



# Children's experiences of participation in private proceedings in the family courts

## At-a-glance

**Methods:** Qualitative; semi-structured interviews with children and young people (n=11); focus groups with Family Court Advisors (FCAs) working on Pathfinder (n=10) in Cafcass Cymru (CC)

### Main findings:

- Generally, children felt listened to and well supported by FCAs.
- Children understood the role of judges/the family court, but not why CC were speaking to them. Feelings of confusion often endured after the meeting.
- Children rarely described having been given choices about how to engage.
- Participants had mixed experiences of how long the meeting lasted. Some were positive, for others it was unexpectedly brief.
- All participants were told about the court's decision by a parent. Most felt this was best. Some wanted to be told by a neutral third-party.
- There were low levels of awareness about alternative ways to participate (e.g., writing a letter to/meeting the judge). Feedback indicated these were seen as intimidating.
- FCAs felt that the model put children's views to the forefront and there was consensus that courts were taking them seriously in decision-making.
- FCAs suggested hearing children's views earlier might reduce stress, promote problem solving and motivate positive parental behaviour change.
- The key challenge was lack of time caused by rigid six-week timelines and a 'one-size-fits-all' approach. This may be resulting in 'hurried' meetings with children.
- FCAs argued for flexibility: for some cases, Pathfinder was felt to be appropriate but less complex cases could be resolved with an approach akin to business-as-usual.

### Recommendations:

1. Ensure choices filter down to children.
2. Review and improve information sharing with children.
3. Adopt flexibility to amplify children's voices.
4. Consider how rigid timescales might adversely affect participation.

## **Summary**

### **1. Introduction**

- 1.1 This research was commissioned by Cafcass Cymru to explore participation experiences for children who had been worked with under a new model being piloted in the family courts in North Wales, the 'Pathfinder' project.
- 1.2 Pathfinder aims to improve experiences and outcomes for families involved in private proceedings. Private proceedings are those in which a separated parent asks the family court to decide on arrangements for their children, such as who the child lives with and who they spend time with.
- 1.3 This research aimed to understand the impact that the Pathfinder project is having on participation and identify what, if anything, should be done to amplify children's voices in private law proceedings.
- 1.4 Parental separation can be highly stressful for children and court processes often exacerbate this. Children involved in private proceedings often feel they have little say in decisions about them, and parental perspectives often dominate. Despite this, research shows that children are active agents in parental separation who want to be kept informed and have their views taken seriously.
- 1.5 Pathfinder aims to provide a quicker and more effective resolution for families and improve responses to domestic abuse. As part of this, the pilot gives Cafcass Cymru Family Court Advisors (FCAs) greater access to and flexibility in working with children so that their views can be incorporated into the courts' decision-making processes earlier on.

### **2. Methodology**

- 2.1 This qualitative study used online focus groups with FCAs (n=10) and online semi-structured interviews with children and young people (n=11). Interviews and focus groups were used because they tend to generate rich and detailed qualitative data whilst enabling participants to share their experiences in their own words.
- 2.2 Focus groups aimed to understand how FCAs with experience of working under Pathfinder felt the model was affecting participation, how professionals were engaging with children in their own practice, and what they thought could be improved about the model in relation to participation. Interviews aimed to understand how well-informed, supported and listened to children who had spoken to Cafcass Cymru felt during proceedings.
- 2.3 Initially, children and young people were sampled purposively based on criteria of interest (e.g., type of order, experience of previous proceedings) but ultimately parents of all eligible children were contacted by email and invited to participate.
- 2.4 Data from focus groups and interviews was analysed using inductive thematic analysis (TA) to generate qualitative insights and develop recommendations for practice.

### **3. Main findings**

#### **Interviews with children and young people**

- 3.1 The children who took part in interviews ranged in age from eight to 17 (the median age was 12). Seven of the children in the sample were male and three 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 was 17 weeks). The

eleven interviews with children pertained to meetings with seven different FCAs and eight different cases. Seven 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.

- 3.2 In most cases, children felt listened to and well supported by their FCA. They described in detail how they knew their worker was listening to them and they felt they could be open and honest about their views.
- 3.3 Typically, children described feeling nervous before meeting with the FCA. They often did not know what to expect or fully understand who they were meeting. Some were worried about the type of questions they were going to be asked. Many children felt relieved once they began talking to the FCA. These children often appreciated having someone different to speak to about the situation at home. However, some children also described feelings of worry and uncertainty that remained after the meeting.
- 3.4 Although most children understood the roles of Cafcass Cymru, the FCA and the judge, many still reported feeling confused about the situation, about why they were talking to Cafcass Cymru and about what would happen next. For at least half the sample, these feelings of confusion were not necessarily resolved by meeting with the FCA. Feelings of confusion were not limited, as might be expected, to younger children only. Teenagers also described not understanding why they were being asked to talk to an FCA.
- 3.5 Children rarely described having been given the choice of how, when, and where to engage with Cafcass Cymru. It appeared 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 of location/mode of engagement affected their opportunity to have their say.
- 3.6 Participants reported mixed experiences of how long the meeting with the FCA lasted. For some participants, the time felt about right, and they had enough time to say everything they wanted. Other participants were surprised by how brief the interaction with Cafcass Cymru was and expected to be asked more about their views. Some of these children felt the very brief nature of the interaction impeded their ability to express their views.
- 3.7 There were also low levels of awareness among children about alternative ways to engage with participatory processes. Only one child reported having been asked if they wanted to attend court to express their views or participate in any alternative/additional ways. This participant declined the offer because they felt intimidated by going to court but would have liked other opportunities to communicate with the judge.
- 3.8 Most children were told about the outcome of proceedings by one/ both parents. Most children felt this was the best way but older children with highly conflicted parents said they would have preferred to be told of the outcome by a neutral person who they could trust.
- 3.9 Some potential repercussions of participating and being informed were raised in interviews. These included 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. For example, some children found it distressing to know that a parent had not attended court and interpreted this as them not caring. Similarly, where the court had mandated that a parent do something specific to maintain contact and then failed to follow up, it appeared to increase feelings of frustration and disappointment.

## **Focus groups with FCAs**

- 3.10 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.
- 3.11 FCAs felt Pathfinder put children's views to the forefront, accorded them greater and more detailed consideration earlier on, and there was consensus that courts were taking their views seriously. 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 to the quality of the decisions made by the court.
- 3.12 FCAs felt the model offered the opportunity both to represent children's voices directly, where they were keen to engage with Cafcass Cymru, and to support indirect participation where children either did not want or did not feel able to express their views directly.
- 3.13 Involving children earlier also seems to have potential benefits beyond participation in decision making. FCAs felt it could reduce stress by allowing them to intervene before the possibility of further hostility building up between parents. FCAs also described using children's views to motivate positive parental changes in behaviour. This earlier intervention might allow parents to resolve conflict sooner, thus reducing the impact on children.
- 3.14 In contrast to some children's accounts, some FCAs 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.
- 3.15 The main challenge that FCAs reported in terms of promoting participation under Pathfinder was lack of time in relation to the rigidity of the timescales introduced by Pathfinder and a 'one-size-fits-all' approach. It appeared these time constraints might be resulting in 'hurried' opportunities to engage with children. 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.
- 3.16 FCAs were in favour of shorter timescales for proceedings in general, arguing they were better for families. However, they suggested 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. 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 business-as-usual.

## **4. Conclusions**

- 4.1 These findings suggests that, through earlier and fuller engagement with children, the Pathfinder model is a promising development. It appears to have the potential to amplify children's voices in private proceedings and enhance participation more broadly.
- 4.2 However, it is perhaps not surprising that meetings with FCAs were sometimes shorter than expected for children when the pressurised timeframes that FCAs are operating within are considered. FCAs did not always feel they had the time to do some of the things that children said would improve their experiences of participating in proceedings (for example longer or repeat visits). Although the model offers 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.

## 5. Recommendations

- 5.1 Ensure choices filter down to children: make sure children and young people are actively involved in deciding whether, how, when, and where to engage with Cafcass Cymru. This may involve challenging parents to put choices to children, rather than making decisions for them.
- 5.2 Review and improve information sharing with children: to reduce confusion and worry, children should be provided with information about what speaking with Cafcass Cymru involves before meeting with them. This research suggests that knowing specific information about the FCA children will meet and examples of the questions they will be asked is critical. Reviewing the means used to communicate with children before meeting might facilitate more direct contact and active decision making by children.
- 5.3 Adopt flexibility to amplify children's voices: Pathfinder ushers in a more flexible approach to engaging children in terms of timescales, but practitioners should be empowered to apply a flexible approach more broadly to encourage participation. For example, being open to offering repeat/familiarisation visits for children regardless of age, or offering children the opportunity to tweak alternative modes of participation both emerged as ways that children in this study might have participated more fully in proceedings.
- 5.4 Consider how rigid timescales might adversely affect participation: resolving issues with timescales will be important for Pathfinder going forward. System leaders and judiciary should consider how tight timescales might be made more flexible. This will help ensure that meetings with children allow them to fully express their views. 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. Understanding how children's early involvement influences parental conflict resolution and contributes to timely and effective decisions for families will help Cafcass Cymru define their approach to participation and further refine the model.

Report Authors: Jones, Rebecca

Full Research Report: Jones, Rebecca; (2023). *Children's experiences of participation in private proceedings in the family courts*. Cardiff: Welsh Government, GSR report number 114/2023.

Available at: <https://www.gov.wales/children-and-young-peoples-experiences-participation-private-proceedings-family-courts>

Views expressed in this report are those of the researchers and not necessarily those of the Welsh Government.

For further information please contact:

Laura Entwistle

Social Research and Information Division

Welsh Government

Cathays Park

Cardiff

CF10 3NQ

Email: [Research.HealthandSocialServices@gov.wales](mailto:Research.HealthandSocialServices@gov.wales)

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.

This document is also available in Welsh.