner to undertake this consultation with children and young people so that their voices could be heard by the Family Justice Review team as they consider proposed improvements to the family justice system. We are grateful for the careful and sensitive way in which this work has been done and above all wish to thank the children and young people who shared their very painful experiences with the team.

We believe that this report has captured the kind of experiences which are shared by many children who live through the breakdown of their family life, through separation and divorce or as a result of abuse or neglect. Their words eloquently portray the impact upon them of the upheaval in their lives. Some very young children were involved in this work and the report demonstrates that their experiences can be gained and can contribute to improvements in the way professionals and courts hear the voices of all children and young people.

These children and young people shared their experiences and their views on the changes needed because they want to be heard. We feel a strong sense of responsibility to them to ensure that they are indeed heard and that they make a difference.

**Sue Berelowitz**  
Deputy Children's Commissioner  
for England

**District Judge Nicholas Crichton**  
Chair of the Voice of the Child  
sub-group

## About the Office of the Children's Commissioner

The Office of the Children's Commissioner is a national organisation led by the Children's Commissioner for England, Dr Maggie Atkinson. The post of Children's Commissioner for England was established by the Children Act 2004. The United Nations Convention on the Rights of the Child (UNCRC) underpins and frames all of our work.

The Children's Commissioner has a duty to promote the views and interests of all children in England, in particular those whose voices are least likely to be heard, to the people who make decisions about their lives. She also has a duty to speak on behalf of all children in the UK on non-devolved issues which include immigration, for the whole of the UK, and youth justice, for England and Wales. One of the Children's Commissioner's key functions is encouraging organisations that provide services for children always to operate from the child's perspective.

Under the Children Act 2004 the Children's Commissioner is required both to publish what she finds from talking and listening to children and young people, and to draw national policymakers' and agencies' attention to the particular circumstances of a child or small group of children which should inform both policy and practice.

The Office of the Children's Commissioner has a statutory duty to highlight where we believe vulnerable children are not being treated appropriately in accordance with duties established under international and domestic legislation.

## About the Family Justice Council's Voice of the Child sub-group

The Family Justice Council (FJC), an advisory non-departmental public body, exists to promote better and quicker outcomes for the families and children who use the family justice system. The Council promotes an inter-disciplinary approach to the needs of family justice, bringing together experts from the worlds of the law, health and social care to advise government on reforms to the system. It is chaired by the President of the Family Division, Sir Nicholas Wall.

## Acknowledgements

The Family Justice Council (FJC) and Office of the Children's Commissioner (OCC) would like to thank all the children and young people who met with us and shared their deeply personal experiences and views. We would also like to acknowledge the help of parents, grandparents and foster carers who invited and supported children and young people to attend the sessions.

We would also like to thank OCC staff, particularly Shaila Sheikh, Tom Green, Jenny Clifton, and also to Christine Smart - Practice and Strategy Director, Burnside Associates - for their work in helping to organise, plan, and deliver the children and young people's participation sessions and for the drafting of this report.

Special thanks also are due to:

- The contact centres who helped us reach-out to the children and young people and also kindly hosted the sessions for us: Exeter Contact Centre, Pro Contact in Manchester, Sunderland Contact Centre and Stephen's Place, London.
- Yvonne Kees, National Association of Child Contact Centres.
- Local authorities: Sunderland City Council, Change Council - Children in Care Council, East Sussex County Council, Children in Care Council.
- Caroline Little, Voice of the Child sub-group
- Professor June Thoburn from the University of East Anglia

# 1. Introduction

The Office of the Children's Commissioner was commissioned by the Voice of the Child sub-group of the Family Justice Council to gather children's and young people's views for submission to the Family Justice Review.

This report reflects the views and perspectives of 35 children and young people between the ages of 3 and 17 with recent experience of either public or private law processes. Children with experience of private law processes are those whose parents have been through separation or divorce. We sought to talk with children and young people who had experience of disputes in this context: particularly concerning contact. Children with experience of public law had experience of care proceedings, as a result of protection concerns, and had either been removed from their parent/s and placed in care or had been placed with extended family members. In some instances extended family members had obtained parental responsibility through Family Proceedings.

The focus of this work has been to assist the Family Justice Review team to gain a greater understanding of children's experience and to provide opportunities for children and young people to make suggestions for improvements in the family justice system.

The interim report of the Family Justice Review confirmed the importance of ensuring that the interests of children and young people are a determining factor in the operation of a future Family Justice Service and addressed the need to hear children's voices when decisions which affect them are made. This focus was welcomed by all the children and young people who participated in this study.

The interim report also refers to the rights of children under Article 12 of the UN Convention on the Rights of the Child (UNCRC) in respect of which the Children's Commissioner has a clear remit. This requires not just that children's views are heard and respected but that their views are taken seriously. This was an issue for many of the children and young people we met and we have reflected here on the difference between having a voice and really being heard. A number of questions are raised for consideration by this report which include how and to what extent children's views can impact on the decisions made about them.

The children and young people who were involved in this participation process were keen to understand how Article 12 of the UNCRC would translate into practice and make a difference in the context of the family court process. We believe that their messages will assist the Family Justice Review in their consideration of this.

## **2. Key messages from children and young people**

### **2.1 Hearing and understanding each child and young person**

Children want adults to listen, hear them, understand them and act on that understanding if they are to have the support they need and have a say in decisions. Adults need to understand all the pressures upon them - from what is happening in their family and from the court process.

### **2.2 Making things clear to children and young people**

Children want to know about the different people in the court process; about the plans and decisions being made; about what happens to what they have said. These explanations need to be given not just once but again when they are needed. They could be written down so that children can look at them later.

### **2.3 The child's own plan for having a voice**

Each child and young person needs their own plan as to how they would like to be supported and have their voice heard. The choices should be made clear to them and their ideas as to who can help them should be taken seriously.

### **2.4 Children in different proceedings**

Many of the same messages came from the children and young people who had been through different kinds of court proceedings. This showed that even when children were looked after and had the right to be heard in their care plans, many still did not understand what was happening. The differences need looking at too: those children whose parents are separating may get less support and have even greater worries about telling someone their views.



### 3. Objectives

The primary aim of this consultation was to ensure that children and young people contributed to the Family Justice Review's consideration of how to give children a voice in the family justice process.

Specifically we sought to find out the views of children as to how this might best be done; the kind of support which children need before, during and after court proceedings; other ways in which the experience of going to court might be improved and any ideas they had for alternative ways of settling disputes within the family.

We sought to gather and convey the experience of children and young people in addition to their views for change. Rather than responding directly to the specific questions posed by the Family Justice Review team, our questions were generally themed issues in line with the Review's objectives and sensitively explored by a small group of experienced children's practitioners. We consider that an understanding of children's experiences is fundamental in considering the best way to hear the views of any individual child.

We wished to ensure that experiences of both public and private law decision making were included and that we found ways of gaining the perspective of young children.

These participation sessions were with small groups of children and young people and we do not make claims as to the representativeness of these children and young people's views. However, we do believe that the themes which emerged and the suggestions they made are relevant to a wide range of children and young people going through the court process. We trust that the reflections which we have made, drawn from their views, will be of value to the Review.

#### **Our approach**

The safety and wellbeing of the children and young people who took part in our participation sessions were paramount. Through the planning and facilitating of our sessions we carefully addressed support and care needs and employed a variety of techniques to encourage the children and young people to share their views with us.

A full outline of our methodology can be found in Appendix 2.

## 4. Findings and reflections

*“The kids should always come first, and I don’t think I ever did.”*

(17 year old boy with experience of public law proceedings)

*“I would make it so they didn’t have to split up – but if they did they would still love their children very much.”*

(6 year old boy with experience of private law proceedings)

These words capture the voices from the children and young people who took part in these sessions and powerfully express what they want a family justice system to recognise and address: that they matter, that they are cared for and loved.

We have focussed our findings on the importance of understanding children’s experience. This understanding we hope will help professionals and others in contact with children to explore with an individual child how they might be feeling, how they might wish to convey their views and their support needs.

We have stayed close to children’s comments because their agenda of concerns may be very different from those assumed by the adults. This has also allowed us to reflect on some of the similarities and differences between the concerns of children who had experience of public and of private law.

We involved seven children under age seven in our sessions. Their views are captured within the sections below headed ‘what children and young people told us’. There are fewer verbatim quotes from these children as they expressed their views through play, especially using soft toys, feeling faces/emoticons, puppets and Play-Doh. This enabled them to express how they felt about things, rather than explicitly stating their views and experiences. This unsurprisingly revealed the additional thought, patience, time and skills that are required to hear the views of this age group but - very importantly - that it could be done.

### 4.1 Understanding and experiencing the process

#### **What children and young people told us:**

Although most of the children and young people had recent experience of the family justice process, few were able confidently to recall the events or even their own contribution to the process that was determining their future. This applied to children with experience of either public or private proceedings.

A number of the children and young people could not recall which adults or professionals had been involved in the process. Children and young people with

public law experience sometimes attributed this to the number of adults with whom they came into contact but also they felt that roles were not clearly explained to them. Children and young people with private law experience were even less able to identify any adults or professionals who may have been involved or offered help to them or their families.

***“I may have had a Guardian, she came to see me once or twice but I had no idea why she was talking to me, I didn’t even know she was trying to help. I didn’t even know who she was talking to but eventually worked out she must be trying to help me out.”*** (17 year old boy)

For younger children the complex terms they encountered made this even more difficult: from their perspective this included ‘foster care’, ‘adoption lawyer’, ‘solicitor’, ‘review’, ‘court hearing’, and ‘court order’.

***“The young children don’t know what’s going on and so people should explain it to them when they’re older rather than leaving it so they don’t understand at all.”*** (17 year old boy)

The children and young people routinely raised the issue of not having clear information through the process. These gaps in their knowledge included how and why certain significant decisions were being made about their future.

***“There is lots of jargon in this world- I want someone to help me understand it.”*** (Young person from session<sup>1</sup>)

***“You need to know what happened and what was said in court.”*** (Young person from session)

***“In the middle [of the process] you don’t know what’s happening. You think that something bad is happening even when it might be good for you.”*** (Nine year old boy)

Many of the children with experience of either public or private law proceedings did not feel they knew why their parents had separated or why they had been removed from their family. Some appeared to be hazarding a guess or had gleaned some

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<sup>1</sup> We have used the term ‘young person from session’ when we do not have information on their age or gender.

information from other family members but they were not clear about the accuracy of this information. One child vividly remembered overhearing a decision to go through a court process and possibly take her into care only because she had been sitting on the stairs and had overheard a meeting taking place in her living room.

*“I can’t remember exactly, but when I was told by my mum I was a bit puzzled, I didn’t understand why some people had dads and I didn’t.”*

(Girl aged 11)

*“They lied to us to make us leave, they said we just had to go away for the weekend but the next time we saw our parents was over a year later.”* (15 year old boy)

*“I still don’t know why I was moved away from mum.”* (Young person from session)

*“In the middle [of the process] I was anxious about the future and who I was going to live with. The social workers were always changing and I got no information...”* (16 year old girl)

Many children wanted explanations to come from parents and family

*“I want to talk to my mum more so she can tell me why she split up and help me understand why they don’t see each other even just as friends.”*

(11 year old girl)

## **Our reflections**

- Children and young people wanted more information from the earliest stage about the process of decision-making, about the roles of those involved and about the ways in which they might be able to contribute their views. Their lack of understanding of the process and the complexity of the system was a major barrier to their involvement and meaningful engagement.

Many did not understand the different roles and responsibilities of the professionals involved in the court process and the terminology used routinely by professionals when meeting with them. Children involved with the private law process are likely to have less understanding as a result of having fewer

professionals involved in their lives, and not having experienced the care planning process which structures the involvement of looked after children. However, many young people in the latter groups were similarly unclear about roles and procedures.

Potentially, their limited knowledge and understanding of the process created additional anxieties as they could not express their views and wishes about the options available to them nor understand who to turn to for advice or support.

- Children and young people wanted explanations as to the reasons for decisions made, in ways that made sense to them. They needed to understand how their views and experiences had been heard. They suggested a written response to this effect.
- It was difficult for many children to grasp the ‘story’ of the decisions which had been made and the reasons for these. For many young children this would perhaps not make sense until much later. However, it would often be the case that those involved with the decision making – such as social workers in public law proceedings – would change, files might be impenetrable and that family members might have a partial view of events so that there was not a reliable source of information available subsequently. For these reasons, children suggested that a record be written at the time for their future perusal – somewhat similar to a ‘later life letter’ which is produced for adopted children or an ingredient of life story materials.

## 4.2 Having a voice

### **What children and young people told us:**

All the children and young people we engaged with wanted to have their voice heard and to share their experiences. Indeed this consultation led to several children and their carers telling us how helpful it had been because the children had not had this chance to talk through their views and experiences before.

*“I don’t think our parents knew how we were feeling. I feel glad that I’ve been able to talk – I’ve finally got to express what I feel. I think adults should talk to kids more.”* (13 year old boy)

Very few of the children with private law experience felt they had ever had the

chance to express their views.

***“I couldn’t get my ideas heard; mum wouldn’t let me go to court.”*** (12 year old girl)

We explored the complexities and subtleties around having a voice, and the children and young people made clear that whilst they wanted to be listened to, the important considerations were:

- Who was listening?
- When were they listening?
- How were they listening?
- How did the listening influence the decisions made about their lives?

They talked about the person who was listening as someone who understood them:

***“Someone who knows about your life should make the decisions – not some judge you’ve never met.”*** (16 year old girl)

They wanted someone they could trust and very importantly someone who could do something with what they said.

***“The people I speak to should do more than listen, they should act on it too.”*** (14 year old boy)

Children and young people with experience of public law proceedings had been more often able to identify an adult who they thought might listen to them if something was going wrong or if they were unhappy with aspects of their care, this was often their care worker or foster carer and on one occasion a social worker was mentioned.

The children with private law experience had had no real sense of who they could talk to and most often mentioned the parent they were living with, whilst grappling with the notion that their parent was often not best placed emotionally to be able to listen effectively.

Most of the children talked about the role of extended family members, such as aunts and grandparents, as being the helpful people to talk to but thought they might

require support to help them share these thoughts with decision makers and in courts.

Only three of the young people were familiar with the term 'Guardian', but they were not clear of their role and there was some confusion between them and social workers and the other professionals with whom they came into contact.

One young person did say:

***"It's the Guardian talking to you who tells the judge."***

Many children and young people did not know who could be the person to hear effectively their views. Across the sessions they referred to a 'special person' who could hear their views but also be important enough to do something with them.

***"I'd like to be able to say that this is what I'd like to happen and I'd want to say it to someone important."*** (13 year old boy)

One nine year old boy described this special person as having a similar role to the Prime Minister, because people listen to him. Others wanted a mediator or advocate:

***"You want a social worker who will speak up for you, be there for you, listen to you, encourage you and say what you tell them to say."***

They emphasised that they did not want their words interpreted by adults into what was thought to be in their best interests but wanted to know that their own words and views were heard by decision-makers.

This was described by one 15 year old boy:

***"For people to not twist words and for us to read the info the judge gets."***

Some thought that the judge should hear their views directly:

***"The judge should speak to you and ask you what you want."*** (Young person from session)

***“It is really important to meet the judge because it is him that makes the decision and so he should get to know you himself – not through someone else.”*** (Young person from session)

However other children and young people preferred the idea of someone else telling the judge on their behalf.

***“I wouldn’t like to meet the judge, I want to meet someone else to tell the judge what I want- someone who knew me like my family.”*** (Young person from session)

Children and young people wanted opportunities throughout family court processes for specifically sharing their views. At the beginning of the process many had lacked the information on which they could base their views. This did not necessarily improve over time.

***“I want someone who can listen to me and take things to the court properly.”*** (Nine year old boy)

Most of the children and young people with public law experience had found at the early stages of family court proceedings that they had no opportunity to have their voice heard and were only told after decisions had been made.

***“No one would listen to us if we needed to say something after a decision has been made; we don’t know where to go.”*** (11 year old girl)

Children and young people were very clear that they wanted options for conveying their views and these should be well explained and that individual children should be able to choose.

***“You should be able to stand up in court and say it yourself. You should have a choice if you want to stand up in court then you can if you don’t want to then you shouldn’t have to.”*** (Young person from session)

The options would embrace different ways of sharing views so for example by use of



letters and drawings and not just through having someone share on your behalf.

*“I don’t know how to be listened to. Maybe I could write a letter to the court because its easier to write things. Saying things out loud is hard.”*  
(Young person from session)

*“The courts should listen to all my thoughts – I’d like to meet the judge in person so he can listen to my views. The courts shouldn’t just act on the adults behalf – they should think about the young people too.”*  
(Young person from session)

*“I want to meet the judge in person because writing doesn’t work.”* (15 year old boy)

Moreover they wanted feedback not only on what decision was made but also how their views may have shaped that decision.

*“You need to know what happened and what was said in court.”* (Young person from session)

## **Our reflections**

- The children and young people made a distinction between being listened to and really being heard. The latter meant that adults took notice and that their views were acknowledged and made a difference to what was said on their behalf.
- Children and young people were very clear that options for conveying their views should be well explained and that individual children should be able to choose. For some this might mean opting out of speaking directly in court but being able to write to the Judge or have their views –not adults’ interpretation of these – presented on their behalf.
- Some children wanted a single person to fulfil several roles and tasks including: listening, offering advocacy with professionals and family members, keeping them informed, supporting them through this difficult process and passing on their views to the judge who made the final decision, so enabling them to influence the decision making process about their futures. Some thought that the person combining all these roles could be one of their key supporters: such as a carer or relative. Others were conscious that the roles

might be shared among several people. It would be most helpful if the young person's choice as to the person or people best placed to give such support could be taken into account when professionals consider children's access to ways of conveying their voice.

- There was a recognition, however, that being listened to and supported were very closely linked to how well the child might be enabled to participate and all three are linked to the development of trust. This is an important message from this study.
- Dilemmas for children and young people: Many young children were anxious about expressing their voice and in particular the consequences of this for those in their families. Children and young people were often aware of the emotional impact on their parents and carers of the separation process and of the court proceedings and expressed their fear and anxieties about sharing their views.

There is an important question here as to how children can be heard at a pace and through an approach with which they can safely engage. It also highlights the expertise and skills that are required to safely enable all – but particularly younger children – to share their perspective without making them feel exposed to additional pressure from family and professionals. From our experience during this and other consultation work, we believe that there is a need to be more open to gathering young children's views and experiences through listening and observing them in their own environments and in their interactions with significant adults and not just through asking them their views.

- We found a real gap in understanding among many of these children as to how their perspective and voices influenced the process. They did not understand how or whether what they said might influence any decisions. It raises the issue how children understand the decisions made on their behalf and the transparency of this process.

## **Support**

### **What children told us:**

The children and young people were very open about the impact upon them of the upheaval in their family and of the court process. Children and young people were asked who should support them through this life changing process. We wanted to learn about their reasons for wanting support, what support they felt children needed and who might provide this for them.

The children and young people recalled their feelings when things started to go wrong for them at home or, more typically in private law cases, when there began to be frequent arguments between their parents. Their feelings ranged from confusion and bewilderment to fear, sadness and self-blame and some said that they had had suicidal thoughts. They described a range of feelings often associated with grief and loss. Some children had specific fears: such as the fear of losing contact with siblings who were being separated as a result of the court process.

***“At the beginning I was confused; I didn’t know what was going on. I was really cross and thought about self-harming. I argued with my friends a lot. It just wasn’t fair ...”*** (16 year old girl)

***“When my dad went away I felt like it was my fault.”*** (Young person from session)

***“You feel depressed and don’t want to face anyone.”*** (Young person from session)

***“At the beginning I was depressed- my parents didn’t have time for me- life was lonely and I was stressed out.”*** (15 year old boy)

***“In the beginning, I was scared, I never seen my brother and sister act like they did. I was scared I had to settle into somewhere and every time I move that is what I’m scared of. I was upset because I didn’t like what my parents were doing and I’m worried that I’ll copy what they do.”***  
(Nine year old boy)

There was a clear message about the kind of support which was needed and this links to the need to be heard.

***“Talking about how I actually feel and not how people think I feel.”***  
(Young person from session)

***“I would like someone who you can talk to by yourself.”*** (17 year old boy)

Some children felt there should be support from other young people who have been

through the process as they felt they would better understand the circumstances another child is facing. It was also felt that young people who have come through this process could also offer practical advice on dealing with a range of concerns.

***“It’s helpful to talk to someone who’s been through the same thing because they can give you practical ways to deal with things.”*** (12 year old girl)

Support staff for children in care councils were also identified positively by some of the children and young people as they felt these professionals were understanding, warm, and encouraging. This gave them the confidence to share their views with the support worker but also their peers in the council.

***“Change council makes me feel like I’m having a say, that I’m valued, important and appreciated.”*** (Young person from session)

Social workers were mentioned by the young people who had experience of care proceedings and while most of the young people raised concerns about the support they received, a few of the young people with experience of public law proceedings spoke positively about their social worker. Their concerns were similar to those highlighted by children contributing to the Munro Review of Child Protection that workers moved on too quickly, did not see them often enough or did not listen to their views.<sup>2</sup> The positive qualities were also similar (to other supportive professionals): they understood children and young people, they explained to them what was happening, and they supported them and encouraged them to express their views. These two young people’s comments, closely following each other within the same group, represented some of the contrasting views:

***“You can trust your social worker – she will know why you’re in care.”*** (Young person from session)

***“Social workers aren’t always the best people to speak to because they’re not always going to be there for you.”*** (Young person from session)

A third made a point about her expectations

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<sup>2</sup> Office of the Children’s Commissioner’s submission to the Munro Review of Child Protection [http://www.childrenscommissioner.gov.uk/content/publications/content\\_421](http://www.childrenscommissioner.gov.uk/content/publications/content_421) [accessed July 2011]

***“You want a social worker who will speak up for you, who’s there for you – listens to you, encourages you and says what you tell them to say.”*** (Young person from session)

The overwhelming message from the children and young people was that they had valued talking with their family members. This was true for all children, although the complexities of this could differ according to the context, whether in public or private law proceedings. Most children explained that their parents, grandparents and aunts and uncles were the people who they sought out for support. The emotional support from their extended family appeared to be essential and those who did not have this felt the lack of support keenly.

***“Someone should help you and look after your mum...I talk to my granddad and his girlfriend I also say prayers to nana who is in heaven.”*** (Nine year old girl)

***“When things went wrong, there was no one I could ask for help. I would have liked to have known more, our family should tell us what’s going on.”*** (11 year old boy)

***“It would be better if I could connect with other family members.”*** (16 year old boy)

For those going through private law proceedings, our groups thought parents needed to be involved in explanation and support.

***“They should encourage kids to speak to their parents- I spoke to my mum and it was a really good thing. It would be really helpful to have a counsellor or something.”*** (16 year old girl)

Some children recognised the tensions of speaking to family and the partial perspectives they may have. They thought that it would be more helpful to have someone to talk to outside the family. Some were cautious about the potential stigma of psychological help but others recognised the need to talk not only to gain a better understanding but also to have some help.

***“I would want to talk to someone special about my parents, I’d want to share my feelings and find out what I should do I’d like some help.”***  
(young person from session)

***“I’ve not come across anyone I can speak to and I don’t always want to share things with my mum.”*** (13 year old boy)

***“I want someone to help me work out what I want.”*** (young person from session)

***“The kids would need someone special to talk to, someone who’s important.”*** (13 year old boy)

***“The [special person] would be someone who is very kind and knows what to do.”*** (11 year old boy)

***“All I wanted was someone to talk to – I never had anyone”*** (16 year old boy)

Children and young people also spoke about the support they thought was needed for their parents:

***“They could send my dad on a course to learn how to be a better dad. He could have learned how to look after me properly.”*** (Nine year old boy)

***“Parents should be given a role model couple to look up to.”*** (15 year old boy)

***“Parents need things like support clubs to meet others in a similar situation or go to couples counselling or have parenting classes.”*** (Young person from session)

***“Partners may need financial advice.”*** (Young person from session)

*“Families should get counselling either together or separately.”* (Young person from session)

They were conscious of the support issues in relation to domestic violence situations and proposed that separate help is needed for non-violent and violent partners. They also recognised the additional support which was needed where a child was disabled or had special needs.

## Our reflections

- The emotional vulnerability arising from and lasting impact of the experience of significant family change was highly visible amongst many of the children we spoke to. The emotional impact was explained by several children and young people when they shared their feelings of self-harm with the participation team. Several described a sense of feeling very low, intense sadness and at times feeling suicidal during the process. The distress that many children and young people shared with us in the course of this work was not only in the past: the impact continued. Several of those who had not previously felt or been able to access support or be heard through the court process, commented upon how helpful it had been to have this opportunity to talk it through. There was a clear need for access to emotional support through formal and informal routes, including counselling and social work.
- Children and young people consistently said that their primary sources of support were their carers, extended family members and close friends. They felt most comfortable to talking to them about their fears and anxieties and to gather information about the family justice process. A number of the older young people recognised and expressed their dilemmas concerning impartiality and confidentiality when these adults were also experiencing the pain and distress of life changing events. There was awareness that family members might not have the full picture or might have a biased view. A number also recognised the limitations of openly and honestly sharing their feelings with their separating parents as this had the potential of apparent alignment to one parent and marginalising the other. Nevertheless, they had found the emotional support of adults who knew them important. This has implications for the information and support provided to family members and to the carers of looked after young people. There is a need to consider how engaged they are able to be in the process so that they understand the concerns upon which decisions are being made, can explain these to the children and support them in having a voice.

- Children made several comments about the support and therapeutic needs of families and carers and were very conscious that separate help would be needed where there was a conflict of views and in particular in the context of domestic violence. This raises the issue of how to support these adults at possibly their most vulnerable point whilst also equipping them to further understand their responsibility as parents or carers and the needs of their children during this time. We reflected that many children and young people felt burdened with the responsibility of sensitivity to their parents and that it would be a relief to them if there were services available to provide support. This would be exacerbated for those involved in private law proceedings but has relevance too for the consideration of alternatives to court disposal.
- There is a need to consider and understand the impact of the court and related processes upon children and young people, whether or not they are directly involved in the former. Recent research commissioned by the Office of the Children's Commissioner<sup>3</sup> has drawn attention to the impact on children and young people of involvement in the child protection system, and we found that children and young people to whom we spoke for this report felt similarly. The court process itself had a further impact on them over and above the problems and worries they had about what was happening in their family. They did not always find that this was understood by those in contact with them.

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<sup>3</sup> 'Don't make assumptions': Children's and young people's views of the child protection system and messages for change [http://www.childrenscommissioner.gov.uk/content/publications/content\\_486](http://www.childrenscommissioner.gov.uk/content/publications/content_486) [accessed July 2011].



## Appendix 1 – Voice of the Child sub-group members

This report was commissioned by the Voice of the Child sub-group of the Family Justice Council.

- District Judge Crichton – Chair of the Voice of the Child sub-committee - District Judge, Magistrates Court
- Sue Berelowitz – Deputy Children's Commissioner, Office of the Children's Commissioner
- Jon Bettison – Cafcass Cymru
- Syd Bolton – Solicitor and Co-Director, Refugee Children's Rights Project, the Children's Legal Centre
- Caroline Little – Solicitor
- Pat Monro – Solicitor and Immigration Judge
- Stuart Moore – Ministry of Justice
- H H Judge Lesley Newton – Circuit Judge
- Beverly Sayers – Family mediator
- Christine Smart – Practice and Strategy Director, Burnside Associates
- Paul Stewart – Ministry of Justice
- Karen Tatom – UK Borders Agency
- Keith Towler – Children's Commissioner for Wales
- Alex Clark – Secretary to the National Family Justice Council

## Appendix 2 – Outline of approach

The methods used to plan and deliver the participation sessions are outlined in the section below.

### Planning the sessions

It was essential to ensure the safety and wellbeing of the children and young people during this process and identify throughout the planning stage how to address the vulnerability of any children and young people who were involved.

The sessions were planned so as to:

- ensure the hosting and referring organisations were well briefed on our approach and already had in place or could refer to services that would support children and young people after the sessions
- create a warm and supportive environment, with ground rules around sharing personal information and clarity about how the information would be collected and used
- involve work in small groups to enable discussions and activities that were guided by the ages, wishes and needs of the children and young people
- use ‘distancing techniques’ in the form of stories and scenarios to help children and young people to share their views without needing to share their own personal and sensitive experiences
- identify specific needs, including access needs for children and young people prior to the sessions
- accommodate the support of their parent/carer for any children (and especially young children)
- provide as facilitators for the sessions representatives of the Office of the Children’s Commissioner and the Family Justice Council who have extensive experience in working with children and young people (all enhanced CRB checked practitioners.)
- obtain full and informed consent for the children and young people to take part
- inform participants, carers, parents and support workers what would happen with the information received from these sessions and who the information would be shared with. All personal information acquired through these events would be destroyed by the 31 October 2011.

These plans were shared with Professor June Thoburn from the University of East Anglia to ensure we had considered the ethical and confidentiality issues that could arise from this work.

### **Who we approached?**

We recognised that in order to address the above safety and wellbeing concerns we needed to work through key support organisations. We also wished to involve children and young people who may have been less well heard in the Family Justice Review so we targeted children who had experience of private law proceedings and also young children.

We received excellent support from a number of Contact Centres across the country which helped us reach out to this target group. These were locations where staff supported children's contact with a separated partner. The children we sought to meet would therefore have experience of separation or divorce in the context of disputes around contact and where it was considered that there were continuing risks to the child from the non-resident parent. We also wanted to afford children and young people who had experience of public law proceedings the opportunity of sharing their views and experiences with us. We worked through local authority contacts to achieve this.

We recognise therefore that the views and experiences of the children and young people taking part on our sessions reflect the more vulnerable population of children and young people involved in family court proceedings and all will have had a Family Court Adviser.

### **Who took part?**

This report presents the views expressed by 35 children and young people who had recent experience of either public or private law proceedings.

Twenty boys and 15 girls aged between the ages of three to 17 years came together in small groups in Exeter, Manchester, Sunderland and London to share their personal experience and perspective on the future shape of the family justice system.

Twenty four children were over 10 years old and 11 were under 10 years of age with the youngest active contributor being a girl of three years of age.

The split between those with experience of public and private law were nearly equal.

The 11 children under 10 years of age all had private law experiences.

Children with experience of private law processes are those whose parents have been through separation or divorce. We sought to talk with children and young people who had experience of disputes in this context: particularly concerning

contact. Children with experience of public law had experience of care proceedings, as a result of protection concerns, and had either been removed from their parent/s and placed in care or had been placed with extended family members. In some instances extended family members had obtained parental responsibility through Family Proceedings.

This report does not claim to be representative of the population of children and young people who are involved in family court proceedings but it should assist the voices of some of the more vulnerable children and young people to be heard in the Review and help encourage understanding, discussion and good decisions concerning the new family justice system.

### **Running the sessions**

At the start of the session, time was taken to create the safe and supportive climate as described above and to explain to children and young people the purpose of why their views were sought and the way it would be shared with the Children's Commissioner for England, the Family Justice Council and the Government (Family Justice Review Team).

The specific consultation questions asked by the Family Justice Review were not directly posed in these sessions but general themed issues in line with the objectives were sensitively explored by a small group of experienced children's practitioners.

It was important to identify and respond to the understanding and needs of the group and the individuals within these sessions. So flexibility was ensured through how we approached the themes and the techniques used to engage with the children and young people: story cards, Play-Doh, feeling faces/emoticons, puppets and drawing were some of the tools used to elicit the information from the younger voices. With the older children and young people drawing and writing techniques were used but also discussion and feeling faces/emoticons.

On a couple of occasions one to one sessions were held in response to individual children's requests to share their views with us or to support the specific needs of a child.

At the end of the sessions the children were helped to leave the sessions in a positive way; this included reminding them that we ensure that any personal information is made anonymous.



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