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Children and young people's experiences of participation in private proceedings in the family courts

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Author(s): Jones, Rebecca

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For further information please contact:

Laura Entwistle

Social Research and Information Division

Welsh Government

Cathays Park

Cardiff

CF10 3NQ

Email: Research.HealthandSocialServices@gov.wales

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Glossary

Acronym/Key word	Definition
16:4 case	Under Rule 16.4 of the Family Procedure Rules 2010, children can be made party to the proceedings in complex cases. This allows a child to be made a 'party' in the proceedings and obtain legal representation in their own right through a Guardian.
BAU	Business-as-usual
CAO	Child Arrangements Order
CAP	Child Arrangements Programme
CIA	Child Impact Assessment (prepared by Cafcass Cymru under business-as-usual model)
CIR	Child Impact Report (prepared by Cafcass Cymru under Pathfinder model)
CYP	Children and young people
DA	Domestic abuse
FCA	Family Court Advisor
FHDRA	First Hearing Dispute Resolution Appointment
HCP	Highly Conflicted Parents
Part 2	A further report that the court can direct Cafcass Cymru to prepare under the Pathfinder model
PSO	Prohibited steps order – A parent can be prevented by the family court from doing something the other parent does not want them to do. The most common type is where one parent is stopped from moving abroad with the child or young person.
Specific issue order	This order is made by the family court when there is an important issue to be resolved but parents can't agree on it. For example, which school a child should go to.

1. Introduction

- 1.1 This research study explored children and young people's experiences of participation in private law cases in the family courts in North Wales. Participation is the process of involving people in the institutions and decisions that affect their lives (Checkoway, 2011).
- 1.2 Children's right to participate in decisions made about them is enshrined in the United Nations Convention on the Rights of the Child (UNCRC). Professionals working with young people in a statutory capacity must ensure that young people are given the right to express their views and that those views are given due weight in accordance with Article 12 of the UNCRC (United Nations Convention on the Rights of the Child, 1989). Under the Children Act 1989, the family courts must consider the "welfare checklist" (section 1.3) when deciding what is in a child's best interests, this includes giving due regard to the child's ascertainable wishes and feelings whilst ensuring that the child's welfare remains paramount (Children Act, 1989, section 1.1).
- 1.3 The research explored participation experiences of children and young people who had been worked with under the 'Pathfinder' project, a new model being piloted in the family courts in North Wales.
- 1.4 'Pathfinder' aims to improve experiences and outcomes for families who ask the family court for help in making arrangements for their children. Pathfinder changes the way that families are usually worked with in private proceedings. The pilot gives children and young people greater opportunity to voice their wishes and feelings, with the aim of the courts taking children's views into account earlier in the decision-making process.
- 1.5 This study was commissioned by Cafcass Cymru to explore the effect Pathfinder is having on children's experiences of participation and to understand whether it amplifies their voices in private proceedings.

Background

Practice context

- 1.6 Private law proceedings are those in which a separated parent, or other family member, asks the family court to decide on arrangements for their children, such as who the child lives with and who they spend time with. Applications can be made to formalise agreed shared care arrangements, to protect victims and/or those at risk of domestic abuse, or where parents have been unable to agree on arrangements. In some cases, parents are highly conflicted, and families are under considerable stress.
- 1.7 When parents make an application to the family courts in Wales, Cafcass Cymru are appointed by the family court to assess and make recommendations about what is in the best interests of the child(ren).

Research context

- 1.8 Research shows that parental separation can be highly stressful for children and that court processes often exacerbate this (Butler et al. 2002). However, there is limited up-to-date research that focuses on children's experiences of private law proceedings in England and Wales.
- 1.9 A recent review of this evidence by the Nuffield Family Justice Observatory (2021) found that children with experience of private proceedings often felt poorly informed, unheard and that they had little say when decisions were made about them (Roe et al. 2021). This is particularly the case for younger children (those under 10) who are more likely to be involved in court proceedings than older children (Cusworth et al. 2020; Cusworth et al. 2021).
- 1.10 In fact, previous research shows that children are active agents in parental separation, who are often aware of the disputes in their family, and who want to be kept informed and have their views taken seriously (Symonds et al. 2022).

Policy context

- 1.11 In recent years, there have been calls for improvements to the way that separating families, in particular those who have experienced domestic abuse, are supported in private law cases (Hunter et al., 2020). A main part of this is reducing the risk of proceedings re-traumatising already vulnerable children and parents (Private Law Working Group, 2020).

- 1.12 Whilst there is wide recognition that timescales for resolving private law cases should be shorter to reduce uncertainty and harm to children (Ministry of Justice, 2023), it is also clear that any programme of reform must balance timely resolution with ensuring decisions are workable for families so that the risk of future repeat applications is reduced wherever possible.
- 1.13 In order to test out some of the reform proposals that have been put forward, a Ministry of Justice (MoJ) led 'Pathfinder' project was launched in North Wales and in Dorset in February 2022 as a two-year pilot.

The Pathfinder model

- 1.14 Pathfinder aims to improve experiences and outcomes for families involved in private proceedings by improving responses to domestic abuse and changing the adversarial nature of proceedings. It also aims to provide a quicker and more effective resolution for families, and, as such, to reduce the number of repeat private law applications.
- 1.15 Key to improving experiences of proceedings, and ensuring effective and sustainable resolutions for families, is involving children more effectively in proceedings that concern them. Involving children means ensuring they have the opportunity to participate in and contribute to decisions made by the court. It also means ensuring they are informed about the process and outcome of proceedings, and given opportunities to have their voices heard (Thomas, 2007).
- 1.16 To this end, Pathfinder introduces important changes in the way children are involved in private proceedings. Under the 'business-as-usual' or Child Arrangements Programme (CAP) model, when a parent makes an application to the family court, a First Hearing Dispute Resolution Appointment (FHDRA) is scheduled (Practice Direction 12b). Cafcass Cymru prepare a short report for this court hearing based on safeguarding checks and telephone interviews with both parents. Children are not spoken to at this stage and the intention of the process is that where safe to do so, cases are resolved at the FHDRA. If parents cannot agree and there are not considered to be any welfare issues, the case will be likely to be listed for a contested hearing. It is only in cases that are more complex or there is a question about the child's welfare, that the court might order Cafcass Cymru to prepare a

welfare report under section 7, also known as a Child Impact Analysis (CIA), about what they consider to be in the best interests of the child. At this stage, an FCA will be assigned to the family and will meet with the child to understand their views about the case.

- 1.17 Under the Pathfinder model, when parents make an application the family court asks Cafcass Cymru to prepare a Child Impact Report (CIR) in the first instance (Practice Direction 36z). This is based on safeguarding checks and conversations with both parents but also, where deemed appropriate, with children themselves. Thus the CIR differs from a CIA in that children are consulted earlier in the process and within a shorter time frame (Cafcass Cymru have six weeks to file the CIR). This report focusses on the voice of the child and what is in their best interests. The CIR is sent to the court before any hearings are scheduled.
- 1.18 While the business-as-usual model means that decisions are routinely made without ascertaining children's views, Pathfinder gives Family Court Advisors (FCAs) greater access to children and greater flexibility in engaging with them. It also provides judges with more information on which to base their decisions at an earlier stage than would be the case under the BAU model.
- 1.19 The aim is for children's wishes and feelings to be understood and incorporated into decision-making earlier on. This should improve the quality of private law resolutions and the speed at which they can be delivered.

Aims, objectives and research questions

- 1.20 The aim of the research is to understand the impact that the Pathfinder project is having on children's participation and how the changes introduced by the model are experienced by those on the ground.
- 1.21 Through engaging with Cafcass Cymru FCAs and children with experience of private proceedings, the research explored the following research questions:
- What are the experiences of children and young people who have been involved in the Pathfinder model in relation to participation?
 - What, if anything, should be done to improve children's participation and amplify their voices in private law proceedings?

- 1.22 The research builds on previous work on children’s participation in private proceedings (Roe et al. 2021) to develop the evidence base on promoting participation in the family courts. Findings from the research will inform future research and evaluation in the family justice arena and will be used to develop recommendations for practice.
- 1.23 Section two outlines the methods used for data collection and analysis. Section three presents findings thematically. Section four reflects on these findings by drawing together data from various sources. Section five highlights the strengths and limitations of the study and section six presents recommendations about how children’s participation can be improved in private proceedings.

2. Methodology

2.1 This study used qualitative methods to answer the research questions. Qualitative methods are most appropriate for studies exploring first-hand experiences, attitudes, and beliefs because they allow for rich and in-depth exploration of subjective viewpoints (Silverman, 2013). They also allow for the preservation of participant voices which is an important aspect of any study exploring children's participation (Grover, 2004).

2.2 The study was exploratory; it was the first of its kind to look at children's participation specifically in relation to the Pathfinder project. It is also descriptive in that it aimed to generate in-depth insights into children's experiences of proceedings that could be used to inform future practice.

Study design and choice of methods

2.3 In line with these exploratory and descriptive aims, the study used online focus groups with FCAs and online semi-structured interviews with children and young people.

2.4 The rationale for using focus groups with FCAs was that they would allow the gathering of a diverse range of perspectives on participation and would encourage detailed discussion between participants.

2.5 Focus groups would not have been appropriate for children and young people due to ethical considerations around confidentiality. Survey methods were discounted early on because surveys conducted with this cohort have had low response rates and issues with data quality (Bailey et al. 2011).

2.6 Instead, semi-structured interviews were chosen because they tend to generate rich and detailed qualitative data whilst enabling children and young people to share their experiences in their own words.

2.7 The decision to use online methods was both practical and ethical. The locations where Pathfinder is operating are rural and span large geographical areas. Online interviews made participation accessible without travel costs for participants and therefore reduced participant burden. The research team did offer the option to be

interviewed in person if families chose to, to ensure that no participants were prevented from taking part due to lack of access to technology.

Development of research instruments

- 2.8 Focus groups aimed to understand how Cafcass Cymru FCAs felt Pathfinder was affecting children and young people's participation in proceedings, how professionals were engaging with children and young people (CYP) in their own practice, and what they thought could be improved about the model.
- 2.9 Focus group interview schedules were developed with input from Cafcass Cymru and were informed by informal conversations with main stakeholders in the sector, including policy leads, academics and those working on children's participation in the third sector. The focus group interview schedule is in annex A.
- 2.10 Interviews with children and young people aimed to explore experiences of participation in private law cases. In particular, how well-informed, supported and listened to they felt during proceedings, and what helped children participate when important decisions were made about them.
- 2.11 Interview schedules with children were developed with input from Cafcass Cymru and were informed by the focus group discussion and by informal conversations with FCAs experienced in working with children and young people in private proceedings. The Family Justice Young People's Board (FJYPB) provided detailed feedback on a draft interview schedule as part of a workshop facilitated by the researcher.
- 2.12 Interviews with children comprised: an icebreaker, open ended questions, structured activities, and scaling questions. These were designed to elicit narratives about participation, encourage discussion and generate detailed qualitative data. The scaling questions were not used for any statistical analysis.¹
- 2.13 Online interviews were conducted using a shared interactive whiteboard (a Google Jamboard) to facilitate activities and scaling questions. The interview schedules

¹ We did not use any standardised measures, the aim of the scaling questions was only to open up further qualitative discussion. The results of the scaling questions are presented in the following section but are not suitable for any quantitative/statistical analysis due to the lack of standardised measures and the small sample size.

were designed to be used flexibly according to children's age, preferences and how comfortable they were talking to the researcher.

Sampling

- 2.14 FCAs were eligible to take part in a focus group if they were currently working for Cafcass Cymru as an FCA in North Wales, and if they had experience of working on a minimum of three cases under the Pathfinder model. The aim was to conduct two focus groups each with a minimum of six participants.
- 2.15 Children and young people were eligible to participate if 1) they had experience of being involved in a private law case brought by a parent in the family court in North Wales in the last 12 months (cases issued from 1st June 2022); 2) they had been spoken to by an FCA as part of that case; 3) they were aged between 5 and 16 at the time of proceedings; 4) they were not made party to proceedings under Rule 16:4 as part of their case²; and 5) they were not involved in any ongoing proceedings.
- 2.16 In order to recruit a diverse sample, we also aimed to include children with a range of experiences including: (i) a range of 'types' of case e.g. those that involve allegations of domestic abuse (DA), harmful conflict, and child refusal/resistance to contact, (ii) a range of ages (previous research has identified that children under 10 are most likely to be affected by proceedings but are underrepresented in research, so we aimed to target younger children (Cusworth et al. 2021), (iii) CYP whose cases had been through the courts previously, and (iv) cases involving siblings.
- 2.17 The primary sampling frame used to identify participants was a database provided to the researcher by Cafcass Cymru which contained case information for eligible participants and specified whether any of the 'criteria of interest' listed above were relevant to them. In addition to this, participants in the focus groups were asked to nominate children to take part who they felt would be able contribute to the study. In the event, only one FCA suggested a child who they thought should be approached and this child had already been invited to participate.

² The decision not to include Rule 16:4 cases was based on the experience of those children who are made party to proceedings being different in terms of participation to the Pathfinder model.

- 2.18 The original intention was to use a purposive sampling strategy to identify 'information rich cases' (Patton, 2002) that there was potential to learn from to generate practice-focussed recommendations. However, due to low take up, all eligible children were ultimately approached to be part of the study.

Recruitment

- 2.19 Participants were recruited to the focus groups via an email invitation from the policy lead for the project. An invitation to an online focus group was sent to all Cafcass Cymru FCAs (n=27) in North Wales. The email outlined who was eligible to take part in the study and provided recipients with an information sheet about the study.
- 2.20 Children and young people were invited to take part in interviews via an email to their parents. In the first instance, an email explaining that the study would be going ahead was sent from Cafcass Cymru to the families who were eligible to take part. This initial email included an information sheet for parents and an easy-read information sheet for children. The email explained that a researcher would be in touch shortly and gave parents the option to opt-out of receiving any further information about the study at this stage. Emails were sent to the parent that the child spent most of the week with, and where parents had 50:50 shared care, or similar, both parents were contacted and informed about the study.
- 2.21 After this, the researcher conducting the interviews contacted parents who had not opted-out to ask if their child would like to take part, following up with phone calls where appropriate.
- 2.22 Once parents and/or young people consented to taking part, Cafcass Cymru provided the researcher with some brief contextual information about the engagement with the child so that the researcher could offer prompts to help participants remember who they had spoken to and how. The contextual information covered: which FCA the child had met with, how many times they had spoken with Cafcass Cymru and the nature of the engagement (e.g. phone call, face-to-face etc).

- 2.23 Recruitment of children and young people was staggered into two phases to ensure a diverse sample, with half of the eligible sample contacted in the first phase and half in the second.
- 2.24 A total of 47 children, from 38 families, were eligible for inclusion in the study and were invited to participate. Our target for recruitment was 20 children and young people. Of those invited, 26 did not respond, 9 declined to take part, 1 agreed to take part but did not attend the interview, and 11 participated.

Data collection

Chronology of data collection

- 2.25 Data collection was structured into two phases. Focus groups with FCAs were conducted in June 2023, followed by interviews with children and young people between July and September 2023.
- 2.26 The rationale for this phased approach was twofold. First, it meant data from the focus groups could inform the development of the interview schedules for children in that we could learn more about the context in which Pathfinder was being delivered and what was happening in practice. Second, as discussed in paragraph 2.19, participants in the focus groups were asked to nominate children and young people who they felt would have a view to share on participation to be invited to take part.

Focus groups

- 2.27 Two one-hour long focus groups were conducted via Microsoft Teams with a total of ten FCAs. Further detail on the sample is provided in the next chapter (see paragraph 4.1).
- 2.28 Focus group questions explored how FCAs felt Pathfinder was influencing children's participation in private proceedings, with a particular focus on specific examples from practice.
- 2.29 The focus group discussion was recorded, with permission from participants, and transcribed anonymously.

Interviews

- 2.30 Ten semi-structured interviews were conducted with eleven children and young people via Microsoft Teams. Most CYP took part individually, but one sibling group chose to do the interview together.
- 2.31 Participants were aged between 8 and 17. Further detail on the sample is provided in the next chapter (see paragraph 3.3).
- 2.32 Children were given the choice of whether to have a parent with them during the interview. Six chose to take part alone and five had a parent accompanying them.
- 2.33 Where children had a parent with them, the parent sometimes contributed to the interview. Although we did not set out to gather parental perspectives, we have included their views where contributions were relevant to the research question. These are clearly highlighted as being parental perspectives.
- 2.34 All interviews were conducted in English. Participants were made aware of the option to do the interview in English or Welsh before taking part.
- 2.35 Interviews lasted between 13 and 39 minutes, with the average interview lasting 25 minutes.
- 2.36 All children and young people who participated were provided with an e-voucher as a thank you gift for taking part in the study.
- 2.37 Interviews were recorded, with permission from participants, and transcribed anonymously.

Data analysis

- 2.38 Data from focus groups and interviews was analysed using an inductive thematic analysis (TA).
- 2.39 Thematic analysis is an interpretative method “for identifying, analysing, and reporting patterns (themes) within data” (Braun & Clarke, 2006). It is epistemologically and theoretically flexible (Esterberg, 2002), generates rich, detailed and complex accounts of qualitative data (King 2004), whilst being well-suited to studies like this one which aim to extrapolate broad actionable insights from individual accounts of experience (Bingham 2022)

- 2.40 In inductive approaches to TA, researchers take a ‘bottom up’ approach to the data (Bingham 2023). Rather than beginning with a set of specific theoretical concepts or a pre-existing framework that is applied to the data, codes emerge from the data itself (Charmaz, 2014).
- 2.41 An inductive approach was most appropriate here because of the exploratory nature of the study. The analysis being data-driven, rather than theory driven, means the findings are tied closely to the participants’ account of their lived experience.
- 2.42 The anonymised transcripts from the focus groups and interviews were analysed thematically. In many qualitative studies data would be coded by more than one researcher but due to the small-scale of this project, coding was undertaken by only one researcher.
- 2.43 Using Braun and Clarke’s (2006) six-step approach to TA, the researcher: i) familiarised themselves with the data by reading and re-reading the transcripts; ii) applied preliminary codes to those segments of the data that were meaningful and relevant to the research question; iii) generated overarching interpretive themes that tied these codes together; iv) reviewed themes and the relationships between them; v) defined and named these themes; and vi) structured the findings into the final report (Braun and Clarke, 2006). The coding framework developed inductively through this process is in annex D.
- 2.44 In addition to the process outlined above, the researcher wrote reflective memos for each interview/focus group to capture emerging insights and generate initial ideas for themes.
- 2.45 Although the same analytical processes were undertaken for both focus groups and interviews, data were analysed separately to preserve children’s perspectives.
- 2.46 The findings from focus groups and interviews are presented separately in the following chapters, before drawing together the two sources in the conclusions section, alongside recommendations based on both FCA and CYP perspectives.

Ethics

- 2.47 A Government Social Research ethical checklist was completed at the start of the study, reviewed by senior team members and shared with Cafcass Cymru. This

checklist was kept up to date with any new ethical risks that arose as the project progressed.

- 2.48 FCAs gave verbal informed consent to take part in the focus group.
- 2.49 Children and young people under 16 needed a parent/carer to provide informed consent on their behalf. Families were provided with an information sheet before the interview and were given the opportunity to ask questions before agreeing to take part. Parents were then asked to sign a consent form before the interview went ahead. Young people aged 16 and over were able to sign this consent form themselves.
- 2.50 Emails to all participants contained a privacy notice to explain what personal data would be collected, how it would be used and how long it would be retained.

3. Findings: interviews with children

- 3.1 This section presents the findings from interviews with children and young people (n=11). All participants have been given pseudonyms.
- 3.2 Themes are structured under three headings: 'being informed', 'feeling supported', and 'feeling listened to' in line with Shier's (2006) multi-level model on youth participation (Shier, 2006). Some general feedback is provided at the start of each of these sections, followed by a more detailed account of the most substantive themes.

Description of the interview sample

- 3.3 Children interviewed ranged in age from 8 to 17, the median age was 12. 6% and seven of the children in the sample were male. Two sibling groups were included in the sample. Full details of the sample can be found in annex B.
- 3.4 Three participants had been involved in previous family court proceedings. Case duration ranged from six weeks to 39 weeks from initial receipt of the court application to case closure. The average case duration was 17 weeks. The 11 participants were involved in eight cases. Some applications were for multiple types of order: six applications related to a Child Arrangements Order (CAO) including one application to vary the order, and one to enforce the order. Two involved Prohibited Steps Orders (PSO) and two involved a Specific Issues Order (SIO). In three applications (and/or responses) there were no concerns about harm. In four cases concern about more than one type of harm was raised. In five cases concerns about child abuse were raised by one or both parties, in three cases concerns about domestic abuse were raised, in two cases concerns about child abduction were raised and there was one case where concerns were raised about substance misuse.
- 3.5 The 11 interviews with children pertained to meetings with seven different FCAs and seven of the participants met with Cafcass Cymru face-to-face. Of these meetings, three were in school and four were in the office. Of those who met virtually, three were phone calls and one was a videocall.

3.6 Most children described their FCA engaging with them through talking rather than doing activities. Only one child reported doing an activity, which he described positively. Another child said that the FCA had prepared an activity but “I just started talking straight away so they said we didn’t need to use it” (Theo, 11).

Feeling listened to

3.7 The analysis generated three themes relevant to feeling listened to: ‘Getting things off my chest is a relief’, ‘Telling someone who can change things is empowering’, and ‘feeling listened to is vital for creating trust in the court process’.

‘Getting things off my chest is a relief’

3.8 There was recognition in the interviews that the situation children find themselves in when speaking to Cafcass Cymru is inherently difficult and uncomfortable, and that there is only so much that can be done to reduce these feelings. Dylan (12) explained that even though he had a positive experience, it was still difficult to talk about his relationship with his dad: “they were listening and they don’t judge and just listen but at the same time talking about like what had happened and just why I didn’t want to do stuff and you had to talk about it is hard.”

3.9 Despite this, children generally felt their FCAs were very good at listening to their views. Children gave detailed accounts of how they knew they were being listened to. This included:

- Not interrupting, rushing or talking over children:

“They were just really nice and they weren’t like talking over me and stuff and just let me say what I wanted to say.” (Ria, 14)

“Say, I was on like, a topic. They wouldn’t be like to changing it up straight away to like find out about whatever they were trying to”. (Matt, 16)

- Reflecting back what had been said:

“So every time I was talking, they were looking at me and they understood everything I was saying. What they said after made me know they were understanding what I said.” (Jay, 8)

“Just because they listened really well. Well, they acknowledged what I said and always responded.” (Archie, 11)

“They'd respond with a question about what I was saying. And then obviously they were saying stuff about what I was saying so I knew they were listening.” (Dylan, 12)

- Maintaining comfortable eye contact: “They were not distracted, but they made sure not to like, stare at me”. (Jay, 8)
- Not passing judgement: “They didn't say “Well, that's wrong or that's right” at all, just waited for me to finish.” (Harry, 9)

3.10 Where participants felt understood, the chance to talk to someone about what was going on was also described as a relief and a way of ‘getting things off their chest’:

“I had a lot in my head before and so I was also happy to get to say what I wanted. Relieved. It was good because it's like an extra check to make sure we were okay.” (Eloise, 11)

“It was like a weight had been lifted off of me because I'd been saying these things for a long time.” (Theo, 11)

“I was a little bit excited to say what I wanted. And also afterwards I was happy to get to say how good it is living with mum.” (Harry, 9)

3.11 These quotes demonstrate some of the positive emotional effects of participating. In line with these, most children in the sample described being glad that they had the chance to speak to Cafcass Cymru.

3.12 It may be that feeling listened to reduces the stress and pressure children feel where parental separation is ongoing. This was one of the ways FCAs felt Pathfinder was supporting families, and is discussed further in the following section.

‘Telling someone who can change things is empowering’

3.13 One participant, who took part in the interview with a parent, explained that he found it a positive experience to tell a new person who he believed had the power to influence change about what he wanted: “I was like happy that I had told someone that wasn't mum, cause mum has always known what he's [dad's] been like but to

tell someone different it was better. And they could make a difference as well” (Theo, 11).

3.14 His mum, who accompanied him for the interview, reiterated this sense of hopefulness: “he knew that somebody was going to listen, somebody other than me that couldn't really make a change to anything was going to listen.” She went on to describe the difference that having his say had made for her son: “the report was so comprehensive and I don't think without their report and the way they supported him, we'd be where we are now because it's been quite life changing really. It's had a huge impact for us really. It was brief, but so impactful.” (Theo's mum)

3.15 Another young person explained that, although she had a mixed experience of talking to Cafcass Cymru, she wanted to have her say and take the opportunity to secure an arrangement that would work better for her than the existing court order. She explained “It's an opportunity to change things, to say what you want and to get what you want to happen rather than just what's been done since you were young” (Ella, 13).

Feeling listened to is vital for creating trust in the court process

3.16 Several participants described feeling confident after the meeting with Cafcass Cymru that their FCA understood their views and could be trusted to represent them accurately.

“Afterwards I felt happy and like they were helpful. I knew then that when it went to court they'd say like how it was, how I felt and what they thought was best and stuff like that.” (Theo, 11)

“I felt like I could trust them to say what I wanted to happen when I wasn't there.” (Ria, 14)

3.17 Being able to trust their FCA was important because none of the children in this sample chose to attend court or express their wishes and feelings through any other method.

3.18 There was one participant who had a poor experience in relation to feeling listened to. Ella felt that the FCA did not understand and ‘twisted’ what she said. She

described how this made her worry more about proceedings and led to increased feelings of uncertainty about the court's decision.

“I felt like they were twisting everything I was saying and making me think like saying this instead of what I was actually saying. Most times I didn't even finish speaking, they'd just say it back straight away as well and they kept getting it wrong. And then because after I said my last answer they were like “oh ok thank you” and hung up. I was like, well, “what if you didn't understand what I said in the end?” I didn't get a chance to say like, “that's not what I said. I said that this is. This is what I want” and then I was like,” oh, what if they've got it wrong?” and what if they say it wrong and then something I don't want to happen happens?” (Ella, 13)

- 3.19 Ultimately Ella was one of the few participants in the study who was somewhat disappointed with the outcome of proceedings: “They got like half of it right really but bits of it were still a bit wrong and like I was like, that's not really what I said. The times don't really work for me. It's alright but I don't know. It's hard to see my friends. I wanted to be able to swap days.” (Ella, 13)
- 3.20 Ella's quotes show how important listening skills are to avoiding children and young people feeling a lack of control over the information they share with Cafcass Cymru. These fears were echoed by another participant who said “even if I'm never going to see them again, I feel uncomfortable with people knowing how I feel. I really don't like it”. (Matt, 16)

In situations where parents are highly conflicted, children and young people can feel confused about who to trust, so creating trust in the process and in their FCA is vital. This is discussed further in the following section.

Being informed

- 3.21 In this section we report on three themes related to 'being informed'. This refers to both being informed about meeting with Cafcass Cymru, and being able to make informed choices about the meeting, as well as being informed about the outcome of the court proceedings.

Understanding the big picture but feeling confused in the moment

- 3.22 None of the children interviewed had heard of Cafcass Cymru before proceedings (unless they had previously been through the family court) and none described having been shown any specific sources of information before the meeting, other than being told about what the meeting with Cafcass Cymru involved – in various degrees of detail - by a parent.
- 3.23 When asked, most of the children could describe in their own words Cafcass Cymru’s role and the role of family court judges. They had a relatively clear understanding that the judge was there “to decide what happens” (Jay, 8) and that Cafcass Cymru “help children think about what they want and ask questions about that” (Theo, 11). Other children understood Cafcass Cymru’s role as “helping families if they are having trouble with anything” (Dylan, 12) or more vaguely as “being there to just ask me questions” (Archie, 11)
- 3.24 However, understanding the various roles involved in the family court did not necessarily translate to understanding what was going on when they met with a Cafcass Cymru FCA. Seven participants described feelings of confusion about why they were meeting with Cafcass Cymru.
- 3.25 Both younger children and older teenagers reported feeling confused, but in different ways. Where teenagers were concerned, some of the confusion centred on why they were being asked to express their views about what they wanted to happen, when they felt they were old enough to make their own decisions:
- “I think I would [have] been 15 at the time or maybe just 16. So I was kind of at the point where I get to make my own decisions about it anyway, so I don't really see the point of me going. So we had to, like, just explain to the court so that we didn't have to go to our dads. But it was just kind of like, what's really the point, I don't know. Felt like just going through the motions. (Serena, 16)
- “My mum asked me before if I wanted to do it and I was like, you know, I've said no, every time I'm not really bothered anymore because I'm old enough now, to do what I want. And I still felt like that this time. I was like, why am I doing this?” (Matt, 16)

3.26 But across children of a range of ages, there was also confusion about who Cafcass Cymru were and why they were meeting them:

“I was just confused. What were we doing? Yeah, like, why are we here?” (Archie, 11)

“I genuinely don't know what they were there for, to be honest, I still don't know if they were there about my mum and dad arguing or about like if I'm staying at my mum or dad's or I don't know, I don't get told much so I just have to assume most of the things that I'm going into”. (Matt, 16)

3.27 For the youngest children in the sample, this confusion appeared to be exacerbated when they were only told with short notice that they would be speaking with someone. Two children who were 7 and 9 at the time they spoke to their FCA were only told they would be speaking to Cafcass Cymru the morning of their meeting because their parents felt it was the best way of avoiding them worrying.

“The teacher told me that someone was here to see me and then I went into the office and I was quite surprised and confused and like *[does an impression of The Rock's eyebrow raise]* ...suspicious.” (Harry, 9)

“I felt absolutely surprised and I had no idea what's happening. Umm, it was quite nervous and also the tiniest little bit excited. Just to see what new things I would see when I would go in.” (Jay, 8)

3.28 The discrepancy between being able to describe the role of Cafcass Cymru and judges clearly, but still feeling confused in the moment, may stem from several factors. One might simply be that the wider context of parental separation that children are experiencing at the time is deeply confusing and unsettling. Another might be that children and young people understood better in hindsight, once a decision had been made and the case resolved, what Cafcass Cymru were there to do than they did in the moment.

3.29 The degree to which children felt the meeting with Cafcass Cymru helped them feel better informed and less confused varied. For some, talking to the FCA helped them understand what was going on in the family: “So I think it was like I had a very good

understanding after we talked to them like it's like it was really easy to understand everything after that talk with Cafcass.” (Eloise, 11)

3.30 Children who had already been through the process said they understood what was happening because they'd been there before or because their parents had explained things to them well: “it's nice to talk to someone about what was going on, but as I didn't really have much to say or really answer in all fairness, you know, because I had a good understanding of it anyway.” (Danny, 17)

3.31 For others, confusion about what was going on in their family and what would happen next was not necessarily resolved through speaking to the FCA. One participant explained: “And after I was still feeling “what are we doing?” I was just confused of why we had that chat, that's all”. (Archie, 11). Another described wanting more of an explanation of what was going on at home:

“I wanted a little more questions which would make me understand it even more than I did at the end. [*So when you say questions, do you mean like they could have explained a bit more what the situation was in your family?*] Yeah. [*Did you leave feeling like I'm still a bit confused about what's going on?*] Yeah. [*And what was it that felt confusing?*] Yeah just that I don't know what's going on. I felt a little confused. [*Did they explain things to you? Did they help you feel any less confused?*] Not like I can remember.” (Jay, 8)

Uncertainty and unclear expectations

3.32 Even where children were aware of what was going on and why the FCA was there to speak to them, children described feelings of uncertainty about the meeting. One participant said “I didn't know what to expect cause I've not done it before”. (Ria, 14). Another differentiated not knowing what to expect from feeling fearful: “I wasn't like scared or anything. I felt a bit shy at first. I didn't know what to expect.” (Theo, 11)

3.33 Although they knew they would be asked questions, some children described not knowing what type of questions they would be asked and feeling anxious about this: “I think it was like what questions that they're gonna be, cause like cause I was like nine. Just about to turn 10. I didn't know what was going to happen. But then I was

relieved that they weren't trying to get like anything like bad out of me. I'm a very... people pleaser so yeah. But they were just trying to like, see, like our opinions and stuff." (Eloise, 11)

- 3.34 Eloise's fears about them 'getting bad stuff' out of her were echoed by Jay who said he was relieved once it started that "she wasn't asking too many questions to make me feel like 'I don't really think you should ask me that' [*like what?*] Umm, just questions like 'Umm, how are you dealing with this and stuff like that'" (Jay, 8). This implies that both Eloise and Jay were worried about being asked questions which were either upsetting to answer because they felt too personal or were worried about having to express opinions that might upset their parents.
- 3.35 One young person was less concerned with the questions she would be asked and more worried about not knowing anything about who she would be speaking to: "I felt a bit nervous because, you know, I've never seen this person before, don't know anything about them, never spoken to them or anything and then I've got this phone call and I had to talk about everything. I wasn't bothered when it actually happened, but before was a bit nervous". When asked whether having more information about the FCA she was going to talk to would have helped, Ella said: "I think I'd be a lot happier like speaking to them if I'd had something from them [and I] knew something more about them. I'm not really one of those people who can you know could just speak to someone you know and just say everything. So I think it would have helped, I would have read it" (Ella, 13).
- 3.36 Another young person described being sceptical before meeting Cafcass Cymru because he had previously had a negative experience of speaking to someone he thought was from Cafcass Cymru. From the contextual information shared with the researcher before the meeting, this professional was likely a local authority social worker but Matt was not sure of this at the time and said "[talking to the social worker] that really like put me off. I was expecting the exact same thing as the first one, which is why I was so like not eager to go to it" (Matt, 16).
- 3.37 Providing more specific might allay some of these worries. However, it is important to acknowledge that some level of uncertainty and apprehension is unavoidable given the situation families are in and the ongoing nature of proceedings at the point

when FCAs meet with children. Eloise explained that despite having a very positive experience talking to Cafcass Cymru “we were still going through like the process and I didn't really know what was coming after or what it would be like” (Eloise, 11). Another echoed this saying “Afterwards I was quite happy still but a little so-so I didn't feel chill. I didn't feel sad but I didn't feel like everything was gonna go well.” (Jay, 8)

Having choices but not making choices

- 3.38 All participants seemed to speak to Cafcass Cymru freely, and none reported feeling pressured into particular decisions by FCAs.
- 3.39 However, there were two areas where children rarely described having been given the choices we might expect them to remember making. These were: practical choices about how to meet the FCA and choices around alternative modes of participation.

Practical choices

- 3.40 Children rarely described having been given the choice of how, when and where to engage with Cafcass Cymru. When asked explicitly about this choice, only two participants (who were siblings) reported remembering having chosen the method themselves: “We decided to pick the phone, so yeah, they still gave us the option in the first place if it wants to do it face to face or the phone”. (Danny, 17)
- 3.41 Another participant remembered being given the choice of whether to participate by her parents but not how: “I was just told that I could speak to them if I wanted to. And I did so then they were like, “oh, yeah speak to them on the phone”” (Ella, 13). Most commonly their parents informed them of how/where the meeting would take place:
- “She [mum] told me the person was gonna come into school to speak to me. My asked me if I was alright with it and I was like, yeah, but I don't know. It's just in general, I don't really like talking to people, especially about like my family.” (Matt, 16)
- “I have no idea. Mum told us and I think we just kinda turned up there.” (Ria, 14)

3.42 Some participants were indifferent about the choice of location despite not having decided on it themselves:

“[And was it your choice to meet at school?] Umm, no. [And would you, if you were given the choice that they could meet you at home in an office, in a park, at school, what would you have chosen if it was up to you?] Umm, I'd probably just say I wouldn't mind. It didn't really make that much difference.” (Dylan, 12)

“To be honest, school was probably the best place for it. Got me out of lessons for a bit (laughs).” (Matt, 16)

3.43 One participant said he didn't feel strongly but would have chosen differently if asked: “We were supposed to do it in person but then they were ill so it was online. If I'd been asked I would have picked online in the first place”. (Archie, 11)

3.44 Others felt that not having had a choice in where to meet affected how comfortable and able to engage they were. One talked about this in terms of the physical environment itself: “I think we just would have felt more comfortable just like being in our own homes and everything felt more open to do this kind of chat. Especially because then you feel like you can, like sit how you want on your own sofa and then it's just like you're more comfortable then, yeah.” (Serena, 16). But another participant talked about wanting to be seen on neutral ground and described this in terms of psychological (dis)comfort:

“I'd have chosen to see them at school because I would feel a bit more comfortable speaking like in person compared to over the phone, it can like cut up and you know like in school I'm not at mum's or my dad's so. It would have been better if someone came in person into school or even if I did take the phone calls in school. I didn't feel like this I just said what I wanted but some kids I think they might feel like they want to say, well, what mum wants with their mom, what dad wants with their dad.” (Ella, 13)

3.45 One parent described the plan having changed despite her preference for her children to be seen at home:

“My recollection was initially they had said that they were gonna come to the house to see the children, which I thought would have been a good idea.

Obviously this is their environment, but for whatever reason that didn't happen and then we were asked to just go into the offices. It was all a bit of a strange thing for them to have to go through. So yeah I had definitely a strong preference for it being at home. It just would have been more familiar, yeah.”
(Jay's mum)

- 3.46 It may be that choices on location and how to engage with Cafcass Cymru are given to parents but that these do not necessarily filter down to children. It may also be that children do not remember making choices, though in the interviews where parents were present they did not contradict children's accounts of not having chosen themselves. Nonetheless, the children in this sample did not feel they had made choices about the nature of their engagement with Cafcass Cymru.

Choices about alternative/additional ways to participate

- 3.47 All participants were asked if they were offered the chance to participate in proceedings in any other ways, beyond speaking to their FCA. Alternative modes of participation currently offered include: writing to or drawing pictures for the judge to express their views, attending court either to express views in person or to observe; and meeting the judge before the hearing. Only one of the children in the sample reported having been offered these opportunities.
- 3.48 The children who were not offered these opportunities said that they would not have wanted to take up the offer if they'd been made aware of it at the time.
- 3.49 The child who was offered an additional way to participate was asked whether she wanted to attend court to express her views in person. In the quote below she explains that she was conflicted as she wanted to ensure the court heard her views accurately (and was concerned the FCA had not understood her wishes and feelings) but felt unable to take up the offer to attend court because it felt intimidating. She said “I did get asked if I wanted to go there and say what I wanted in front of everyone because I was really shy I was like, I said “I don't really wanna go”. They wanted me to tell the person what I wanted and all that, but I thought I won't feel comfortable doing that, like I would rather not have to talk in front of all those people.” (Ella, 13)

3.50 When asked how this could have been better, Ella didn't have specific suggestions so the researcher suggested some options including recording a voice note of her speaking or recording a video on her phone explaining her views. In response to this she said: "I think like the voice note or the writing a letter would have felt a bit more comfortable because I wouldn't really have to worry about them getting it wrong because if you have a piece of paper or something, they'll read it and they couldn't change what you said." (Ella, 13)

Finding out about the court's decision

3.51 Children were clear that they wanted to be informed about what was going on during proceedings and about the court's final decision.

"It's about us so definitely they [parents] should come and tell us about what is happening, we'd expect that." (Danny, 17)

"My mum told me briefly what was happening and I was glad about that because I'm a very curious person, so I kind of wanna know like everything that's going on." (Ria, 14)

3.52 But children differed in their opinions on who would have been best placed to inform them of the court's decision. Although most were told by a parent and were satisfied with this, two children would have preferred a third party to communicate the outcome to them.

3.53 Most children were informed about the court's decision by one or both parents and were happy with finding out this way. Two participants described it as being "more comfortable" (Danny, 17) and "less awkward" (Ria, 14) finding out from their parents than a third party. Another wanted to be told about the decision by her parents because they could reassure her "and explain how it's all gonna work and say it'll be fine" (Eloise, 11).

3.54 It seemed that most participants expected to be told about the outcome of the case by their parents, but one young person was surprised that no one involved in the court proceedings contacted her directly to tell her of the outcome: "Well, I didn't get anything from them. Mum told me, like this is what was gonna happen. I was a bit surprised. I thought they were going to tell me what happened and all that, and then

my parents told me I was like “oh, okay, that's that then”. When asked more about this, Ella said she would have preferred to have been told by “someone who is not involved”: “I think it would have been better if they'd have told me instead of my parents. I just feel like it would have been bit better. Like either get a letter or even a phone call or something saying what's happening and all that. I feel like I would have been more comfortable if they [court/Cafcass Cymru] told me.” (Ella, 13)

- 3.55 Another participant didn't expect to be told by a third party but he felt he couldn't trust either parent to give him a full account:

“If I'm going to be told something to do with my parents, both of them, I'd prefer it to be from someone who actually knows what they're saying, who knows for a fact what is happening cause my mum and dad could just, you know, they could like say something so that I don't go to my dad's or something. If I go to my dad's, he's talking about my mum and I start arguing. If I go to hers, it's just the same thing all the time, to be honest. That's all that I hear, they both tell me different things about each other, and I'm stuck with what to believe with. They both say some crazy things about each other, and yeah, it gets in your head when you know if I'm told that my mum's been doing something and it fully changes my view on her.” (Matt, 16)

- 3.56 He expressed a strong preference for wanting to be told by a neutral party such as Cafcass Cymru or the judge

“I definitely {original emphasis} prefer that because then I know it's coming from someone who like is not part of whatever is happening. So like, they're just doing their job and finding the facts. Definitely someone in the middle ground to tell you what's going on. someone not to do with the family or not on a side. Or someone on my side, someone on my side who understands it all because I don't even understand what I'm doing to be honest with you”. (Matt, 16)

- 3.57 In both Ella and Matt's cases their parents were highly conflicted. It may be that children in these circumstances benefit from having details of the process communicated to them, and having the opportunity to ask questions about it, even after their parents have communicated the overall decision.

Feeling supported

- 3.58 Despite often feeling uncertain and nervous before, children were generally very positive about how FCAs engaged with them and often described feelings of relief once they started speaking. They described FCAs' interpersonal skills as an important factor in making them feel at ease, describing them as 'warm' (Theo, 11), 'fun' (Harry, 9), and 'kind' (Ria, 14).
- 3.59 Another participant described being upset when talking to the FCA over the phone but said that she found the FCA was very good at comforting her and she felt like it was ok to be upset: "I did cry a bit because it was like a bit like intimid-
overwhelming yeah. Yeah, but some words did come out as in like how I felt and stuff. So I think it was a good thing that I did it and they were really really nice and really comforting to me." (Eloise, 11)
- 3.60 Ella explained that, in comparison to the previous time she had spoken to Cafcass Cymru, the FCA she spoke to this time built some rapport with her before asking her about her views, which made her feel more comfortable: "Before actually like they did the questions about what I wanted they asked me about what I [like] doing and if I have any pets and stuff and that made me feel a bit better. They didn't go straight to the questions like the person before did". (Ella, 13)
- 3.61 Participants had varying experiences of other factors that influenced how supported they felt and, where they had negative experiences were able to make suggestions about how these could be improved. This section outlines these experiences using four themes related to feeling supported. These are: 'someone to be on my side', 'taking my time versus taking *up* time', 'environment matters' and 'support in the aftermath of participating'
- Someone to be on my side*
- 3.62 No participants described feeling under pressure from the FCA to align with one parent or to make particular decisions.
- 3.63 Most children said that they knew what they wanted to happen before they spoke to Cafcass Cymru. Two children said that they knew partly what they wanted but needed help to work out the details:

“I knew some things I wanted to happen but they helped me think through some bits” (Jay)

“They gave me options for what could happen, and like ways I could see my dad if I wanted but I didn’t feel like I had to say yes. They said little stuff like ‘you don’t have to spend time with him, but if you want to here is some options’” (Ria, 14)

- 3.64 Some children, older teenagers in particular, were clearly aware of the adversarial nature of what was happening in the family and the risk of ‘taking sides’.
- 3.65 Some participants described feeling like their FCA was a neutral party: ‘I could tell when I went in that they weren’t there to take sides [*How could you tell that?*] they were very calm and just let me speak what I needed to speak’ (Dylan, 12).
- 3.66 For one participant, previous experience of feeling that workers from other organisations were ‘biased’ against one parent had made him wary of meeting Cafcass Cymru. In the event, he felt the FCA was not there to side with either parent: “by no means am I like on my dad’s side or anything. I don’t think there’s any sides to it to be honest though. It’s the whole thing’s childish, I think. If anything they [Cafcass Cymru] were more on my side in the whole thing.” (Matt, 16)
- 3.67 He also described other more subtle ways that the FCA got alongside him and showed him they were there to support him. For example, by expressing their agreement with and support for him in a dispute with school: “They really were understanding. Like really understanding because I had a lot of problems in school and [...] just for an example I got excluded once and then school like straight away if you get excluded once you’re not allowed to go to the prom and they [the FCA], they said straight away they go “that’s not right, you should be able to earn it back”, so they were really understanding.”
- 3.68 This indicates that FCAs demonstrate both implicitly and explicitly their responsibility not to take sides, and instead provide children with ways to think through their options.

Taking my time versus taking up time

- 3.69 When it came to how long children spoke with Cafcass Cymru for, and how they felt about the duration and pace of the meeting, participants’ experiences were mixed.

- 3.70 Most children reported having the opportunity to say everything they wanted to and that they did not feel rushed by the FCA. Two children drew particular attention to how calm and unhurried speaking to the FCA felt: “they weren’t pressuring us to hurry up. You know, there’s no rush and then obviously at the end they asked if there was anything else we wanted to say and yeah. We got plenty of chance to say what we wanted to say” (Danny, 17). His sister added: “they let us speak, like they didn’t like cut across and they let us like speak like in our like own time like it wasn’t like a rush or anything.” (Eloise, 11)
- 3.71 No one described their meeting as going on for too long. One thought it was “a good amount of time, not too long not too short” (Dylan, 12) and another felt “25 minutes was a good time because obviously there was loads and loads of questions. But it wasn’t too many.” (Danny, 17)
- 3.72 However, other participants were surprised by the brevity of the conversation with the FCA. Three participants said their conversation was much shorter than expected.
- 3.73 Two participants described expecting to be asked more questions:
“I felt like it went very quickly. For what needed to be asked in that like I just but like I felt like they just didn’t ask enough questions. I think I only answered like four or five questions by myself and we didn’t answer many questions as a group. I feel like we were out of there in 20 minutes.” (Serena, 16)
“Well, I thought maybe it would have gone a bit longer and like you’re asking me like a few more questions. But they were like “ohh, that’s all I need. Thank you. Bye.” And I was like, “ohh OK, right. Bye...” I did think it would go on a bit longer but it wasn’t rushed necessarily. I just thought I would be asked more questions.” (Ella, 13)
- 3.74 For these participants there was a sense of frustration that although they were asked for their views, the conversation was not deep or detailed enough for them to fully express them. For Ella, this was compounded by feeling that the FCA had not fully understood what she was saying. This example is discussed further in the following section.

- 3.75 The other young person described feeling the meeting with the FCA was very quick because they appeared short of time: “I don't think they could even stay in school for that long because it was really brief. it was really fast, 10 to 15 minutes. Something like that.” (Matt, 16)
- 3.76 He went on to describe how this affected how much he was able to share. When expressing his frustration and distress at the family's situation “It's not like a proper family should be. I just want a proper sense of family, like happiness.” The researcher *asked [Were you able to express these things to the FCA?]* and Matt explained that he needed more time with them to open up: “I don't tell anyone about this type of stuff. Well...the thing is, yeah, if I speak to someone like for five minutes, I won't tell them anything. But if I speak to them for quite a while, then I'll start slowly, telling them bits after a while, like I've done now. I feel like if I had more time with them, it would have been way better. Way better, but it was still good regardless.”
- 3.77 Further discussion with Matt also suggested he might have benefited from more than one opportunity to meet with Cafcass Cymru:
- “I can literally remember that day, that day I was in a terrible mood, terrible mood, and I don't know if it was because of school, maybe family stuff, but I was in a really bad mood, and I was in the mood before it as well. I had my head on the desk. I wasn't listening to anything. I wasn't in the right mind set to speak to them. If I were, then I would have understood a lot more, taken all the information they were saying. And then I would have given more information. I would have you know, but yeah. The thing is I just it depends what mood you get me in.” When asked “do you think if you'd met the person more than once that might have helped just to build up a bit of familiarity?” he replied: “Yeah, definitely, definitely. That's exactly why I would need like to like build up over a few days and people would need to understand me. Know what I'm like so I could that, you know, I can be happy and really energetic and stuff, but then I can be like, annoyed and really not say much.”
- 3.78 These young people's feedback about the unexpected brevity of their interaction with Cafcass Cymru and the 'one-shot' nature of a single opportunity to express

their views is important because it highlights that children of all ages, not just younger children, might benefit from having longer to talk to Cafcass Cymru or from familiarisation visits.

Environment matters

- 3.79 As discussed in paragraph 3.42, the degree to which participants had choices about where, when and how they engaged with Cafcass Cymru varied considerably. In this section we discuss how the location and/or mode of engagement affected how comfortable and supported participants felt meeting with their FCA.
- 3.80 Participants had mixed views on their experience of attending meetings at the Cafcass Cymru offices. This may be because Cafcass Cymru have three different offices in North Wales and children had visited different ones. Some described the environment in very positive terms. A parent described the waiting area as “child friendly in the sense that it didn't look like sterile office” (Theo's mum). One young person said “it was a nice place, very chilled. So I felt safe and happy there” (Ria, 14) and others commented on the views and the “big comfortable chairs” (Theo, 11).
- 3.81 Others felt that the office environment contributed to/exacerbated existing feelings of discomfort and/or confusion. Serena described the environment in clinical terms: “It's just like a very uncomfortable setting, I guess, like it's a bit awkward and all that as it is, just talking to people about it. And then it's like a very like light room, very bright. So everything it's just a bit daunting. Yeah, I think it's just like not very homely so it's awkward. Feels a bit like a hospital.”
- 3.82 For one younger child, visual cues taken from the toys in the waiting room led to increased feelings of confusion: “so basically there was a little table. With about I'd say five little baby toys. I'd just be sitting there. Like what am I supposed to do with this. Just very confused.” (Jay, 8)
- 3.83 As discussed in paragraph 3.59, other considerations on location included wanting to be spoken to at school in order to be on neutral ground.

3.84 Most participants who spoke to Cafcass Cymru on the phone/by videocall were happy with this (with the exceptions outlined above). Advantages of this approach were: it was practical, quicker and easier than meeting face-to-face.

Support in the aftermath of participating

3.85 Some risks/potential repercussions of participating were raised in interviews. Children may need support with these in the aftermath of being involved in proceedings.

3.86 Two children described it as distressing and disappointing to hear fragments of information from the court hearing that they then carried with them in their ongoing relationship with their parent(s). These participants described the impact on them of hearing that a parent had not followed through on their actions in the way they expected. For example, one participant described hearing that his dad had not attended the court hearing, despite being the applicant: "I asked mum. I was like "how did it go? What happened?" She just goes. "oh he didn't turn up". This is the part that annoys me. My mom took him to court so that I could stay here. But my dad didn't even turn up, so that really annoyed me because, like, it's as if he doesn't like even wanna make an effort for me to stay with him." (Matt, 16). Another described finding out that her dad had not followed through on court mandated directives around maintaining contact:

"The judge like made a rule that he's got to like send us gifts like text or sometimes he's gotta like, try and like keep contact to help rebuild the relationship because I think we said that we wouldn't mind rebuilding it, but it's going to take a lot. But he doesn't. He just doesn't do anything like that, like he doesn't text me. I'm not happy that like he kind of gets to get away with not doing what the courts telling him to do, and there's no kind of repercussions for that." (Serena, 16)

3.87 Hearing these brief 'snippets' of what happened at/in the aftermath of court, particularly when in situations where parents were highly conflicted, appeared to increase feelings of frustration and disappointment.

- 3.88 Another consideration from these interview excerpts is the risk of self-blame in teenagers who participate. Some older children said things that implied they blamed themselves for the interaction with the FCA not going as well as it could have done. For example, the way Matt (16) described his mood on the day, and his tendency to “not tell anyone about this type of stuff” implied that he felt it was ‘on him’ to get it right on the day and there was a suggestion he blamed himself for not making the most of the opportunity when he had it.
- 3.89 There was also some sense of this in Ella’s (13) interview. She described herself as someone who “was not good at talking to people” and explained (as described above) that although she would have liked to go to court to explain what she wanted she was too shy to do it and felt intimidated.
- 3.90 Finally, it was clear that some of the young people in the study felt highly involved in their parents’ separation and would have benefited from further support with this. One participant said “I’m just confused I I’m not asked about getting help for anything. I just I wanna know what’s happening.” (Matt, 16)
- 3.91 Another felt she was taking on the brunt of the stress and pressure being the oldest sibling: “It’s hanging over me. It’s just kind of always weighed on me. I think it’s just because I’m the oldest and that, like I’ll obviously I’m there to protect my siblings and everything.” (Serena, 16)
- 3.92 Participants did not speak about accessing support from other sources but Serena felt this should have been offered during the process of the family separation, whether by Cafcass Cymru or other organisations: “I just think, yeah, they need to just offer counselling like young people because like counselling is pricey. It’s like you can’t, like, get it through school and that and most schools can’t get it done for ages because it’s like waiting lists. Like the moment your parents get divorced, you probably not gonna get counselling at school for another six months. So it’s like I feel like that kind of thing needs to be offered.”

4. Findings: focus groups with FCAs

This section summarises findings from the focus groups with FCAs in relation to two areas: how they thought Pathfinder was promoting children's participation in private proceedings, and the challenges they encountered in involving children under this way of working. The section ends with reflections on what these barriers and facilitators to participation mean when considered in light of the interview findings.

Description of the focus group sample

- 4.1 All FCAs (n=10) had experience of working on Pathfinder cases. Half (n=5) of the sample had experience of working under the business-as-usual model (Child Arrangements Programme) and Pathfinder, whilst the other half had worked only on Pathfinder cases. A list of focus group participants and relevant characteristics is included in Annex B. Participants have been given anonymous numerical identifiers to protect their identity, given the small scale of both the study and the Pathfinder pilot.

How is Pathfinder promoting children's participation?

Being able to put children's voices front and centre from the outset

- 4.2 In reflecting on the differences between Pathfinder and the business-as-usual (BAU) model, FCAs were positive about the opportunities Pathfinder provided for children's perspectives to be integrated into decision making early on: "I would agree that if you have a child who is able to express their views and wants to, it's better to have that done earlier in the process rather than later" (Participant 4) and "I think this definitely promotes the child being at the centre of any sort of decision making" (Participant 3).
- 4.3 Another FCA described how the BAU model could often result in decisions being made without any first-hand consideration of the child's viewpoint: "You would do an in court conciliation at what we call our FHDRA and quite often arrangements could be made at that point and final orders could be made without ever capturing the voice of the child" (Participant 10).
- 4.4 In giving examples of how they had worked with children under Pathfinder, it was clear that FCAs felt the opportunity to engage with children earlier in the process

added considerable value to the recommendations they were able to make, and consequently on the quality of the decisions made by the court: “I think on the whole it works well for children. I think it allows them to have a voice and that should be the priority for us all, and this way of working it does allow children to have their say. That clearly influences our recommendations and it should.” (Participant 3)

- 4.5 FCAs gave numerous examples where they felt the Pathfinder model had resulted in children being involved in proceedings and having their wishes and feelings taken into account: “If we'd not been involved and done the Pathfinder, those children's voices would have been lost and actually they wouldn't be having contact with dad now even though they were desperate to see him”. (Participant 3)
- 4.6 They described two contrasting ways that Pathfinder enabled them to gather children's perspectives, depending on the level of engagement that children wanted and/or were able to have: representing children's voices directly in the CIR and supporting indirect participation.

Being able to represent children's voices directly in the CIR

- 4.7 Where children were clear about their views and keen to have their voices heard, FCAs described representing their views in a direct manner.
- 4.8 One FCA described a case where a child was clear he did not want contact with one of his parents: “I was there for a good hour and he was just so clear about what he wanted. I literally verbatim wrote it in that box and that it was the body of the report really.” (Participant 6)
- 4.9 Other FCAs also described similar instances where they felt quoting children directly was the most powerful way of conveying their views:

“I think when we quote what children say in their words actually what we've got to think about is the courts being able to get an understanding of that child, because that judge often doesn't meet the child unless the child requests to do so. And I would say 90% of the time, if not more, that doesn't happen. You know the children don't often want to speak to them, so they're relying on us to actually bring that child to life in that report and also as well for parents to hear

or whoever it is to hear what that child's saying and that can be quite powerful as well.” (Participant 3)

- 4.10 It is worth noting, however, that few FCAs described children taking up alternative/additional modes of participation (for example, speaking or writing to the judge, or attending court). One FCA (Participant 8) gave examples of two cases where children took up the offer of meeting the judge, but these were the only examples that FCAs referred to.

Supporting indirect participation

- 4.11 Where children either did not want to or did not feel able to participate as directly as the examples above, FCAs described using other approaches to capture and relay children’s positions as best they could. They described using observations of children or describing any interactions that they had with them in trying to gather their views.
- 4.12 This was particularly the case where FCAs suspected children felt pressured to align with one parent over the other or felt ‘torn’ between their parents. Pathfinder also allowed them to outline their concerns to the judge: “We can write directly to the judge now and sort of raise those concerns. Then, because the children, even though they might not say anything, there are going to be repercussions for them.” There was an overall sense that Pathfinder offered increased flexibility in how FCAs could both involve and represent these children, as well as those who took up the offer of participating directly.

Reducing family stress and children’s anxiety

- 4.13 Another benefit of the Pathfinder model cited by participants was that speaking to children earlier might reduce the pressure and stress that families are under and by extension the impact of proceedings on children: “The problem with that system [BAU] was that you would get to speak to children but by then, even more hostility had possibly built up and the FHDRA was a lot of pressure on parents and so I’m sure that that helps that they haven’t been through that process really before we even see the children.” (Participant 2). Another participant said similar things about

meeting children earlier “I think that will be one benefit: you're not having parents having done quite a bit of the process before we get to speak to children who are old enough to participate” (Participant 3).

- 4.14 One participant explained that earlier involvement of children also offered the opportunity to clarify for them what was happening in the family, which may also reduce feelings of worry and anxiety: “I've also noticed the benefit in, but for some children they haven't got a clue what's going on and going out and meeting with them gives them an opportunity to actually ask what's happening and can put their minds at ease, reassure them, reduce anxiety without them even having to give an opinion about what's happening.” Participant 9

Bringing about changes in parental behaviour

- 4.15 FCAs also described having greater opportunities to positively influence parental behaviour under Pathfinder. Whereas in BAU only those cases that could not be resolved at FHDRA would have included consideration of children's views, the Pathfinder model affords parents the opportunity to hear the impact of the current situation on their child(ren).
- 4.16 Several FCAS described their approach to using the child's voice in the CIR to help parents understand what was going on for their child and the impact of conflict between them:
- “Usually [under the BAU model] you would focus on the issues between the adults but from the couple that I've done, how I've tried to write them is to try and be helpful to the adults in showing them the impact that it has on their children in the hope that it shifts their thinking really. So what I'm hoping is that when the adults read that report they go “oh, right. Okay, let's stop doing this”. That's the hope, isn't it?”” (Participant 1)
- 4.17 Other FCAs described cases where they felt this had been successful in reducing parental conflict and resolving things for the family:
- “I've had several cases where the parents have been at loggerheads, but upon hearing independently what the child is saying and for me to be able to

say, look “this just has to stop. You're harming your child.” I've had the parents have completely changed, backed right off, and I wouldn't say put their differences aside, but they've certainly changed the behaviours. I think it was probably [with] the old way of working [with] the CIA and the FHDRA, and that was the missing piece of information. Was what is the impact of all of this parental dispute on these children? And we wouldn't know at that stage, whereas now because we speak to the children earlier on, you can feed that back to the parents and you can relay the messages about the impact of that on the children to them and appeal to their better natures as parents to make some changes.” Participant 9

- 4.18 Under the BAU model, cases would have gone through FHDRA before parents had the opportunity to hear their children's perspectives outlined in the way this FCA describes. The aim with Pathfinder is for resolution between parents to be informed by children's views from as early on as possible and, in doing so, for agreements to be reached before issues between parties become so entrenched that it causes further harm to children and parents.

Experiencing positive receptions from the judiciary

- 4.19 There was general consensus from participants that judges were interested in hearing children's views and considered them important: “I think judges are very interested to hear what children themselves are saying about the situation and I think they pay quite a lot of attention” and “I think the judges are really keen in finding out what's happening for the children. The magistrates, I think that's at the heart of it for everybody that works in this arena” (Participant 10)
- 4.20 There was also general agreement that children's views were being taken seriously in court. Several FCAs in focus group 1 agreed on this: “I think I absolutely agree with what [others have] said - the courts do seem to listen to what we're recommending” (Participant 3)
- 4.21 One FCA reflected on the implications of this for their role, implying that Pathfinder marks a development in the role of the FCA and a greater level of responsibility: “I think what the Pathfinder is doing is putting more accountability on the family court advisors in terms of making recommendations and decisions, and that is listened to

within the court arena. So yeah I do think it's a good process. But I do think it obviously puts a lot more responsibility on us, this family court advisor there.” (Participant 7)

Challenges of promoting participation in Pathfinder

- 4.22 The main challenge that FCAs reported in terms of promoting participation under Pathfinder was lack of time.
- 4.23 There appeared to be two different factors at play in FCAs feeling ‘time poor’; the rigidity of the timescales introduced by Pathfinder and pre-existing constraints on time that have become more problematic in the shortened timeframes. For the purpose of this report, each is outlined briefly below, explaining how they relate to children’s participation in Pathfinder

Rigid timescales

- 4.24 Participants in both focus groups felt strongly there was a ‘one size fits all approach’ to timescales in Pathfinder. They argued that more flexibility was required in determining appropriate timescales for cases and that the blanket six-week timeframe: “sometimes can be a little bit frustrating and depending on the case when we've only got six weeks and that can be quite a short amount of time. Other cases are quite straightforward, and you could deal with them in three”. (Participant 3) Another explained: “for me the missing part of this model is that at the minute we've got a one size fits all, so everything, regardless of any thought behind ‘what does this case actually involve?’ everything gets a report in six weeks”. (Participant 5)
- 4.25 They felt this was particularly important in more complex cases: “I think there is a scope in terms of trying to maybe have that flexibility of having that bit more time, you know, to try and understand where things are [...] very contested, toxic, very complicated.” (Participant 7)
- 4.26 It is important to note that FCAs were in favour of shorter timescales for proceedings in general, arguing that they were better for families. One said: “if we can do things faster that has got to be better for families who before were involved in really long drawn out court proceedings, that's not good for anybody. It's not good

for parents, and it's definitely not good for children because it causes a lot of stress” (Participant 5). Others described enjoying the “fast paced” nature of the work under the Pathfinder model (Participant 6).

- 4.27 However, they suggested that more ‘triaging’ of cases needed to happen based on their complexity, with different types of case assigned different timeframes and, by extension, different levels of involvement of children. Some FCAs argued that in certain cases, either those that were very straightforward (such as passport applications or consent orders) or where it was very unlikely that the case would progress, could be undertaken in a shorter time frame with less involvement of children, more akin to the business-as-usual model: “it's very labour intensive doing this on every single case. I think what I would say is that we should be gatekept more and I think there are some cases that come through that you can see before you do a stroke of work on it that it's not appropriate. That's not necessary” (Participant 4). Another participant suggested something similar: three pathways that cases were assigned to according to the complexity and anticipated time frame.
- 4.28 In theory this would mean a change in approach from the current model, because triaging would mean that certain cases were deemed unsuitable to speak to children about. In reality, however, this triaging already happens on an informal basis where it comes to participation. It is FCAs who decide whether to consult children in most cases. The broader question is whether the Pathfinder model should formalise this.

Pre-existing but increasingly problematic time constraints

- 4.29 The rigid timescales involved in Pathfinder appeared to exacerbate some time and resource constraints that already existed under BAU. The main one that FCAs described was the knock-on effect of having to wait for agency checks to come back before substantive work could begin on cases. Although some preliminary work can be undertaken early on, it is often not appropriate to engage with children without first having triangulated and assessed safeguarding information from different sources. This meant that despite the six-week time frame “you often don't have six weeks” (Participant 3).

4.30 One participant explained how this impacted the time available to work with children:

“I think doing some of those things - to gather all the information, digest it all and then do the other bits of work, because sometimes the information is late back as well. So often you're not doing some of your phone calls or your interviews until you've got your agency information in. That often can only leave you a week or two weeks to go out and see children which can then be a bit hurried.” (Participant 10)

4.31 The risk of rigid timescales resulting in ‘hurried’ opportunities to engage with children is especially important to consider in the light of the mixed findings from children’s interviews about the time available to express their views. This is considered in more detail below.

What is the impact on participation?

4.32 We have outlined the specific ways that FCAs felt time pressured because they help to contextualise some of the feedback from children about the duration and pace of their meetings with Cafcass Cymru. It is perhaps not surprising that meetings with FCAs were sometimes shorter than expected for children when we consider the pressurised timeframes that FCAs are operating within. In reflecting on the focus groups and interviews, it seems that FCAs do not always feel they would have the time to do some of the things that children said would improve their experiences of participating in proceedings.

4.33 For example, in the previous section, it is noted that repeat or familiarisation visits might be useful for children of a range of ages. However, this requires a degree of flexibility that participants in the focus groups felt they did not have. There was general agreement that to see children more than once or in different locations is not always feasible given the time constraints FCAs were under: “I don't think that's feasible within writing the first report. I think you'd have to be recommending a Part 2 [report] if you were going to do that. Really. I would say you're lucky that if you can fit one visit into a child or a home visit plus an independent visit” (Participant 4)

- 4.34 Thus, although the model appears to offer some greater flexibility to FCAs in terms of when and how to engage with children, unless there is more flexibility regarding the timescales for preparing CIRs, lack of time risks reducing the potential for Pathfinder to improve participation experiences.
- 4.35 Similarly, some children said that they would have benefited from being told about the court's decision by a neutral third party or having someone to explain what had happened at court to them.
- 4.36 FCAs saw the value in being able to explain aspects of the process to children after the hearing, especially where the outcome had not gone their way. One FCA described explaining the outcome to a child whose wishes had not been fully resolved by the order and "sort of reaffirming the judge had listened to what she wanted and that dad listened to her wishes and feelings" (Participant 8).
- 4.37 However, FCAs described this as a rare occurrence due to time constraints and said they only did this when directed by the court:
- "If you've got an order, I don't think we would do if there wasn't any order"
(Participant 8)
- "[I've done it] where it was ordered and that was in particularly difficult circumstances where the parents couldn't be relied upon to share the right information" (Participant 9)
- 4.38 There were a range of other reasons for this besides time. For example "by the time we were able to see them again, they would be quite anxious" (Participant 8) and "we're often not the best placed person to share that information" because "we haven't built up a significant relationship with them" (Participant 10). However, some children's feedback indicated that what was important was having someone at a distance who could be trusted to communicate the facts to them when their parents couldn't.

5. Conclusions

- 5.1 This study aimed to provide an in-depth understanding of children's experiences of participation in private proceedings. The previous chapters reported on FCA's and children's experiences with illustrative quotes and examples from practice. In this section main findings from both focus groups and interviews are summarised, highlighting what is working well in relation to participation under Pathfinder, and what areas for improvement remain. The section concludes with some considerations for further research and reflection on the strengths and limitations of the study.
- 5.2 FCAs felt the Pathfinder model put children's views to the forefront, accorded them greater and more detailed consideration earlier on, and that courts were taking their views seriously. This is supported by children's accounts, with most being happy with the outcome of their case and feeling they had been listened to by their FCA and during the course of the proceedings. Children were also generally pleased to have been asked about their views and described it as an overall positive experience.
- 5.3 Involving children earlier also seems to have potential benefits beyond participation in decision making. FCAs felt it could reduce stress for children and parents by allowing them to intervene before further hostility had the opportunity to build up. This was backed up to some degree by children who said they felt calmer and relieved after speaking to an FCA. It may be that the earlier intervention from Cafcass Cymru might allow parents to resolve conflict sooner, reducing the impact on their children. FCAs described in detail how they used the voice of the child to motivate positive parental changes in behaviour. It is not possible to conclude from interviews with children whether this was this case, but future studies with parents could explore their perspectives on the difference made by hearing their child's views.
- 5.4 Some FCAs also felt that a benefit of earlier engagement was being able to clarify the situation for children who might be confused about what is going on in their family. Supporting evidence from interviews was mixed on this. Although one child described feeling Cafcass Cymru had explained things very clearly to her, the

majority of children experienced feelings of confusion before, during, and after engaging with their FCA. Although some of this is inevitable given the family circumstances, confusion over what the FCA is there to do when they meet the child and what will happen next should be more clearly and more memorably communicated to children. This should reduce anxiety about the meeting and clarify their expectations.

- 5.5 Similarly, children in this sample were generally unaware of their right to make choices about when and how to engage with Cafcass Cymru. It appeared that these choices were likely communicated to parents who largely decided on their child's behalf what would suit them best. In some cases, this worked well for children, but others had strong views about how lack of choice in location/mode of engagement affected their opportunity to have a say.
- 5.6 There were also low levels of awareness among children about alternative ways to engage with participatory processes. This was supported by focus group findings where only one FCA described cases where children had met the judge or attended court. Findings from this study are ambiguous on this issue. On the one hand, interviews suggest that children would be unlikely to take up these additional modes of participation in large numbers, most saying they would not have chosen to attend court or communicate with the judge if offered the chance to do so. On the other hand, the one participant who described being offered the chance to attend court turned it down because it felt too intimidating but said that she would have chosen to write a letter if given the opportunity. This suggests that better communication of children's options and greater flexibility about how they express their views to the judge, for example the option to pre-record themselves talking rather than speak to an audience, might promote greater take up.
- 5.7 It was clear from focus groups that FCAs were keenly aware that participation comes with the risk of repercussions for children and young people. FCAs only spoke about this briefly, and largely in reference to younger children, but interviews with older teenagers in particular highlighted various considerations including: risks associated with 'taking sides'; the burden of supporting younger siblings through the process; the risk of self-blame where the outcome of proceedings is not exactly as

the child hoped; and the potential for being informed about the court process (e.g. a parent's failure to attend) to cause further distress. These findings are in line with previous research into the distressing nature of parental separation and the potential for court proceedings to exacerbate this (Roe et al. 2021)

- 5.8 Some children (who the court may not have specifically ordered should be informed by an FCA of the decision) would clearly benefit from the opportunity to talk through what happened in court with a neutral, third-party. In most cases, it is unrealistic and impractical to expect that Cafcass Cymru FCAs would be able to communicate the decision to children **in the first instance**. However, some children with highly conflicted parents would likely benefit from having a reliable third party to discuss what happened during proceedings with them after the event. This is especially important given children described 'snippets' of information about how their parents behaved staying in their mind and causing them ongoing frustration and upset.
- 5.9 There were clear parallels between the time constraints that FCAs described, and some children's experiences of shorter, more hurried, and less in-depth interactions with Cafcass Cymru than they expected. Matt's case was a clear example of a young person needing a more flexible approach, whether that was the chance to say, 'can you come back tomorrow?', requesting more time with his FCA, and/or an introductory meeting with them. However, in the focus groups FCAs described an enforced lack of flexibility in this regard because they were too short on time. Offering more flexible timescales for FCAs would result in more choice for children about whether and how to participate and may enable them to express their views more fully.

Considerations for future research

- 5.10 FCAs felt strongly that in some cases the participatory processes and other changes that Pathfinder ushers in were entirely appropriate and very welcome. In less complex situations, they felt the cases could be resolved most effectively for families with an approach more akin to BAU.
- 5.11 FCAs felt working with more children from an earlier stage was resulting in increased time and effort spent resolving issues between parents and advocating for children. The intention behind Pathfinder is that this work with families is

‘frontloaded’ which then leads to overall reductions in the length of time Cafcass Cymru is involved because cases are resolved more quickly and effectively. It may be that, at this stage, FCAs are seeing firsthand the frontloading of this work, but are not yet seeing the potential benefits of this down the line. Of course, it remains to be seen whether Pathfinder is resulting in overall reductions in the time and resources required and this will likely be a main focus for future evaluation of the model.

- 5.12 Ethical questions are also important in determining where to go next with Pathfinder. For example, which children have the right to have their voices heard, and on what kind of issues? Practitioners are already negotiating these ethical decisions informally but whether or not the Pathfinder model should formalise different procedural and participatory ‘tracks’ for different types of case is a broader consideration.
- 5.13 To address these questions, future research and evaluation should explore the wider context within which Pathfinder is operating. More specifically, studies could explore the relationship between children’s involvement and the decisions taken by the courts. Understanding, for example, how children’s early participation influences parental conflict resolution, might shed light on how participatory processes can support timely and effective decisions for families. In addition to this, understanding the experiences of children not spoken to by FCAs might provide some useful comparisons with these findings.

Strengths and limitations

- 5.14 This study generated rich and in-depth insight into children’s experiences of participation in private proceedings. In doing so, it explores an under-researched area within family justice as well as challenging myths about children’s competence and ability to participate both in decisions made about them and in research about their experiences. Participants in this study were able to provide detailed and nuanced reflective accounts. The study also counters assumptions about research with children being too ethically or practically challenging to justify.
- 5.15 The sample was relatively varied in terms of the type of application made, the mode of engagement with Cafcass Cymru, and the concerns raised in proceedings. It also

included some groups who have previously been underrepresented in research and/or excluded from participatory processes (Roe et al., 2021). This included three children who were aged 10 and under, and two sibling groups, who practitioners have anecdotally identified are sometimes treated homogenously rather than as individuals.

- 5.16 A limitation of the study is that the sample was relatively small, though in line with other similar studies involving children, for example Symonds and colleagues (2022) interviewed 12 children and young people aged 6 to 23 along with their families (Symonds et al. 2022). The main issue for this study is not the sample size per se but the fact that the pool of potential participants was exhausted before ascertaining whether the data had reached saturation. Saturation is the point at which the new data collected no longer generates additional insights/themes and is the most commonly used criterion for “assessing the adequacy of purposive samples in qualitative research” (Henink and Kaiser, 2022, p.1). Usually, qualitative studies stop recruiting when saturation is reached. In this study, all eligible participants were invited to take part and all those who accepted were interviewed within the time available. Future studies could consider using fewer criteria for recruitment (for example, interviewing children at various stages of proceedings, or before cases were formally closed) to increase the size of the eligible population.
- 5.17 Another limitation of the study is the self-selecting nature of the sample. This was unavoidable with a qualitative study of this design and there was no intention to generate a representative sample. However, (unsought) feedback from parents who declined the invitation for their child(ren) to take part indicated that families who were unhappy with either i) the court process, ii) the outcome, iii) or the support from Cafcass Cymru, self-selected out of the sample. This design and approach to recruitment resulted in only those children who were both willing to speak to an FCA **and** willing to discuss this with a researcher being included, which may mean that findings are more positive than may have been seen with a broader sample. The findings from this study could usefully be supplemented by large scale representative surveys of parents and children, to gather views from those who may have self-selected out of the sample.

6. Recommendations

6.1 This section details recommendations for how Cafcass Cymru staff and senior leaders could use the findings from this study to enhance children's participation in private proceedings. Recommendations are structured under four broad headings, with more specific detail provided within each.

Ensure choices filter down to children

6.2 Ensure that children and young people are actively involved in deciding whether, how, when and where to engage with Cafcass Cymru.

6.3 Find ways for children to communicate their preferences as independently as is appropriate. This could be done by speaking to the children and parents on the phone in advance or by sending pre-paid letters to be returned to the FCA selecting from a range of options or letters with QR codes that link to a website where children can make choices.

6.4 Ask children how they would like to be informed about what happens at court, and if they would like a follow up phone call to talk things through.

Review and improve information sharing with children:

6.5 Signpost children to accessible information about what speaking with Cafcass Cymru involves before meeting with them.

6.6 The content of existing Cafcass Cymru resources and publicly available information should be reviewed to ensure these include specific information about the FCA children will meet and examples of the questions they will be asked.

6.7 In consultation with children and young people, the *means* used to communicate to facilitate more direct contact with children before meeting should be reviewed. In the absence of being able to email children or speak to them on the phone, physical letters sent to their address may make children feel they are being contacted personally rather than through parents.

- 6.8 During meetings FCAs should present information in ways that are most likely to stick in children's minds. For example, using visual cues, or metaphors to explain the purpose of the meeting, or providing something that children can take home that will remind them of why they were spoken to.
- 6.9 After meetings, signpost children and young people to support services for separating families listed on the Cafcass Cymru website.

Adopt flexibility to amplify children's voices

- 6.10 Make the offer of familiarisation visits/phone calls to children of all ages, not only younger children.
- 6.11 Ensure alternative/additional options for participating are routinely explained to children and young people.
- 6.12 Work with children to adapt modes of participation to make them feel comfortable. This could include writing letters and drawing pictures, or pre-recording a video or voice note on their phone.

Consider how rigid timescales might adversely affect participation

- 6.13 In meetings, FCAs should ask enough questions to ensure children feel they have been properly consulted and had enough opportunity to have their say.
- 6.14 System leaders and judiciary should consider how tight timescales might be made more flexible in any future roll-out of Pathfinder. This will help ensure meetings with children allow them to fully express their views on proceedings and participate to the extent they wish to. This should include considering how cases of differing complexity can be worked in a timely and efficient way that allows children to have their voices heard.

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8. Appendices

Annex A: Focus group interview schedule

Research into children's experiences of participation in the family courts: focus groups with Cafcass Cymru practitioners

How is it working?

1. How is the model changing the way that you work with children and young people specifically?
 - i. Probe: Are there examples of things you've been able to do with children and young people under Pathfinder that wouldn't have been possible under BAU?
 - ii. Probe: Have children and young people (or parents) who have experienced the BAU process commented on the difference in approach?
2. How is the model changing the type of children you are engaging with (if at all)?
 - a. Prompt: are you engaging with children you usually wouldn't?
 - b. (wherein the emphasis of practice direction 12B is that the parents / court should attempt to resolve / conclude cases without ordering a s7 report therefore children's views are not sought).
3. Are there groups of children for whom you feel working under Pathfinder is either particularly helpful or particularly challenging? E.g. children of certain ages.

Impact – what difference is it making

Talk more about the changes that PF is bringing about in relation to participation and try to cover 4 areas of participation:

4. In general, to what extent do you feel that children's voices are **being amplified** in proceedings?
 - i. Probe: Are children introducing topics into proceedings that would not otherwise be considered, or changing the way these topics are discussed?
 - ii. Probe: Are more children participating in the non-compulsory elements of proceedings? E.g. writing to the Judge
5. Are there other examples of where you feel you were able to understand children's views/work with them more effectively as a result of using the Pathfinder model?
6. What challenges have you come across in working with children and young people under Pathfinder?
7. What would you change about the way the model is implemented?
8. In terms of how you think children experience this way of working...to what extent do you feel that **children feel better supported and listened to?** What evidence do we have for this?

9. To what extent do you feel that children are **better informed** of what is happening under the Pathfinder model?
 - i. Probe: How often are children made aware of their right to choose not to participate in proceedings?
10. To what extent do you feel that children's views are **influencing decisions** in court?
 - i. Probe: When discussing with children, does their understanding of the extent to which they can influence decisions match with this? I.e. do they think that they can influence decisions more or less than they actually can?
 - ii. Probe: Is the Pathfinder model changing the way that Judges treat/use evidence gathered from children?

Close

11. Is there anything we haven't talked about that you feel is relevant and would like to add?

Annex B: sample characteristics

Table 1: Characteristics of the interview sample

Pseudonym	Sex	Age	Previous proceedings
Archie	Male	11	No
Danny	Male	17	No
Dylan	Male	12	No
Ella	Female	13	Yes
Eloise	Female	10	No
Harry	Male	9	Yes
Jay	Male	8	No
Matt	Male	16	Yes
Ria	Female	14	No
Serena	Female	16	No
Theo	Male	11	No

Table 2: Characteristics of the focus group sample

Participant ID	Experience
Participant 1	Pathfinder
Participant 2	Pathfinder and CAP
Participant 3	Pathfinder
Participant 4	Pathfinder and CAP
Participant 5	Pathfinder and CAP
Participant 6	Pathfinder
Participant 7	Pathfinder
Participant 8	Pathfinder
Participant 9	Pathfinder and CAP
Participant 10	Pathfinder and CAP

Annex C: Interview schedule

Research into children's experiences of participation in the family courts: interviews with children and young people

Before you spoke to Cafcass Cymru...

- Can you tell me about when you first heard that your mum/dad had asked the family court to decide what was best for your family? Did anyone explain what was going on?
 - If yes, can you tell me more about that?
 - If no, how did you find about what was going on?
- Had you heard about the family court or about Cafcass Cymru before you met the Cafcass worker?
 - If yes, how? Had you seen any information anywhere?
 - If no, is there any information you would have liked to have had before you met with the Cafcass worker?
- Can you tell me about who the different people who work in the court are, if you can remember?
 - If yes, can you tell me what their jobs are? (Cafcass worker, judge)
 - *If no, explain that the judge is the person who makes the decision and the Cafcass Cymru worker's job is to find out what children think and what they want to happen.*
- Before you met the Cafcass Cymru worker...
 - What did you think it would be like?
 - What were you hoping it would be like?
 - Did you know what you wanted to happen already?
- Before you met the Cafcass Cymru worker, how did you feel? (SLIDE)

When you met the Cafcass Cymru worker...

- Can you tell me about what it was like when you met the Cafcass Cymru worker? What was it like?
 - Where did you meet them?
 - Who else was there?
 - What did you do/talk about together?
 - If you did any activities together, what did you think of them?

- Did you get to make choices about...
 - Where you met? Were you happy with the location/setting or would you have preferred something different?
 - What activities you did? Were you happy with what you did or would you have preferred something different?
 - Whether you talked to Cafcass?
- Did you feel that they listened to you? (SLIDE)
 - How did they show they were listening?
- How comfortable did you feel sharing your views? (SLIDE)
- Did you get a chance to say everything that you wanted to say? (SLIDE)
- Overall, how helpful did you find it talking to the worker? (SLIDE)
 - Was there anything else that could have made speaking to the Cafcass worker better for you?
 - Apart from talking to the worker, were there any other ways that you explained your views to Cafcass or to the judge? Sometimes, for example, children might write a letter to the judge or meet with them, but not everyone does that. If you didn't, would you have liked to have got your views across in a different way?

After meeting the Cafcass Cymru worker...

- How did you feel after you had spoken to them? Can you compare it to the before feelings? (SLIDE)
- Was there anything you found out from talking to them that you didn't know about before? Did they explain things in a way that made sense? Was there anything that was confusing or that came as a surprise?
- How did you find out about what was decided by the judge? Were you happy with finding out this way or would you have preferred to find out another way?
- Lots of peoples' opinions are listened to by the judge, how much do you think they listen to what you wanted to happen? (SLIDE) Who else did they listen to? How much did they listen to those people?
- Now that it is finished, do you think it was a good thing that someone came to ask you about your views or would you rather the adults sorted it out between themselves? (SLIDE)
- If you had a friend who told you their parents were going to the family court too, what advice would you give them to help them?

Annex D: Coding framework

Table 3: Thematic coding framework - children's interviews

Domain/area	Theme	Sub-themes	Codes
Feeling listened to	Getting things off my chest is a relief	Emotional aspects of being listened to	Feeling relieved
			Feeling excited to have my say
	Feeling listened to is vital for creating trust in the court process	Feeling able to trust my worker	Worker as my representative
			Worker as my advocate
			Feeling unable to trust my worker
	Telling someone who can change things is empowering	Telling someone different	The role of misunderstanding
Increasing worries about court			
Talking with a purpose		Unreliable accounts	
Telling someone who can change things is empowering	Telling someone different	The importance of telling someone new	
		The importance of telling someone 'official'	
Telling someone who can change things is empowering	Talking with a purpose	An opportunity to change things	
		Someone in a position of power	

Being informed	Understanding the big picture but feeling confused in the moment	Understanding of roles and responsibilities	Understanding Cafcass Cymru's role Understanding the judiciary's role
		Knowing what's going on in my family (general)	Finding out about proceedings Finding out about Cafcass Cymru
		Understanding what is happening in the meeting	Finding out about the meeting Understanding the point of the meeting Remembering afterwards
		Resolving confusion	Feeling less confused after Feeling the same after Feeling more confused after
	Uncertainty and unclear expectations	Reasons for feeling nervous before	Not knowing what I will be asked Not knowing who I will meet Not wanting to upset anyone
	Reasons for feeling negative before	Confusion between CC and other organisations Previous poor experience with CC	

Feeling supported	Having choices but not making choices	Practical choices	Choice of location Choice of when to meet Choice of whether to engage Choice of format (phone etc.)
	Finding out about the court's decision	Choice of alternative/additional modes of participation	Attending court as an option
		Happy to be told by parent(s)	More comfortable More practical
	Someone to be on my side	Wanted to be told by a third party	Someone neutral Someone I can trust
		Helping me to work out my options	Being given options Knowing what I want from the start Helping me with the details
		The risks of taking sides	Previous negative experiences

Taking my time vs. taking up time	Experiences of not feeling rushed	Worker skills In person experiences Remote experiences
	Experiences of feeling hurried	Shorter than expected visits Fewer questions than expected
Environment matters	Positive experiences of office environment	
	Negative experiences of office environment	
Support in the aftermath of participating	Hearing brief snippets of what happened at court	Parents not attending court Parents not following through on court mandated actions
	Risk of self-blame	"I'm not a [talkative/open] type of person" Need for support services

Table 4: Thematic coding framework – focus group interviews

Domain/area	Theme	Sub-themes	Codes
How is Pathfinder promoting children’s participation?	Bringing about change in parental behaviour	Impact of parents hearing children’s perspectives	Practice examples of parental behaviour change Role of the FCA
		FCA mediation	Time spent mediating Emotional work involved in mediating “I feel like I’m doing my old social work”
		Reducing family stress and children’s anxiety	Avoiding a build up of hostility
	Addressing confusion for children		Children not knowing what’s going on Opportunity for children to ask questions

Being able to put children's voices front and centre from the outset		
Being able to represent children's voices directly in the CIR	Reflections on the CIR	Level of detail Approaches to doing a CIR
	Children who want to participate	Practice examples: children who know what they want Practice examples: children who want help to work out what they want
Supporting indirect participation	Children who cannot/do not want to participate	Feeling torn between parents Additional needs
	Options available to FCAs	Reflecting on family dynamics Observations Writing to the judge
Experiencing positive receptions from the judiciary	Interest	"it is important to everyone who works in this arena"

Challenges of promoting participation in Pathfinder

Time

More responsibility on FCAs

Taking children's views seriously

Practice examples: children's views making a difference

Rigid time constraints

A one size fits all approach

We need to triage

Knock-on effects of lack of time

Pre-existing but increasingly problematic time constraints

Waiting for agency checks

Impact on time available to see children