



**QUEEN'S  
UNIVERSITY  
BELFAST**

**CENTRE FOR  
CHILDREN'S  
RIGHTS**

## **Terms of Reference: Children's Experiences of Family Courts in Context of Domestic Violence**

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## SUMMARY

### Introduction

The Centre for Children's Rights, Queen's University Belfast were commissioned to engage a children and young people advisory group to inform the terms of reference for future research aimed at examining children's participation in family courts when there has been domestic violence in the home. Based on workshops with seven young people and consultations with eight professionals a draft research proposal, which the Commission for Victims of Crime can use to inform terms of reference for future work in this area, has been developed. The full details of the proposal, including the data that informed it, are presented in this report. Below is a summary of the key elements of the proposed research.

### Summary Research Proposal

#### Expert Voices

A child and young person's advisory group (CYPAG) should be established to inform the research at all stages, representing children and young people with experiences of family court processes.

#### Research Aims and Question

The research should aim to engage with a range of perspectives to address the following question:

**How do children experience participation in family courts when there has been domestic violence in the family? How could participation be made better?**

#### Research Population/Sample

The following groups are identified as those most able to speak to children's experiences of participation in family courts. Those marked with \* were considered most important by young people to include in the research.

- Children\* - to include: different age groups; children from different cultural backgrounds; children with additional needs; children from different family sizes; children 3 months post court process; and, those with experience of private law cases and public law cases.
- Individuals in advocacy/support roles such as domestic violence support workers and counsellors\*
- Children's Court Officers\* / Children's Court Guardians
- Teachers\*
- Solicitors (including Official Solicitors Office)
- Judges
- Parents
- Grandparents
- Children's Friends
- Early year workers / youth groups / church groups

## Data Collection

### *Research Topics*

The research aims to examine how children experience participation in family courts when there has been domestic violence in the family, with a specific focus on how participation could be made better. Across all groups that were consulted, the topics to be addressed were identified.

- What are children's past/current experiences of having their views collected?
- Who collects their views and in what ways?
- How do children feel during the process?
- How are methods of engaging children inclusive?
- How do children receive feedback about decision-making?
- What are the challenges/barriers to collecting children's views?
- Do children's views influence decision-making?
- What are the barriers/challenges to providing meaningful feedback to children?
- How could participation be made better?

Certain participant groups will be better placed to provide information on specific questions and therefore to answer all questions would require a range of participants.

### *Methods of Data Collection*

A mosaic approach should be adopted to engaging children in the research, utilising multiple methods to ensure that the research is inclusive and that children have the opportunity to participate in a way that is suited to their needs and where they feel safe. Children should have the option to participate in group and/or individual discussions about their experiences, depending on their preferences.

Methods should respond to the diversity and range of needs of children, thus being inclusive and allowing children to communicate their views and experiences in different ways.

Research activities should be interactive, delivered or supported by someone who children trust or who can develop a rapport over the duration of the research.

Supports should be in place for children to engage in the research process such as taking time to help them understand the family courts process and roles of individual actors as well as having supports of domestic violence support staff and counsellors in place.

### *Space and Safety*

Consideration needs to be given to the location of the research with children and young people, ensuring this is a place they are familiar with and feel safe – where this space is will differ between children.

Children will also require supports to engage with the research, ensuring all information is accessible and that trusted adults (such as domestic violence support workers or parents) may accompany them if required. All data should remain confidential and no information should be shared with other individuals.

### *Remuneration*

All non-professional research participations (young people / domestic violence victims) who take part in the research should receive remuneration to acknowledge the value of their contribution.

### Suggested Outputs and Dissemination

Children are a key audience for the research findings – both those who took part in the research (as participants and advisors) and children more generally. Children who took part in the research should be first notified about the availability of findings.

Dissemination for children should take the form of a short child-friendly document as well as communication of findings over social media channels – these should be supported by visual representations of findings. Research findings should be disseminated through schools and youth clubs where staff can assist children to engage with key findings.

Research findings should also be disseminated in the form of a more formal and detailed report with decision-makers, particularly those involved in the family courts system. Funders should remain open to revisiting the research topic through evaluating changes and assessing the impacts on children.

### **Next Steps**

It was explained to the children and young people advisory group that the Commission for Victims of Crime would use the information provided in this report to commission research on this issue. There is an understanding that what this will look like will be dependent on resources. The advisory group requested that a representative from the Commission visit their group to provide feedback and updates on the process, and explain how their views fed into this. It is important that this is done before any commissioning of research is undertaken.

## **Terms of Reference: Children's Experiences of Family Courts in Context of Domestic Violence**

### **1. Introduction**

The Commission for Victims of Crime Northern Ireland (CVOCNI) aims to examine children's experiences of family courts where they are victims of domestic abuse or have a parent who is. A key focus is to identify the challenges these children face and how their rights to participation are considered within the process. Researchers from the Centre for Children's Rights, Queen's University Belfast, have worked with a Child and Young Person Advisory Group (CYPAG), representing children and young people who have experience of family courts as either children of domestic abuse victims or direct domestic abuse victims themselves, to inform a Terms of Reference (TOR). The TOR will be used by the CVOCNI to inform the commission of research on the issue.

This document outlines a brief context to the proposed research, followed by an account of the consultation process with professional and child experts. Section 5 then presents the Research Proposal as informed by the consultation, including what the research should focus on and how it should be carried out. Appendix 1 presents key findings from the consultations on what children and young people, and professionals, told us about children's participation in family court, highlighting key areas of concern to be examined in more detail in further research.

### **2. Rights Context**

Article 12 states that children have the right to express their views on all matters that affect them and have those views taken seriously, this includes the right to participate in legal proceedings, such as family and child protection proceedings. The Article has two key elements: 1) the right to express a view and 2) the right to have the view given due weight in accordance with the age and maturity of the child. It requires that adults not only listen to children's views but that they take those views seriously (Lundy, 2007). Lundy (2007) notes that children's enjoyment of Article 12 is dependent on the cooperation of adults, that tokenistic participation may be counterproductive and therefore highlights the importance of ensuring that children are told how their views have been taken into account.

### **3. Background to Research**

Children's right to participation in family courts is generally recognised in legislation, court procedures and in case law but practice and modes of collecting their views vary within and across jurisdictions. Their views may be expressed and contained within an overall report on a child's best interests, prepared by appointed adult 'experts' who collect evidence from children and family. Alternatively, their views may be expressed to the court directly via legal representation. Direct communication from the child via judicial interviewing is rarer due to concerns about judges' skills in communicating with children and whether the practice makes children more vulnerable to parental influence (Morrison et al., 2020). Although procedures are in place for children to express their views, previous research indicates that legal provisions may not necessarily lead to children being given more influence nor them

being satisfied that their views are duly considered (Kaldal, 2023; Tisdall and Morrison, 2012).

Attributing due weight to children's views is a key part of Article 12. However, existing research on family court processes has raised questions around the impact or weight given to children's views on decision-making (e.g. Daly, 2018; Kaldal, 2023; Morrison et al., 2020). Indeed, it is suggested that only where the views of children and judges agree, are children's views given 'significant weight' (Daly, 2018). The impact of a child's view can be limited for a number of reasons: perceptions of a child's capacity; whether their view is considered accurate and/or influenced by a parent; whether it corresponds with a 'norm' of contact with both parents; whether seeking a child's view may compromise their safety or well-being (Kaldal, 2023; Morrison et al., 2020). Such an assessment can give the decision-maker a 'discretionary space' (Kaldal, 2023) where the decision may not align with the child's expressed view.

Concerns are raised, therefore, that children's participation rights have not been implemented in ways that fulfil the requirements of Article 12 (Morrison et al., 2020). More evidence is required, across jurisdictions with varying practices, on children's views on the most appropriate / effective ways for children to share their views in family court processes which are empowering, the ways in which children's views are taken into account in judicial decision-making, and whether children feel their views had influence.

## **4. Methodology Overview**

### **4.1 Child Rights-Based Approach**

The project was informed by a rights-based approach. This requires that research should focus on and further the realisation of children's rights, that children's rights standards should guide the process, and that the research should enhance the capacities of duty-bearers to meet their obligations and of rights holders (children) to claim their rights (Lundy and McEvoy, 2012). Aligned with this, the overall aim of this project was to develop a research proposal grounded in children's views, which if commissioned by CVOONI will enhance children's participation rights; providing information to duty bearers on how these are currently being realised and how they can better meet their Article 12 obligations in this regard.

To this end, in this consultation phase we engaged with children and young people, and adult experts to ensure that their views are foundational to the development of future research plans. The project received approval from the School of Social Sciences, Education and Social Work Research Ethics Committee (QUB).

### **4.2 Consultations with Adult Experts**

A range of organisations were contacted to take part in an information-generating exercise, the aim of which was two-fold:

- To provide context on how children's views are collected and represented in the family court system in instances where there is domestic abuse, and
- To explore who and what should be included if primary research on this issue was to be commissioned in N. Ireland.

Organisations were identified in consultation with CVOCNI and included:

- NGOs supporting children with experiences of domestic abuse
- NGOs providing legal advice to children and families
- Members of the legal profession
- Women's and men's support groups
- Children's Courts Officers

Despite repeated efforts, a number of those contacted did not respond to requests to participate. Some responded noting that they did not feel they could contribute due to a lack of knowledge/work in this area.

Eight adult stakeholders took part in consultation discussions: five representatives from women's support groups; one Children's Court Officer; one family law solicitor; one King's Counsel barrister. The discussions aimed to provide an understanding of court processes from their perspective including: how children are or are not involved; the impacts of these processes on children; good practice examples; and, their views on issues that require further examination through research. Data on the last of these themes has been integrated into the Research Proposal below. Additional, supplementary data relating to children's experiences of participation in family courts is presented thematically in Appendix 1.

#### 4.3 Children and Young People Advisory Group (CYPAG)

Adopting a child-rights based approach, we engaged with a group of children and young people who had prior experiences with family court systems to advise on the design of future research. These were recruited through, and supported by, Women's Aid Federation NI. Seven young people were involved as advisors. The aim was not to discuss their personal experiences but to draw on their knowledge and experience in considering what future research on this topic should examine, who should be included and how the research should be conducted. The children and young people advisory group (CYPAG) took part in two participatory workshops. To acknowledge their time, they were provided with vouchers and QUB/Centre for Children's Rights hoodies.

Central to the child-rights based approach is a commitment to Article 12 of the UNCRC which states that children have the right to express their views on all matters that affect them and have those views taken seriously. These matters not only pertain to the research topic but also research design, processes and dissemination. The Lundy Model of Participation (Lundy, 2007) provides a way of implementing Article 12 of the CRC, incorporating four key aspects: '*space*' for children and young people to express their views; methods that facilitate their '*voice*'/views to be expressed; an '*audience*' to hear children's views; and a means through which these can '*influence*' policy and practice. These elements were key to engagement with the CYPAG.

##### *4.3.1 Capacity Building*

As the overall aim of engaging with the CYPAG was to gather their views on what future research on this topic should examine and who it should engage with, the first part of the workshop focused on capacity building and relationship building. This included: ice-breakers/games; exploring what research is and why it is valuable; key elements of research design; the meaning of participation. In order not to assume understanding of the topic of discussion,



this was followed by a short presentation on the research topic, including different types of court hearings and some of the key actors involved. They were reminded that the focus of our discussions, and the research design, was to consider how children and young people's views are expressed or told to the family court, who listens to them and what is done with their views.

A key aim of this introductory session was to create a *space* where children and young people felt safe and supported to form and express their views (*voice*). This entailed providing them with the information needed to participate in the designing of research in a meaningful way.

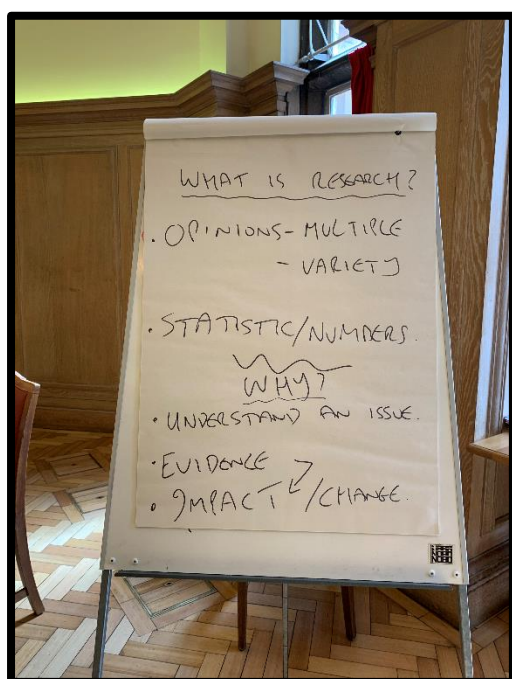


Fig 1: Exploring research

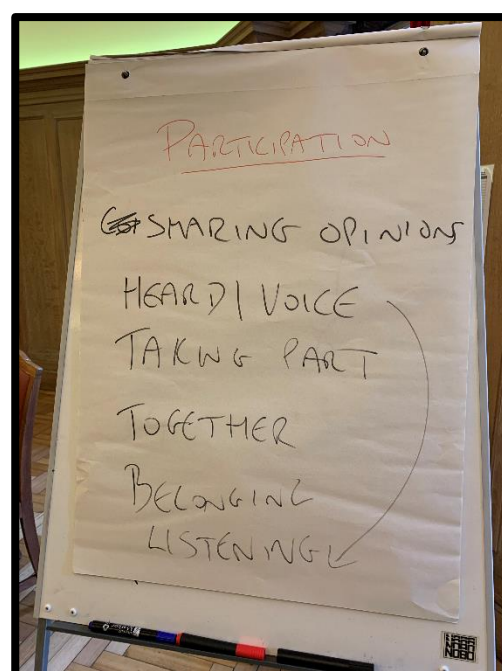


Fig 2: Exploring participation

In exploring what participation means to them (Figure 2), they were then better able to apply this to the context of children's participation in family court processes – if and how they participate and what facilitates that process. Participation for children and young people meant having the opportunity to share their views, taking part in processes and decision-making, having a voice and having their views and opinions heard/listened to. Participation meant working together, not individuals working alone to make decisions, it made children feel included and provided a sense of belonging. These key elements of participation identified by children and young people are a useful basis for professionals to assess their own practice.

#### 4.3.2 Exploring the Topic

In the second session, we designed a number of interactive tasks around the research topic. The aim was not to collect data on their individual experiences, but through exploring the research topic in a non-intrusive manner, for this to provide the basis for the later task of designing research on the topic (i.e. to make it applied rather than abstract).

The first task entailed them working in small groups to identify from a range of prompts, 'who tells the courts what children think and want they want to happen (e.g. where they want to live, if they want to see both parents)'. This was followed up with probe questions relating to where the individuals they identified collect children's views and in what manner, and their opinion on these processes (including explanation and understanding, safety, communication, being able to express their views, feeling listened to, having decisions reported back to them).

The second task involved asking them to rank the pictures in order of whose opinion they felt the court viewed as most important, or held most weight when the judge was making decisions about who the child should live with and/or have contact with. This was followed with prompt questions on why they felt some ranked higher than others and if and how they felt courts used children and young people's views to help them make decisions. After this they were asked to rank in terms of whose views they felt the court should prioritise.

This session concluded with the CYPAG being invited to write some key messages on how things could be done better to collect children and young people's views on contact with parents and where they should live, or any other points they wanted to share. These were placed anonymously on a message board.

The key themes from these discussions are included in Appendix 1.

#### *4.3.3 Designing a Research Agenda*

As noted above, the first two sessions were devised to build children's capacity to meaningfully engage in the process of designing an agenda for future research. In this session, therefore, they refined a research question, considered who should be involved in the research as participants (and why), what topics should be explored with different participants or specific questions asked, how information could be collected, and who needed to hear the results/key messages from the research.

The information gleaned from this session has informed the Research Proposal below (see section 5).

#### *4.3.4 Refining and Revising the Research Agenda*

In conceptualizing her model of participation, grounded in Art. 12 of the UNCRC, Lundy (2007) argues that 'voice is not enough'. Key elements of participation are, as noted above, audience and influence. To demonstrate that children and young people's views were taken on board, we explained that we, the *audience*, would use their views (along with those of others we had consulted with) to write a research plan. This would be presented to CVOCNI who would use it to inform the commissioning of future research on this topic (*influence*).

Feedback is essential to ensuring that participation is meaningful (Lundy, 2018). In order to demonstrate to the CYPAG how their views informed the research agenda (ie. were taken seriously), we presented a summary/visual version of the research plan to them in a follow-up workshop (see Figure 3). We reminded them of the processes that informed this, particularly our engagements with them, and outlined where others' views (which may have been different from theirs) were also included. We then discussed: if we had accurately

captured their suggestions; if there was anything missing; messages to CVOONI in terms of next steps; their role as an advisory group if the research was to be commissioned.



Fig.3 CYPAG Update (front cover)

Feedback from young people and their support workers, as well as additional views in relation to the research topic, were then incorporated into a revised version of this Terms of Reference and accompanying Appendix.

It was explained to CYPAG that CVOONI would use the information provided in this report to commission research on this issue, but that the detail of that research would be dependent on resources. The group were keen to be kept updated. Asked how they would like this to happen they requested that a representative from the Commission visit their group to provide feedback and updates on the process, and to explain how their views fed into this. Given the value placed on feedback by children and young people, and the degree to which lack of feedback featured in their discussions, it is important that the CVOONI provide updates, even if incrementally or to inform them of what is or is not happening with the research.

## 5. Research Proposal

### 5.1 Expert Voices

The CYPAG and those supporting their engagement recognised the valuable contribution of young people's voices in the design of the proposed research, drawing on their experiences to inform decisions about research aims, population, potential participants, data collection

and dissemination methods. They advised the continued involvement of a CYPAG representing children and young people who can speak to the aims of the research. The CYPAG should be involved in all stages of the proposed research and should receive continual feedback from the research team and/or funder on the progress of the research, outputs and potential impact.

## 5.2 Research Aims and Questions

The research should aim to engage with a range of perspectives to address the following question:

**How do children experience participation in family courts when there has been domestic violence in the family? How could participation be made better?**

## 5.3 Research Population/Sample

Those we consulted identified groups of potential participants who would be able to speak to children's experiences of participation in family courts. These included:

- Children
- Children's Court Officers
- Children's Court Guardians
- Parents
- Solicitors
- Judges
- Teachers
- Individuals in advocacy/support roles such as domestic violence support workers and counsellors.
- Early years workers (health visitors, child care groups, Surestart)
- Youth groups / church groups
- Grandparents
- Children's friends

The list above includes both individuals who are directly involved in family courts processes and those – such as teachers, youth workers, and extended family members and friends – who may witness and appreciate the impact domestic violence, contact with an abusive parent and the court process have had on a child.

'It's not just the children who're actually going through it that need to be asked about. It would also be like a couple of friends, because then they would see the impacts this has had on them as well.' (Young Person)

Acknowledging that the research may be more limited in scope depending on time and resources, young people were asked to rank potential participants in terms of which groups were most important to include in the research. They prioritised four groups in the following order: 1) children; 2) those in support roles; 3) teachers and 4) Children's Court Officers.

*Children:* Young people noted that children were most important to include in the research and that their voice should be the '*main voice*'. Similarly, the adult experts we spoke with

acknowledged the lack of time and space to evaluate their own practice in collecting children's views and highlighted a great benefit to examining this from a child's perspective. Further, young people noted that the research needs to appreciate that children could have '*very different*' experiences of participation and so the recruitment strategy needed to be inclusive and represent diverse experiences. They recommended that different age groups should be included in the research, explaining that the experiences and views of younger children may differ from older children. They also recommended that children from different cultural backgrounds be included as well as children with additional needs and children from different family sizes, explaining that a child with no siblings may have different experiences potentially having '*no one to talk to*'. A legal representative also noted the importance of including children who have experiences of private law cases as well as those who have experience of public law cases as, in their experience, they felt that public law processes facilitate more positive experiences of children having been heard. Children and young people also considered the safety and well-being of participants. They advised that children were only recruited to the research if in a position to speak about their experiences, recommending that only those who were three months post the court process were invited to participate and that researchers consult with experts in advance of recruiting child participants.

*Support roles:* Following children, the young people we consulted advised that those working to support children (such as domestic violence support workers, counsellors, health visitors) were most important to include in the research. This reflects the support they had previously received, knowing that they had been able to talk to counsellors more than other professionals (such as the CCO) and therefore considered them better placed to speak about children's experiences.

'I've had a lot of help from my counsellor and I felt like I would be able to talk to her more than him (CCO)'. (Young Person)

Those professionals supporting younger children, such as health visitors, were considered able to assess body language and quality of family relationships.

*Teachers:* Teachers, too, were prioritised in discussions, ranking their inclusion above other actors such as parents, CCOs and legal professionals. Young people noted that teachers' accounts would be more '*reliable*' as they are able to witness the impact of court processes on a child's behaviour.

*Children's Court Officers:* Finally, young people noted the importance of including Children's Courts Officers, but after those individuals already named above. There was some confusion as to the role of the CCO, their professional background (confusing them at times with solicitors) and the extent to which they could represent children's views. These factors may have impacted their position in ranking.

Whilst young people acknowledged other potential participants (non-abusive parent, judge), they did not rank them amongst the most important groups to include. They noted that the ability of the parent to understand children's experiences would depend on the nature of their relationship which would vary across families. That children did not rank the participation of legal professionals may reflect some of the confusion surrounding the different actors in the

family courts and their specific roles in the process. Legal professionals, however, noted the importance of including the views of the Official Solicitor's Office specifically given their role in speaking on behalf of children at in the higher court.

## 5.4 Data Collection

### *5.4.1 Research Topics*

If the broad aim of the research is to examine how children experience participation in family courts when there has been domestic violence in the family, it was felt by all of those consulted that the following topics should be addressed:

- What are children's past/current experiences of having their views collected?
- Who collects their views and in what ways?
- How do children feel during the process?
- How do children receive feedback about decision-making?
- What are the challenges/barriers to collecting children's views?
- Do children's views influence decision-making?
- What are the barriers/challenges to providing meaningful feedback to children?
- How could participation be made better?

How these questions could be addressed by specific participant groups were explored, with some considered more able to speak on certain topics than others.

*Children:* Children's views on participation more generally were considered an important context to the research topic. This would involve asking children: what does participation mean and what does genuine participation look like? Following this, children should be facilitated to recount their experiences to date of family court processes. This includes their accounts of the process: what shapes their views (and any potential influences); who they expressed their views to and did they represent them accurately; how their views were collected; did they understand the process and was the process explained to them; what support was offered to help them take part and whether that support helped; were they able to select the support they wanted (e.g. parent, youth worker); how long was the process; and, what was the outcome and did it work.

It was also felt important to ask questions related to children's feelings during the process and the CYPAG recommended a number of questions related to children's emotions. These could include: did they feel listened to/was their voice heard; did they feel safe/comfortable talking about their experiences; do they feel their views influenced decision-makers; did they feel they were the main focus of the process; and, were they happy with the outcome. Additionally, children should be asked about how the process can be improved and how an atmosphere (or space) can be created to better facilitate them to express their views. This would examine: what would they like to change; how could they be better prepared for the process; how would they like their views represented; who would they like to tell their views to; what would the system look like to make them feel important; and, how would they like to be kept informed and receive information about decisions made. Finally, those consulted thought it important for children to consider what would need to be in place for them to be at the centre of the process. This could, as one legal representative noted, be reflected in how children are represented in reports to the court in terms of visual representation and level of background detail about that child.

'I think there's something lovely about the visual of seeing who it is, who you're making a decision about, or who we're talking about ... I certainly think it brings the child to life, you know, and I think you're maybe you, maybe you're maybe a bit more considered maybe in what you're because you can visualize who it is you're talking about, you know.' (Professional)

*Individuals collecting and/or representing children's views:* It was felt that participant groups who are involved in collecting and/or representing children's views to the court, (e.g. Children's Court Officers, Children's Court Guardians, legal professionals) should be asked about their methods of capturing children's views and how they reflect these views to the court. They should be asked about the level of training they receive to engage with children on their views, how they create safe spaces for children to express their views and how they can build rapport with children within such spaces. Specifically, the research needs to examine how those collecting and/or representing views capture the experiences of *all* children, addressing the challenges of collecting the views of those who may not be able to verbalise such as younger children and children with special educational needs, and how methods of observation may be used in gathering information on children's experiences.

Additionally, they should be asked how they feed children's views into the process and how they use children's views in making their recommendations (where relevant). If children's views are not considered paramount in decision-making, why this is the case should be explored. Further, participants should be asked if and how they feed back to children on decisions that have been made and the reasons for decisions. Finally, it should be explored with this group of participants how the child's best interests is assessed and taken into account during the process. The children and young people we spoke with felt this was important as they perceived a difference between what CCO reports might suggest are in the child's best interests, and what children feel is in their best interests.

'So it's not really the child's best interests. It's what they've gathered to be the child's best interests.' (Young person)

*Judges:* It was recommended that judges be asked how views presented in the court inform their decision-making; whether they are open to having children's views expressed in different ways; how their decisions are communicated to children; and, whether they are open to communicating their decision in different ways.

*Teachers:* The CYPAG were particularly keen on the inclusion of teachers in the research. They felt that teachers could be asked their views on how participation in the courts process impacts children, drawing on their assessments of behavioural changes. They should also be asked about what they currently do to support children in their schools going through the process. Additionally, given that teachers are not currently consulted in the process, they should be asked whether there is a role for teachers in the court process and if teachers would be happy to speak to the judge in these cases.

*Non-abusive parents:* Non-abusive parents should be asked about how children's views were collected and their views on how the process impacts on children. This was felt to be particularly important in the case of young children.

*Other family members and friends:* It was felt that other individuals close to the child such as grandparents and children's friends could be asked about the child's relationship with either parent and their views on the impact of domestic violence and courts processes on the child.

*Other support workers:* Other support workers such as early years workers, youth workers and church group leaders may be able to provide their views on the impact of domestic violence and court processes on young people and recount any notable behaviour changes they have observed.

#### *5.4.2 Methods of Data Collection*

Young people were consulted on the best ways to engage research participants to share their views on the research topic. In terms of adult participants, young people envisaged either one-to-one interviews or inviting participants to submit written accounts, noting that many professionals could be too busy to attend an interview. Much of this discussion, however, focused on children as participants. Young people reflected on the meaning of participation they had discussed at the beginning of the workshop and how these aspects – being able to share opinions, taking part, being heard and listening to others – should be incorporated into the methodological approach. They suggested a mosaic approach to engaging children in the research, adopting multiple methods to ensure that the research is inclusive and that children have the opportunity to participate in a way that is suited to their needs and where they feel safe.

*Group discussions:* group discussions were considered useful for children to '*bounce off* each other and encourage children to talk. Groups, they noted, needed to be diverse, representing a range of children and experiences, and inclusive, using different methods to allow all children to communicate their views. In order to bring together children in a group, particularly those not known to each other, ice breakers and games need to be used for children to get to know each other. Young people also noted the importance of having someone they know and trust (like youth workers, support workers) at the group. They suggested interactive activities facilitated by someone they could trust, or with whom they could develop trust, and highlighted tasks such as word association and art activities as good ways to communicate views: '*when you really like look into it, you can see like a deeper meaning with everything. So I think art is an important one*'.

*One-to-one:* It was recognised that some children will not feel comfortable contributing to group discussions and having an opportunity for one-to-one interaction (through interviews, art activities etc) will better facilitate some children to communicate their experiences.

#### *5.4.3 Space and Safety*

A key concern among members of the CYPAG was that an appropriate, safe space was created for children and young people to take part in the research. The CYPAG and domestic violence support workers advised that data collection should take place in a familiar space which children consider their own. This will be different for every child, but it was considered that school may not be the best place for children.

'I think for me, the safe and comfortable place possibly could be if you're going to each group... it's in their own space. It's come into our crèche, our centre, it's somewhere



they're familiar with. It's the actual area that they're actually working in as well'  
(Professional)

Young people also discussed various aspects of the research setting, emphasising the importance of giving young participants options to allow them to feel comfortable.

'I think the research should take place in a room where lighting or smells are choosable to give the child an area that makes them comfortable and give them options because you don't know if the child has ever been given options' (Young person)

Young people acknowledged the complexity of the research topic and family courts' processes and through discussions it was evident that despite having been through the process, young people were unclear as to the roles of different actors within it (e.g. distinctions between Children's Court Officers, Solicitors and their Social Workers). Children participants, therefore, will require supports to engage in the research process. Time needs to be taken to help them understand the process and the roles of individual actors using easily understandable and visual information so that they can express their views in terms of participation.

The CYPAG also acknowledged the sensitivity of the research topic and that children may find it difficult to talk about their experiences and so various supports should be put in place to help them participate, such as domestic violence support workers, counsellors etc. Privacy and confidentiality is key to children's participation and so researchers need to be clear how data will be held confidentiality and will not be shared with parents, CCOs etc.

'I think it's really important as well that the researcher makes very clear that it's private, it's confidential, it doesn't go back to a parent or a worker or anybody else. And also they make clear who they are, what's going to happen with the information you know.'  
(Young person)

Developing trust between participants and the researchers was considered important and the CYPAG suggested that, if possible, time should be made to meet participants informally before data are collected.

#### *5.4.4 Honesty and Transparency*

Whilst the value of the proposed research was acknowledged by all we consulted with, CYPAG members noted that researchers need to be honest about what can and cannot be done with the research. For example, they need to be clear with participants that any potential impact will not be immediate and any changes to processes and experiences may be small and slow. The research, therefore, will ultimately benefit those going through the process in the future and not children who take part in the research.

#### *5.4.5 Remuneration of CYPAG members and research participants*

Young people and their support workers acknowledged the time and commitment required from those involved in the research, particularly children and young people recruited as advisors and/or as research participants. They therefore recommended there should be

remuneration to value the contribution being made, to at least cover expenses of being involved in the research.

‘... there's something around kind of valuing... young people who have given their time to be there. It's valuable. How do we value that? Yeah. And even if it is... vouchers, or goodie bags’ (Professional)

## 5.5 Suggested Outputs and Dissemination

It was recognised and recommended that there should be different outputs and dissemination methods for different audiences. Some of the following were suggested but further consultation with each stakeholder group would be important to ensure reach and impact.

### *5.5.1 Children and Young People*

Young people we spoke with advised that the primary audience for the research should be those who had taken part, particularly children.

‘Well, the people involved should maybe be a bit clued in on what's going on. Because they should be like if they've helped towards that, they should be proud that they're like included in it and like, want to like share about it with other people.’ (Young person)

It was important for young people that the children who do take part – as research participants and in research advisory groups – are made aware of any findings or outputs of the research before these are shared more widely.

‘Yeah, because you want to feel like a part of the loop and not that you just shared and got left behind.’ (Young person)

They also recognised that other children and young people would be interested in the research findings, and suggested sharing the findings with schools and youth clubs, noting the possibility of this encouraging other children and young people to speak out and seek help and for teachers to better support children in their school.

Research findings should be communicated to children in an accessible, easily read manner. This may be in the format of a child friendly version of a larger report or key findings shared through social media and visual representations. They noted that the format should be ‘*eye-catching*’ with ‘*not a lot of words*’ and ‘*no big words*’. If shared with schools, youth groups and other organisations they noted that staff could aid in breaking down research reports and sharing key findings with children and young people.

### *5.5.2 Decision-makers and Professionals*

The young people we spoke with noted the importance of sharing research findings with those ‘*high up in charge*’ in the family courts system to ensure ‘*they can implement some things*’ recommended by the research. Thus sharing information where there is the potential to have impact is key. They noted that a more formal ‘*professional*’ report was best suited to decision-makers and legal professionals as they were more likely to consider something that was ‘*serious*’.

### 5.5.3 Revisiting the Research

CYPAG members discussed the need for continued research on the topic and, therefore, that the dissemination of the research findings should not be considered the ultimate end. They noted that as processes and systems may change as a result of research findings, there will also be a need to evaluate these changes and assess whether they impact children and young people positively with the intended outcomes.

'Yeah, I think as well like, this sort of thing really helped as well. So even if you did this with like a group of people who've been through it, like every 5-10 years or something, that will change it then, make it more modernized' (Young person)

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## Appendix 1 - Additional data on children's participation in family court processes in situations of domestic abuse

In this section we collate key findings from the consultations on what children and young people, and professionals, told us about children's participation in family court. We do so utilizing the Lundy model of participation as this is grounded in an application and understanding of the UNCRC. There is inevitable cross over in the themes presented below, but they provide a useful means of examining the various facets of participation. There is less data on two elements of the model (audience and influence) as decision-makers were not involved in this consultation exercise. However, we draw on the perceptions of those who did engage to reflect upon the degree to which they feel children's views are taken into account in decision-making processes.

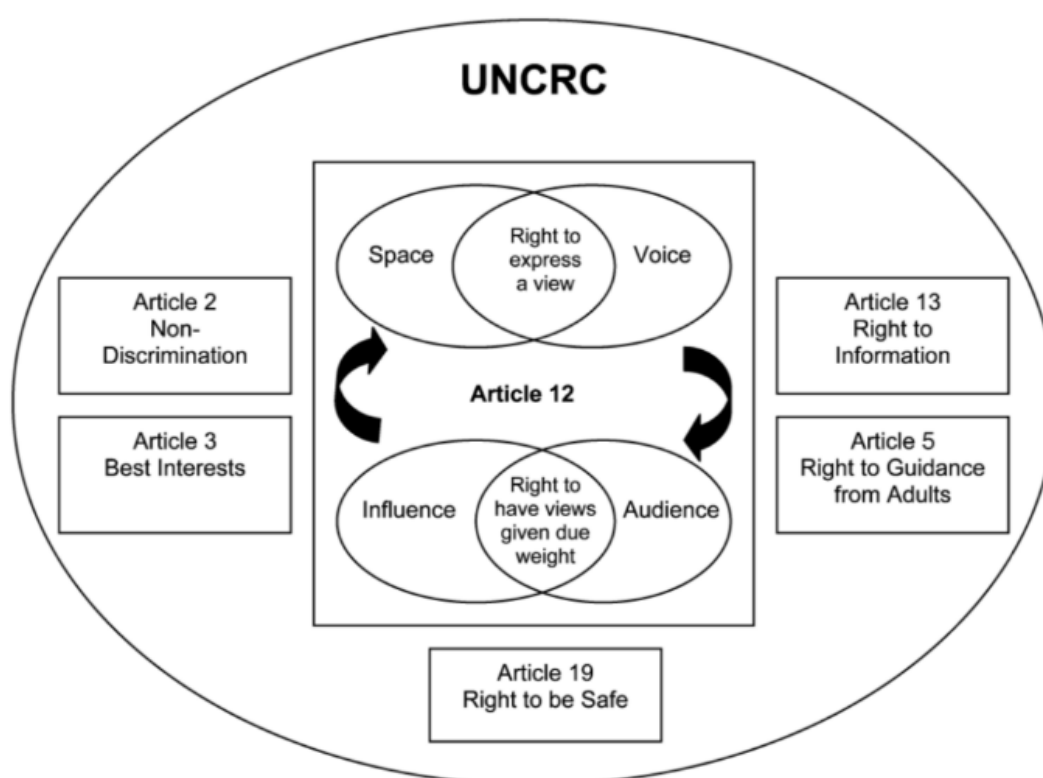


Figure 4: Conceptualising Article 12 (Source: Lundy, 2007)

### Space

The range of challenges identified to adequately and authentically capture children's views were recognized by many consultees. Most of these related to the element of space – creating a safe, accessible and inclusive space in which children are facilitated to express their views. Related to this, and key to effective participation, is time and space to provide appropriate information to children (Art 13) in order that they understand the process, what their views are being collected on, how they will be used etc. Given the lack of understanding among the children with whom we spoke, it was evident that the processes and systems were unclear to them. They did not understand the various actors, did not fully

understand what meetings were about, or how their views were being used (never mind if they were taken into account – see below).

Engaging with children on a difficult topic, and one they have perhaps been encouraged not to speak of, requires developing a safe space and relationships of trust. When mechanisms are not in place for this to happen children may not engage. Care should be taken not to interpret this as lack of interest or desire to express their views. Limited time and restricted resources were identified as the main factors impeding effective participation. Both children, and those supporting them, spoke of intimidating meetings with professionals they did not know, with whom they had no time to build a relationship and in spaces which were unfamiliar to them.

‘The biggest thing is the developing of the relationship and developing avenues where you can capture, genuinely capture the child's voice and experience of that relationship [with the abusive parent]’ (Professional)

‘the children were even distressed getting into the court welfare officer's car because they didn't know the court welfare officer enough ... whenever they [CCOs] are doing interviews, the interviews aren't taking place in the family home. So when the children are in their interviews about seeing Dad or anything like that, they're already going to people that they don't know and then it's going to a completely new environment.’ (Professional)

Further issues with space related to the impact of the very formal environment and line of questioning in engagements with CCOs. One young person noted a very legalistic tone to the encounter whilst a domestic violence support worker recounted young people's experiences of the abrupt nature of the meeting.

‘And in my experience, it felt like it was just you speaking to more of a solicitor? Like it just felt like they were sort of asking you a legal view instead of your actual view... I feel like it's like just questions. It's not really like a deep, it's just like yes or no and like writing it down where it should be a little more like child centred so that you're going to get more out of it, like both ways. You know what I mean?’ (Young person)

‘they [children] felt that whenever the court welfare officer was coming in and they were talking they knew that they were only in there for say, for instance, half an hour and there was no niceties at all. ... It was just straight to the point, and it was like they knew basically that they were just another person that this court welfare officer had to come and see that day and there was nothing, you know, there was no sincerity about it. So they weren't able to build them connections whatsoever.’ (Professional)

Whilst young people and those supporting them spoke of the upset and frustration felt with methods of gathering children's views, others we spoke with explained the process differently. They outlined that CCOs would give consideration on a case-by-case basis to children's preferences in terms of identifying a neutral location and utilising varying techniques for them to recount their experiences such as photobooks, workshops, art work and movie references. They did note that the biggest barrier was resources, also appreciated by young people who identified the impact of ‘paperwork’ on the time available

to develop relationships and share views meaningfully. The lack of resources dedicated to supporting children to share their views was perceived by some as indicative of the position of children in the system, and the true value placed on their voices.

‘... the system isn’t equipped to be able to actually support the needs of the child, the child’s invisible in this system and any resources that are allocated to the child are extremely limited’. (Professional)

In fact, young people questioned whether the CCO was the appropriate person to collect their experiences and identified professionals who they had longer term relationships with – such as counsellors – as better placed to talk to.

‘I also think maybe that if the child courts officer could work through your own personal counsellor like I know I’ve had a lot of help from my counsellor and I felt like I would be able to talk to her more than him. And maybe if he just, like, spoke to her and asked her to ask me things, then I’d be more open as well.’ (Young person)

When thinking about how the process could be improved, young people suggested that children should be better *‘prepared’* as to what will happen during the process and they should be introduced to the CCO and other professionals new to them *‘over time’*. Instead of an office, they suggested the meeting with a CCO should take place in *‘a neutral zone’* in a format which could better put children at ease.

‘Yeah, not it being, like face to face, the desk, like being on the floor on like a bean bag would make a difference because you’re like, on the same level. And it’s not like it feels like an interview.’ (Young person)

They considered school as a possible suitable location, noting that for some children this could be a safe space but this needed to be considered on an individual basis. Who is present for these conversations is an important consideration and young people thought children should *‘have the choice of who they want in the room’*. At the same time, who is present must also reflect an understanding of the pressures on children to express *particular* views. One young person, for example, explained the value of the space that can be provided to talk about their experiences to a CCO knowing that a parent is not present, and that the CCO does not have a prior relationship with the parent.

‘Because they don’t know the parents, it’s not bias... They (children) talk about their emotions and feelings because there isn’t someone there pressurizing them or like, thinking they should think this or this way, cause it makes this parent feel better or the other one might feel bad and then they feel bad because of the parents. So then the children’s perspective is being told because they don’t feel pressurized to swing whatever way because of the parent’ (Young person)

Young people, therefore, noted privacy was an important context for these conversations but also recognised that others may feel more comfortable *‘with someone else that they know understands them’*. It was suggested that this will differ for each child, depending on what *‘stage’* they may be in the process. Thus, having a flexible, individualised approach to each

child is important. Discussions perhaps have to be conducted over time to better enable children to feel safe to express their true feelings and desires.

‘... the court appointed social worker going and having the conversation and maybe only had met that child that day like you think about how safe that child feels to disclose ‘I feel unsafe with my dad’ because their whole experience is dad usually gets his way. He’s in control. This information is going to get back to him. I’m going to have to go to contact, and then I’m in trouble. Yeah. So it’s better just sitting here and saying nothing.’ (Professional)

## Voice/s

Children and young people, and those supporting them, were of the view that children’s views should be central to the decision-making process.

‘So I think the main people would be the child because it’s about them and they need to have their thoughts on it expressed and taken into consideration.’ (Young person)

However, they also felt that children’s views are ‘*often unrecognised, unheard, unlistened to*’ in court-related decision-making processes. This was illustrated in a task with the CYPAG in which they were asked to rank who they felt had most influence in family court decisions impacting children. One group placed children close to the bottom, another did not include them at all, highlighting their absence (See Figures 5 and 6).



Fig 5: Whose views have most influence? (Group 1)



Fig 6: Whose views have most influence? (Group 2)

They used the list to illustrate the various channels through which a child’s voice has to travel before being heard by the ultimate decision-maker – the judge. Those supporting children spoke of being told by some that having voiced their views and opinions in the past, and having them not listened to or acted upon, had resulted in them almost shutting down, feeling unwilling or unable to do so again as ‘*what’s the point?*’ When there are few

mechanisms to facilitate children to express their views (see above), and some feel their views have been ignored in the past, it is not surprising that children place themselves at the bottom of the hierarchy of influence.

Young people we spoke with raised a number of issues with the variety of individuals who may be tasked with voicing children's views to the court. Reflecting on the several channels through which they may have to express their views, they described children feeling potentially '*overwhelmed and overworked*' by having to tell their story multiple times and therefore suggested just one contact point for expressing their views, ensuring that the process remained '*child-centred*'. Social workers, they noted, may only have a partial story as children are not going to '*share everything*' with a social worker, particularly if it is one of many over time with whom they have not built up trust, and are likely to tell them '*what they think they want to hear to get the meeting or whatever over and done with*'. Youth workers or teachers, they thought, were better placed to represent a child's views due to the nature of the relationship.

Whilst a CCG directly represents a child's views in public law proceedings, a CCO is not there to represent the child, but look at the whole case including reporting on what a child has said to the court. Professionals highlighted that CCOs will typically speak to parents first and use this as the basis of their interactions with children. One legal representative raised a concern that in cases where the abusive parent is met first, their narrative could set the agenda for the CCO report in terms of what the aim is – i.e. contact with both parents. Indeed, children and young people noted a need for clear records of what children say to the CCO and recommended that verbatim reports be presented to the court so that their experiences and views are recorded accurately.

'I think as well like if the children's court officers and all, if they're going to change the way that they're working at all, I think they would need to almost have a method of always having a record of each session, which the full thing would have to be then presented in the court then because then there's no way that that can be manipulated or left out or anything.' (Young person)

Young people also raised questions as to whether parents' views expressed to court were reliable and would like the CCO to ask children if events recounted by parents '*actually happened*'.

Direct contact with a judge would be unusual and a child's wishes and feelings are represented through the Children's Court Guardian in public law hearings and contained within a report of the Children's Court Officer in private law proceedings. Direct contact with the judge is more likely to occur in public law proceedings (where there is a duty on the Children's Court Guardian to discuss options such as speaking to the judge or writing them a letter) than in private law proceedings. One legal professional advised that there is more wariness in bringing children to the judge in private law proceedings as well as the question of workload for the CCO and whether they have the time to arrange this. Where judicial interviewing does take place, legal professionals advised that this usually takes place with another adult present and feedback from children tends to be positive.



‘... to feel that they have directly met the person who's maybe making a decision in their lives and had the opportunity to personally convey what their views are and some children do want to do that.’ (Professional)

Young people also saw the benefit of speaking directly to the judge – viewed as someone ‘*neutral*’ – instead of ‘*telling someone that's writing it down [and] them giving it to someone who gives it to a judge*’. When asked whether children should have the opportunity to address the court directly, they noted that this should not be a requirement as some children would not be able to or would not wish to. If wanting to address the court, young people suggested children should not do this in front of other parties in the court and potentially address the judge indirectly through written or recorded communication.

‘I think like in writing it would be good or like in a voice note, but I think being a kid and going there, you might feel like you're betraying, like betraying someone, even if you know they're a bad person. So like, if you ask someone to write a message or say it like to a recorder, it's much easier than going because like realistically, a kid shouldn't have to do that’ (Young person)

While children and young people themselves recollected that there were efforts to at least collect their views (although these processes were not always clear to them, suggesting a lack of appropriate information and explanation), they felt that some children's views were not collected at all or were less well represented in family court systems. A child-rights based approach to participation emphasises that children are not excluded from participating on the basis of age, gender, etc. (Art 2). However, it was felt by some that the views of younger children in particular were often excluded from decision-making.

‘... within the early years, children are extremely vulnerable within the court system ... they actually don't have a voice and there's absolutely no pathways of support to be able to provide them with any representation ...’ (Professional)

Where the CCG's views are not in line with a child's in public law proceedings, a child then has the right to legal representation. There is, however, an assessment as to the competency of the child to instruct a solicitor and as a result this may not be an opportunity afforded to all children. Legal professionals also advised that a child may only meet with a CCO from the age of 8 upwards in order to represent their views and they would only receive legal representation where the case goes to a higher court and an Official Solicitor is appointed. Indeed, it was noted by some that older children's views regarding contact would be taken into account if they *expressly stated* they did not want contact with the abusive parent, but that contact was nonetheless often assumed for younger children.

‘At least if they're a little bit older and they can put themselves across in a way where it's understood, ‘no, this has been my experience of abuse and I don't want to see him’. That's quite tangible for the court. But when it's a young child who is maybe very hyper vigilant and going into meltdowns and all of that, that can be seen as the non-abusive parent creating that situation to stop contact.’ (Professional)

It was recognized that younger children may not communicate verbally and that it was important to look to other ways they may express their views (e.g. behavioural change), and

to others who might be able to express them on their behalf. It was suggested that the non-abusive parent, another family member or a teacher or early years worker might be in a good position to provide an assessment of the impact of domestic abuse, or contact, on the child. Young people, however, did raise concerns about taking a parent's view on what is best for the child, noting that they may not always provide unbiased accounts, opinions or the *'whole story'*.

'it's hard because parents should have a say, but they can also lie and, like, make their side look a lot better than what it is, or just lie in general. So, parents, I feel like, think it should be backed up what they say... you would think they want what's right for the child. But like, it's not always the case.' (Young person)

There were similar concerns when young people, and those supporting them, considered observation of child-parent relationships as a tool to collect young children's views. Whilst recognised as an assessment tool in early years, they also appreciated the potential for such observations to be *'staged'*, particularly in cases of coercive control. In response to a support worker suggesting health visitors might be able to provide an assessment of younger children, one young person cautioned the following.

'Great idea, but I think at the same time that can all be staged... which is I think a big issue as well like even with the likes of grandparents and all that could still be biased because it is within the family.' (Young person)

Added to this, some felt that in families with more than one child the views of all children were either not collected, or if they were, they were not equally taken into consideration. Some felt that what was *'easiest'* or least *'awkward'* to implement impacted recommendations made to the court, rather than the views of each child being given due weight. Illustrating how views may be expressed and collected (Part i of Art. 12), but not given due weight (Part ii of Art. 12) those supporting children spoke of instances where *'because the older sibling of the family wanted to see dad and was completely OK and had no issues with seeing dad, because the younger sibling didn't, their view was basically not brought into the courtroom.'*

What is in the best interests of one child may not be in the best interests of all as domestic abuse can be experienced differently among children in the same family (Art. 3, UNCRC). Indeed, the presumption that it is in the best interests of the child to have contact with both parents was felt by some to be the basis of all decision-making, rather than beginning from the starting point of the child - exploring how the child felt, their relationship with the abusive parent and their desire for contact. Again, lack of time to build relationships to explore these issues and the impact of abuse in the family, it was felt, meant that CCOs and judges could fall back on the assumption that it is more detrimental for the child not to have contact with both parents.

Children who do not communicate verbally for reasons other than their age were also felt to be potentially excluded as there were not good mechanisms to collect their views, with one professional explaining the importance of facilitating voices in meaningful ways.

'It's not just about including the voices, but what systems are in place to ensure that you know that that space is facilitated appropriately I suppose' (Professional)

Given the limitations on times and resources, as noted above, this is likely to have a particularly negative impact on children with communication difficulties. Young people we spoke with raised the potential for play therapy or use of animals to help children express their views, but were unaware of any such practices happening.

Finally, and importantly, it was noted by those supporting children that their voices may be difficult to capture because they have been stunted due to their experiences of abuse. Experiences of domestic abuse and coercive control can make it difficult for the child to voice their true desires, and it was felt this was not always recognized in the system. That is, the wider impact of domestic abuse against the mother on the family unit. The impetus, therefore, should be on those in the system – CCOs and the legal profession – to recognize this and find ways to facilitate children to safely express their views.

## **Audience**

In the context of this issue there are various audiences, those who make or inform decisions based on the views of children (e.g. CCOs, CGOs, legal representatives, the judge). It became clear from discussions with children and young people that even when their views were collected, they did not know how these were interpreted by the 'audience' and thus presented to the courts. Indeed, one young person in the CYPAG explained that by the time their voice/views went through various individuals to reach the judge (see Figures 5 and 6 above), that it may no longer reflect what they had initially said. Similarly, in having to tell their story multiple times, their experiences could be somewhat diluted.

'Like, if you're getting a new social worker every like other month when you go to tell your story again, I think you'll dial it down each time because you've said it so many times and you're so fed up saying it so you'll miss key points and like things cause you've forgotten it and you're blocking it out so they don't know the whole story. So every time it becomes a little bit less of the story until it's like nothing you know.'

(Young person)

In consultations with children and those supporting them, much of the discussion revolved around CCOs as the main audience for children's views. It was questioned if these were the right audience to reflect children's views given the limited time and resources they had to work with children in collecting them. Indeed some expressed concern about the weight given to one person's report/ recommendation in the decision-making process. Young people we spoke with suggested that they were in direct contact, over a more prolonged period of time, with other professionals such as counsellors, youth workers and teachers, and due to the nature of the relationship they were in a better position to represent children's views and the impacts of their experiences. They explained that a teacher's relationship with a child meant they could appreciate the child's views rather than be influenced by a view that came via a parent (unlike current key actors in the court process). They also identified that teachers could assess the impact of parent contact on a child through their engagement in school, identify when they were '*having a hard time*' and help them to communicate.

'I feel like they can get a good understanding of like if you're with like parent A for a week, they can see how you work well in school and then when you go to parent B's house you're like school like, academically then you might change a bit because of home life and stuff. So I feel like they should be picking up on that with like training and they'll be able to see like red flags in a kid, you know.' (Young person)

## Influence

Consultations revealed two levels of influence in family courts proceedings in relation to children's views: the influence a child's view has in what is presented to the court; and, the influence the child's view has in the final decision-making undertaken by the Judge. In addition to asking the CYPAG whose views count the most in court proceedings (Figures 5 and 6 above) they were also asked whose views *should* count the most (Figures 7 and 8). In both groups, children's views were ranked as those that should count the most, with parents, solicitors, social workers and police ranking the lowest. However, in reality young people did not think children's views were taken into account and it was expressed by one professional that children's expectations going into proceedings need managed, given that there is a possibility their views will not have influence, particularly where the court does not agree with them. In a similar vein, legal professionals noted, as also outlined above, that children's views are just one of many considerations taken into account by the court and whilst a court will consider a child's views, *'ultimately the court is going to make a decision as to what's in the child's best interests, looking at their overall welfare'* (Professional).



Fig 7 & Fig 8: Whose views should count the most in decision-making? (Groups 1 & 2)

Consultations noted two factors thought to shape the level of influence a child's views may have in decision-making. The most discussed concern was the extent to which a child's view was considered free from coaching or parental influence, particularly in the context of coercive control. One legal representative explained that children's views have to be ascertainable and independent in order for the court to consider them in decision-making

and questions arise when children use language similar to parents' views or language not typical of a child. This can impact the assessment of the validity of children's views where they may have been influenced by a parent.

'because while the child may be very clear on what they're saying, there may be concerns about them being heavily influenced by one parent and then perhaps being coached and they're not freed up enough to take a view that's maybe in some ways different from that parent... to what extent are they a mouthpiece for a parent?' (Professional)

In such cases, those consulted were concerned that a child's wishes and feelings may '*get lost*' where a question mark is put over their validity. The age of the child was another factor identifying the level of influence a child's views may have in court. Older children's views were considered more influential given that they would be in a position not to comply with a court decision they disagreed with.

'... if you have an older child who is saying I really want to live with my mom or my dad or whatever... the more weight that's going to have because what you have is a consideration that the child is going to vote with their feet eventually, and you need to have buy in from a child who's older.' (Professional)

A second concern in relation to influence was the extent to which children were advised of the court's decision, why the decision had been made and where their view had influence. This relates to providing feedback, a core element of meaningful participation (Lundy, 2018). Both young people and professionals noted the importance of feedback provided to children during and after proceedings so that they are '*kept in the loop*'.

'I think that should happen through each stage, like in child court things there can be like you're seeing your parent this week and then some new information comes out and now you're not able to see them for a couple months. I think the letter should be sent out for each individual thing that happens... regular feedback' (Young person)

Young people also noted that providing feedback to children and hearing the children's responses was also a way for the courts system to '*improve their services*' for future cases. Legal representatives and young people also emphasised that decisions can impact relationships between children and family members and that feedback could help children accept the decision that has been made, particularly where this was not in line with their own wishes.

'...because I do think children can live with a decision that maybe it's not what they would like or want. But if they feel they have been listened to, and if they feel that what they've said is taken into account, then it's easier for them to live with.' (Professional)

'I think that actually after the decision's been made even if the child is told why the decision is made, have it explained to them and the whole process they can ask how it got to that point, then they can understand why they can't see said parent even though they might want to'. (Young person)

Despite awareness of the importance of feedback, those consulted confirmed that children are not routinely told how their views inform decision-making, particularly in private law proceedings. Whilst in public law hearings there is a duty on CGOs to provide '*direct feedback*' to the child to explain the judge's decision and why, those consulted highlighted a number of shortcomings within private law proceedings. No similar duty applies to CCOs, unless specifically directed by the judge (which happens rarely) and where feedback is provided, one professional noted there could be a delay of several months. Young people reported that they did not receive any feedback on how their views informed the CCOs report to the court, how their views had been used to inform the recommendation made to the court, and how this influenced the judge's final decision. This was reiterated by those supporting children in the process, their comments demonstrating the extent to which children feel excluded at all stages.

'And it's like there's been absolutely no communication or say for instance, even like reports or talking to the courts or anything like that. And it's something that they [children] told the court officer or the social worker last week has been completely left out'. (Professional)

'... that's something they [youth group] talked about ... The lack of transparency within the system. One, they've no control once they're in it, they're not heard within it and there's no, there's no transparency about their information and what happens with it.' (Professional)

Young people advised that the decision is best delivered to them by a social worker (if they have one) or a judge and not someone '*the child likes*' who they could eventually '*resent*'. In most cases in private proceedings, however, those consulted advised that feedback to the child usually came from parents and this too raised concerns in terms of how a child may react to a decision made.

'It's usually just the parent who feeds back... You know, there's no real control over how that feedback is given, so the parent may be doing their best, but maybe not be equipped to and they may not be happy with the decision neither you know... how well the child accepts it really depends on how it's how it is communicated'. (Professional)

## Conclusion

The above analysis is informed by consultation with a small number of adult and child experts on children's experiences of the family courts. The analysis reflects a number of concerns and challenges in relation to children's participation in existing literature, particularly in relation to the processes through which children's views are collected and represented and the extent to which they have influence in decision-making. The analysis also illustrates the value of examining the issue through a children's rights lens, and more specifically utilising the Lundy model of participation to assess whether children are facilitated to express their views (*voice*), in ways which are age appropriate and safe (*space*), heard by the relevant decision-makers (*audience*) and whether their views are taken into account in decision-making (*influence*). Whilst the views shared by members of the CYPAG and adult professionals have been valuable in the development of this Terms of Reference, further research is warranted, particularly to gather the wider range of experiences of a more diverse group of children and young people.