

# **CHILD PARTICIPATION IN FAMILY AND CHILD PROTECTION MATTERS IN ENGLAND & WALES**

**Mrs Justice Knowles**, Family Division High Court Judge

Abstract: The paper is part of a collaborative research organized by the International Association of Youth and Family Judges and Magistrates (AIMJF/IAYFJM) on child participation in family and protection matters. The article explains the legal, institutional and procedural aspects of child participation in the Justice System in England and Wales.

Key words: child participation; family law; child protection; children's rights; justice system; England; Wales

**(1) By defining that a specific situation concerns the child, does he/she become a party to the proceedings? Does he/she have the right to legal representation by a lawyer? Are there limits to the intervention of this lawyer in comparison with the other parties? The lawyer has an ethical duty to represent only the child's opinion, including cases where he/she does not consider the child's opinion in accordance with his or her best interests?**

In public law proceedings, children are automatically joined as a party under Rule 12.3(1) Family Procedure Rules (FPR) 2010. It is much rarer for children to be joined as a party in private law proceedings.

Rule 16.2 FPR 2010 applies in circumstances other than public law proceedings and provides that "the court may make a child a party to proceedings if it considers it is in the best interest of the child to do so". Paragraph 7.1 of Practice Direction 16A explains that making a child a party is a "step that will be taken only in cases which involve an issue of significant difficulty" and should only occur in the "minority of cases". Further, Paragraph 7.2 provides a non-exhaustive list of circumstances which may justify making a child a party as follows:

(a) where an officer of the Service or Welsh family proceedings officer has notified the court that in the opinion of that officer the child should be made a party;

(b) where the child has a standpoint or interest which is inconsistent with or incapable of being represented by any of the adult parties;

(c) where there is an intractable dispute over residence or contact, including where all contact has ceased, or where there is irrational but implacable hostility to contact or where the child may be suffering harm associated with the contact dispute;

(d) where the views and wishes of the child cannot be adequately met by a report to the court;

(e) where an older child is opposing a proposed course of action;

(f) where there are complex medical or mental health issues to be determined or there are other unusually complex issues that necessitate separate representation of the child;

(g) where there are international complications outside child abduction, in particular where it may be necessary for there to be discussions with overseas authorities or a foreign court;

(h) where there are serious allegations of physical, sexual or other abuse in relation to the child or there are allegations of domestic violence not capable of being resolved with the help of an officer of the Service or Welsh family proceedings officer;

(i) where the proceedings concern more than one child and the welfare of the children is in conflict or one child is in a particularly disadvantaged position;

(j) where there is a contested issue about scientific testing.

Paragraph 7.3 of Practice Direction 16A notes that, in coming to its decision on party status, the court must take into account the risk of delay or other facts being detrimental to the welfare of the child. Thus, the child should not be joined as a party to a case unless their welfare specifically requires it.

If a child is automatically a party to proceedings – for example in public law cases – then, pursuant to Section 41 of the Children Act 1989 and Rule 16.3 FPR 2010, the court must appoint a Children’s Guardian. If the child has been made a party to the proceedings by virtue of Rule 16.2 or otherwise if the child is the applicant in the proceedings or a provision in the Rules provides for the child to

be a party to proceedings, then Rule 16.4 FPR 2010 also states that a Children's Guardian must be appointed.

The Guardian is usually a Cafcass officer (for further details about Cafcass and its role, see question (2) below). Paragraph 7.6 of Practice Direction 16A states that the duty of the Guardian is to "fairly and competently conduct proceedings on behalf of the child" and for all steps and decisions to be "taken for the benefit of the child". The Guardian has an obligation to consider and relay the child's wishes and feelings to the court as well as "give advice to the child as is appropriate having regard to that child's understanding" (Paragraph 6.2(b) of Practice Direction 16A). However, the Guardian's primary duty is towards the court and is to provide advice and recommendations to the court based solely on what is in the best interests of the child.

Under Paragraph 6.2(a) of Practice Direction 16A, the Guardian is also responsible for appointing a lawyer to represent the child. This is often described as the "tandem model of representation",<sup>1</sup> where the Guardian will instruct a solicitor and the solicitor will usually in turn instruct a barrister to represent the child at any hearings. There are no limits to the intervention or involvement of the child's legal representatives in comparison with any other party.

Rule 16.29(1) FPR 2010 explains that as a starting point the solicitor "must represent the child in accordance with instructions received from the children's guardian" and, therefore, would be making submissions to the court based on the child's best interests.

However, Rule 16.29(2) FPR 2010 goes on to state that the solicitor must conduct the proceedings in accordance **with the child's instructions** where the solicitor considers that the child wishes to give instructions which conflict with the Guardian and that the child is able to give instructions on their own, having regard to their understanding. The solicitor must take into account the views of the Guardian and any direction of the court regarding the role of the Guardian.

The test for the sufficiency of the child's understanding is "*Gillick* competence".<sup>2</sup> The seminal case of *Gillick v West Norfolk and Wisbech Area*

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<sup>1</sup> See *Mabon v Mabon* [2005] EWCA Civ 634, [2005] 3 WLR 460 <<https://www.bailii.org/ew/cases/EWCA/Civ/2005/634.html>>, [25].

<sup>2</sup> *Re S (A Minor)(Independent Representation)* [1993] 2 FLR 437.

*Heath Authority and another*<sup>3</sup> outlines a functional approach to competence, considering the quality of decision-making and defines it as “the attainment by a child of an age of sufficient discretion to enable him or her to exercise a wise choice in his or her own interests”.<sup>4</sup>

Rule 16.29(4) FPR 2010 states that where there is no appointed Guardian, the solicitor must act in accordance with the child’s instructions. The child does not have to have a Guardian, according to Rule 16.6 FPR 2010, if the child obtains the court’s permission or is able to instruct a solicitor directly, but the Guardian may still be involved in the proceedings to advise the court on the child’s best interests. If, in any circumstances, the solicitor receives no instructions, then Rule 16.29(5) FPR 2010 requires the solicitor to represent the child in furtherance of the best interests of the child.

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<sup>3</sup> [1985] UKHL 7, [1986] AC 112 <<https://www.bailii.org/uk/cases/UKHL/1985/7.html>>.

<sup>4</sup> *ibid*, at page 252F.

**(2) How does the child participate in Court proceedings? Directly, in front of the judge, or through an intermediary, either the lawyer or another professional? If it is another professional, can you identify it and specify its responsibilities, please?**

Child and Family Court Advisory and Support Service

The primary way in which children participate in family law proceedings is through the Child and Family Court Advisory and Support Service ('Cafcass'). Cafcass employs professionally qualified social work practitioners who have at least three years' post qualifying experience, and who are called Family Court Advisors (FCAs). They work exclusively in the family courts at the court's direction and act independently of all other parties in a case.

Section 12 of the Criminal Justice and Court Service Act 2000 explains that the function of Cafcass is to:

- (a) safeguard and promote the welfare of the children;
- (b) give advice to any court about any application made to it in such proceedings;
- (c) make provision for the children to be represented in such proceedings;
- (d) provide information, advice and other support for the children and their families.

Cafcass's 'Engaging with and seeing children policy' explains that it is important to see children in order to:<sup>5</sup>

- "Inform our view of what is or has been happening to this child
- Inform our analysis of what might happen, the likelihood of this and the seriousness if it did happen
- Inform our overall assessment of risk for the child
- Inform our analysis of how best to safeguard their future welfare
- Inform our understanding of the child's' uniqueness, who they are and how they see themselves"

FCAs have a duty to independently report to the court on what is in the best interests of the child. FCAs can also act as the Children's Guardian when

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<sup>5</sup> Cafcass, 'Engaging with and seeing children policy' (April 2021) <[www.cafcass.gov.uk/about-cafcass/policies/](http://www.cafcass.gov.uk/about-cafcass/policies/)> accessed 28 April 2021.

the child is a party to proceedings. A Children's Guardian, through their representation of the child, will be a party to the proceedings but in all other scenarios an FCA will not be a party.<sup>6</sup>

Pursuant to Section 7 of the Children Act 1989, a court considering any question with respect to a child under the Act may request a welfare report to be prepared by Cafcass or the local authority. Given that a Guardian will typically be appointed in relation to public law proceedings, where they will be representing the child, this power is generally only used in private law proceedings. While the court is not bound to order a report in every case, it is generally good practice for a report to be ordered where the matter remains contested and there are substantive issues for the court to determine.

In the s.7 report, an FCA will write a case analysis for court, "culminating in recommendations aimed at making each child's life better, by working with the important adults or organisations in a child's life, persuading them or negotiating with them to make changes for the child."<sup>7</sup> It is good practice for the court to direct the issues that should be covered by the report, but in general it will outline:

- The child's background;
- The issues in the case;
- The child's wishes and feelings; and
- A summary of the FCA's recommendations.

The FCA will usually have spoken to the child, the parents or any adults who are involved in the matter, including potentially other family members, teachers or health workers. While the FCA has the responsibility to present the child's views to the court, their recommendations will be based on what they think is in the child's best interests.

#### Legal representation

For further details about the role of the Children's Guardian and how children may participate via a lawyer, please see the answer to question (1) above.

#### Directly

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<sup>6</sup> For further discussion of the distinction, see *Re S (A Minor)(Guardian ad Litem/Welfare Officer)* [1993] 1 FLR 110.

<sup>7</sup> Cafcass, 'Operating Framework' (April 2019) <[www.cafcass.gov.uk/about-cafcass/policies/](http://www.cafcass.gov.uk/about-cafcass/policies/)> accessed 28 April 2021, para 1.3.

It is much rarer for the child to participate directly or in front of the judge, but they may participate in the following ways:

- *Giving evidence at a hearing*

The presumption against children giving oral evidence at hearings was removed by *Re W (Children)(Family Proceedings: Evidence)*.<sup>8</sup> The court held that when “considering whether a particular child should be called as a witness, the court will have to weigh two considerations: the advantages that that will bring to the determination of the truth and the damage it may do to the welfare of this or any other child.”<sup>9</sup> Ultimately, the court concluded that the “essential test is whether justice can be done to all the parties without further questioning of the child”.<sup>10</sup> In the majority of cases the child will not be ordered to give evidence at a hearing.

Given the court’s general power to control the evidence at the hearing under Rule 22.1 FPR 2010, hearsay evidence may be permitted in family proceedings. Therefore, it is more common for children’s “Achieving Best Evidence” (ABE) interviews, if one has been carried out, to stand as the child’s evidence.

ABE interviews are interviews governed by the Ministry of Justice’s ‘Achieving Best Evidence in Criminal Proceedings’ guidance, which is used when conducting interviews with vulnerable and child witnesses in the context of possible criminal prosecution.<sup>11</sup> The guidance notes that there are two primary purposes for any video-recorded interview of child witnesses: evidence gathering and to act as their evidence-in-chief.<sup>12</sup> There is a presumption in criminal law proceedings that a child’s evidence-in-chief will be video-recorded.<sup>13</sup> The guidance also encourages cooperation between the police and other relevant authorities, such as children’s services, but the police will always have responsibility for the criminal investigation. The interview does not have to be

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<sup>8</sup> [2010] UKSC 12, [2010] 2 All ER 418 <<https://www.bailii.org/uk/cases/UKSC/2010/12.html>>.

<sup>9</sup> *ibid*, [24].

<sup>10</sup> *ibid*, [30].

<sup>11</sup> Ministry of Justice, ‘Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses, and guidance on using special measures’ (March 2011) <[https://www.cps.gov.uk/sites/default/files/documents/legal\\_guidance/best\\_evidence\\_in\\_criminal\\_proceedings.pdf](https://www.cps.gov.uk/sites/default/files/documents/legal_guidance/best_evidence_in_criminal_proceedings.pdf)> accessed 13 May 2021.

<sup>12</sup> *ibid*, para 2.18.

<sup>13</sup> Youth Justice and Criminal Evidence Act 1999, s 21(3).

carried out by a police officer, although it may be, but can also be carried out by a social worker. The decision as to who should lead the interview will depend on “who is able to establish the best rapport with the child”.<sup>14</sup> The guidance provides a four-phase structure to an interview (Establishing Rapport, Free Narrative Account, Questioning, and Closing the Interview) and advises on the proper questioning technique when interviewing a child. These interviews are therefore a “near-contemporaneous account, given in response to open-ended questioning, in relaxed and comfortable surroundings” and are “considered inherently more likely to be reliable than an account elicited by formal questioning in the stressful surroundings of a court room months if not years after the event.”<sup>15</sup>

Consequently, children in family proceedings would not have to give live evidence at a hearing, unless it was deemed necessary for the child to be questioned.

- *A meeting with the judge / written correspondence between the judge and the child*

The purpose of meeting a judge is not to gather evidence, but instead for children to “satisfy themselves that the Judge has understood their wishes and feelings and to understand the nature of the Judge’s task”.<sup>16</sup> Therefore, the judge should explain that the meeting is not confidential and the other parties in the case will be informed of everything that is said.<sup>17</sup> The judge should also reiterate that they are the decision-maker and the outcome is never the responsibility of the child.<sup>18</sup> As this meeting is primarily for the benefit of the child, the judge will not agree to it where it would be detrimental to the child’s welfare. If this occurs, the judge “should consider providing a brief explanation in writing for the child”.<sup>19</sup>

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<sup>14</sup> *ibid*, para 2.22.

<sup>15</sup> *Re W (Children)* (n 8) [10].

<sup>16</sup> Family Justice Council, ‘Guidelines for Judges Meeting Children who are subject to Family Proceedings’ (April 2010) <[www.judiciary.uk/wp-content/uploads/JCO/Documents/FJC/voc/Guidelines\\_+Judges\\_seeing\\_+Children.pdf](http://www.judiciary.uk/wp-content/uploads/JCO/Documents/FJC/voc/Guidelines_+Judges_seeing_+Children.pdf)> accessed 28 April 2021.

<sup>17</sup> *ibid*.

<sup>18</sup> *ibid*.

<sup>19</sup> *ibid*.



Judges will never see a child alone but will usually see a child in the presence of that Child's Guardian or the FCA allocated to the case.

Cafcass officers also support children to write letters to judge, as they believe that a "two-way process is more child-inclusive".<sup>20</sup>

**(3) If the participation is direct, is it voluntary? In this case, who consults the child if and how he/she wants to participate? Are there any institutional protocols on how to do that? Are there any informative materials specially prepared for children about its participation? Can you share it with our members?**

If direct participation is being considered, then the child will not usually be required to participate in this manner if they do not want to. In relation to meeting with the judge directly, this will in most case be considered only once the child expresses a wish to do so. Further, in relation to giving evidence at a hearing *Re W (Children)* confirmed that "an unwilling child should rarely, if ever, be obliged to give evidence."<sup>21</sup>

FCAs have the responsibility to consult the child about if and how they wish to participate in the case. While there is not a specific institutional protocol, Cafcass provides a list of the resources which they use when speaking to children (<https://www.cafcass.gov.uk/grown-ups/professionals/resources-for-professionals/>), which provides an understanding of how they approach discussing different topics with children.

Cafcass also has a section of their website dedicated to explaining Cafcass's role to children, which includes some discussion of how children can participate in the proceedings (<https://www.cafcass.gov.uk/young-people/>).

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<sup>20</sup> Cafcass, 'Operating Framework' (n 7) para 2.12.

<sup>21</sup> *Re W (Children)* (n 8) [26].

**(4) If the child does not want to participate directly, what alternatives are there in your country to ensure indirect participation? If there are doubts about what the child really wants or if his/her opinion is really expressed, what's the solution in your country?**

As explained above, indirect participation is the main way in which children are involved in proceedings as their wishes and feelings will be conveyed in the welfare report written by a Cafcass officer or alternatively through separate representation.

#### Doubts as to the child's opinion

Cafcass has identified a number of circumstances when the child may express a view which may not be in accordance with what the child really wants. Cafcass has put together the 'Assessing children's and young people's wishes and feelings guidance', which advises FCAs on how to approach the issue of children's views.<sup>22</sup> In particular, Cafcass notes that children may express strong emotional ties to parents who have abused them, children may experience loyalty conflicts or other conscious or unconscious pressures as well as being subject to alienating behaviours where their thoughts, wishes and feelings may have been influenced or distorted. The guidance states that "what such cases demonstrate is the need for a careful assessment of children's development and relationships to be considered alongside the consultation with children themselves, to gain an accurate picture of the child's world and their wishes and feelings about it".<sup>23</sup> Even if their views have been influenced, this will "provide vital insight into their experiences and needs" and this "needs to be balanced with a full understanding of their developmental needs and best interests."<sup>24</sup>

There may be instances when it is unclear what the child wants, but Cafcass workers use a number of techniques to try to encourage children to express their views in a way that they are comfortable with. This may, for example, involve observing younger or non-verbal children drawing, playing or interacting with family members. Further, there is no obligation on the child to engage with Cafcass or the proceedings if they do not wish to. Indeed, there can

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<sup>22</sup> Cafcass, 'Assessing Children's and young people's wishes and feelings guidance' <[www.cafcass.gov.uk/grown-ups/professionals/ciaf/resources-for-assessing-child-refusal-resistance/](http://www.cafcass.gov.uk/grown-ups/professionals/ciaf/resources-for-assessing-child-refusal-resistance/)> accessed 28 April 2021.

<sup>23</sup> *ibid.*

<sup>24</sup> *ibid.*

be instances where a Cafcass officer will decide not to speak to the child if they think to do so would be potentially damaging for the child. For instance, in *Re L (A Child)* the child was only able to speak negatively of his father, despite having a good relationship with him when they were together.<sup>25</sup> The child showed signs that he was “exquisitely torn” between his mother and father.<sup>26</sup> The Cafcass officer felt that to ask the child in this situation for his wishes and feelings would be to require him to make a choice that would be “emotionally harmful”.<sup>27</sup> The court agreed that the Cafcass officer had acted appropriately. It was held that “actions speak louder than words” and the Cafcass officer’s observation that the child had a good relationship with both of his parents but could only speak negatively of his father spoke “volumes” and that therefore the child’s “voice...was heard loud and clear by the Judge”.<sup>28</sup>

The above demonstrates the clear attempts made by Cafcass and the court to ensure that children’s voices are heard as best they can in all circumstances, bearing in mind the overarching and paramount principle of the best interests of the child.

**(5) In cases of direct participation, in what procedural phase does it take place? Is there a quantitative limit on consultation with the child? The child participates in this delimitation? How? When the opportunity to participate in the child is offered, what is the extent of options available to the child? I mean, should the child be limited to the aspects considered important by the adults or can the child bring other questions and possibilities?**

#### Procedural phase

The child’s representatives and the other parties need to put forward arguments as to whether any proposed direct participation would be appropriate and in the child’s best interests. The court in *Re W (Children)* held that the issue of children giving evidence “should be addressed at the case management conference in care proceedings or the earliest directions hearing in private law

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<sup>25</sup> [2019] EWHC 867 (Fam), [2019] All ER (D) 66  
<<https://www.bailii.org/ew/cases/EWHC/Fam/2019/867.html>>.

<sup>26</sup> *ibid*, [65].

<sup>27</sup> *ibid*, [65].

<sup>28</sup> *ibid*, [68].

proceedings”.<sup>29</sup> In terms of the child meeting the judge, the guidelines do not state when this issue should be raised but case law suggests that it should be at the Issues Resolution Hearing in public law proceedings<sup>30</sup> and therefore likely to be the equivalent stage in private law proceedings (the Dispute Resolution Appointment). However, it is also acknowledged that children may change their mind about wishing to see the judge and the timings of when the issue is raised should not be too prescriptive.<sup>31</sup>

If the child is to give evidence, then this is likely to take place at the fact-finding or final hearing, as necessary. In terms of the child meeting the judge, they may do so at any stage of the proceedings or even after it has concluded.<sup>32</sup> Similarly, the child may write to the judge at any time.

#### Consultation with the child

The Cafcass officer should discuss with the child how they wish to be involved in the proceedings and should present the child with all the options available to them. They will be told that their preference for how they want to be involved in the proceedings may not necessarily be approved by the court if it is not in their best interests. At the same time, the child can state that they are unwilling to participate in the proceedings in certain ways, including talking to a Cafcass officer, and this should be respected.

While there should be a minimum of one face to face, in person meeting during the life of proceedings,<sup>33</sup> there is no limit on how often Cafcass officers can speak to the child. This should be tailored to the needs of the specific child.

It is advised that, when the same occurs, a child’s meeting with the judge should last no longer than approximately 20 minutes.<sup>34</sup> Finally, in circumstances where a child is to give oral evidence, the court should consider the witness timetable so as to minimise the child’s time at court.<sup>35</sup>

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<sup>29</sup> *Re W (Children)* (n 8) [31].

<sup>30</sup> *Brent London Borough Council v D and others* [2017] EWHC 2452 (Fam), [2017] 4 WLR 193 <<https://www.bailii.org/ew/cases/EWHC/Fam/2017/2452.html>>, [50].

<sup>31</sup> *ibid*, [49].

<sup>32</sup> Family Justice Council, ‘Guidelines for Judges Meeting Children’ (n 16).

<sup>33</sup> Cafcass, ‘Engaging with and Seeing Children Policy’ (n 5).

<sup>34</sup> *Re KP (A Child)* [2014] EWCA Civ 554, [2014] 1 WLR 4326 <<https://www.bailii.org/ew/cases/EWCA/Civ/2014/554.html>>, [56].

<sup>35</sup> Working Party of the Family Justice Council, ‘Guidelines in relation to children giving evidence in family proceedings’ (December 2011) <<https://www.judiciary.uk/related-offices-and-bodies/advisory-bodies/fjc/guidance/guidelines-in-relation-to-children-giving-evidence-in-family-proceedings/>> accessed 28 April 2021, para 14.

### Nature of involvement

When the child is giving evidence at a hearing, the questions will be tailored to the issues which the parties consider to be the important and relevant aspects of the case (for further details see question (8)). Nevertheless, the child should have an opportunity to raise any matters they think are relevant. The court in *Re J (Child Giving Evidence)*<sup>36</sup> acknowledged that part of the process was also to enable children to feel as though they have been heard: in that case, the failure to allow the 17 year old child to testify would result in a “profound sense of injustice” and would be “far more harmful to him to feel he has been shut out of the proceedings”.<sup>37</sup>

When the child has a meeting with the judge, the Guidelines clearly state that the purpose of the meeting is not to gather evidence but instead for the child “to be reassured that the judge has understood him/her”.<sup>38</sup> This means that the child is free to ask the judge any questions that they may have about the process and discuss anything that they wish about the case. The court in *Re KP (A Child)* states that “the judge’s role should be largely that of a passive recipient of whatever communication the young person wishes to transmit”.<sup>39</sup> If the child then “volunteers evidence that would or might be relevant to the outcome of the proceedings, the judge should report back to the parties and determine whether, and if so how, that evidence should be adduced”.<sup>40</sup>

**(6) How is the courtroom where participation takes place? And the formalities of the child's participation in front of the judge? Is the participation taking place in the regular courtroom or in the office? Who is present in the courtroom/cabinet? How are the people dressed? Can you present a photo of such an atmosphere?**

### Meeting the judge

Where the child is to have a meeting with the judge, it is for the judge to decide:<sup>41</sup>

- The purpose and proposed content of the meeting

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<sup>36</sup> [2010] EWHC 962 (Fam), [2010] 2 FLR 1080.

<sup>37</sup> *ibid*, [35].

<sup>38</sup> Family Justice Council, ‘Guidelines for Judges Meeting Children’ (n 16) para 5.

<sup>39</sup> (n 34) [56].

<sup>40</sup> *ibid*.

<sup>41</sup> See Family Justice Council, ‘Guidelines for Judges Meeting Children’ (n 16) para 5.

- Where the meeting will take place
- Who shall attend during the meeting – although a judge should never see a child alone
- By whom a minute of the meeting shall be taken, how that minute is to be approved by the judge and how it is to be communicated to the other parties

This means that there is no specific room in which the meeting will take place, but it can be held in either the courtroom or the judge's office. The guidelines clearly state that the child should not be seen by the judge alone, but does not specify who else should be in the room. In most cases, the Cafcass officer will be present as well as potentially a member of court staff to take a note. Usually, none of the other parties or their legal representatives will attend the meeting, but the child must be made aware that the hearing is not confidential.

Given that the meeting is not for evidence gathering purposes, there are few or no formalities and instead it will be more of an informal discussion between the child and judge.

#### Giving evidence

It has been accepted that standard procedures for testifying at a hearing should be adapted to meet the needs of the child and to ensure that they can give the best evidence possible.<sup>42</sup> While courts are conscious of individuals' rights under Article 6 ECHR to a fair trial, the prevailing viewpoint is that it is in the interests of justice and fair to all parties to ensure that vulnerable witnesses such as children are supported to give high quality evidence and that this cannot be achieved using traditional adversarial, cross-examination.<sup>43</sup>

Rule 3A.8 FPR 2010 details the special measures that can be used to assist children when giving evidence:

- (a) prevent a party or witness from seeing another party or witness;
- (b) allow a party or witness to participate in hearings and give evidence by live link;
- (c) provide for a party or witness to use a device to help communicate;

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<sup>42</sup> *Re W (Children)* (n 8).

<sup>43</sup> *ibid.*

- (d) provide for a party or witness to participate in proceedings with the assistance of an intermediary;
- (e) provide for a party or witness to be questioned in court with the assistance of an intermediary; or
- (f) do anything else which is set out in Practice Direction 3AA.

Paragraph 4.2 of Practice Direction 3AA states: “In addition, the court may use its general case management powers as it considers appropriate to facilitate the party’s participation. For example, the court may decide to make directions in relation to matters such as the structure and the timing of the hearing, the formality of language to be used in the court and whether (if facilities allow for it) the parties should be enabled to enter the court building through different routes and use different waiting areas.”

This highlights that the court is often willing to accommodate smaller adjustments such as allowing more frequent breaks or for the child to have a stress toy or comfort aid to help alleviate anxiety. There is also emphasis on trying to prevent court from being a daunting experience, for instance children may meet judges to help build rapport and barristers should introduce themselves to the child.<sup>44</sup>

Given the above, there are two primary locations where children will give evidence.

Firstly, the child can give evidence in the regular courtroom. The courtroom may be adapted using special measures, for example the use of screens to prevent them from seeing particular individuals. There should be a familiarisation visit to the court with a demonstration of any special measures.<sup>45</sup> The court will have to decide whether to limit the number of people in the courtroom, but generally all the parties and their representatives, the judge, court staff, neutral/emotional support person<sup>46</sup> and, if necessary, an intermediary for the child will be present.

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<sup>44</sup> Working Party of the Family Justice Council, ‘Guidelines in relation to children giving evidence’ (n 35) para 18.

<sup>45</sup> *ibid*, para 15.

<sup>46</sup> *ibid*.

Secondly, the child can give evidence via live link, as permitted by Rule 3A.8(1)(b) FPR 2010. This will mean that the child can be in a separate room (either inside the same court or elsewhere), but their evidence is relayed live into the courtroom via video. Children are entitled to practise speaking and listening on the live link to familiarise themselves with it,<sup>47</sup> but a court familiarisation visit may also be helpful.<sup>48</sup> Judges and barristers who are questioning the child may be in the live link room as well, if the child struggles to communicate across the live link. In general, however, there should not be too many adults in the room at any one time. As such, anyone that does not need to be there should be in the courtroom, watching the questioning via the video.<sup>49</sup> Also present in the room may be a neutral/emotional support person and, if necessary, an intermediary as well as a member of court staff to manage the link and liaise with the court.<sup>50</sup>

### Dress code

In all family proceedings, judges and barristers are expected to wear business attire, being dark, smart office attire. There is no prescriptive dress code for other participants in the proceedings, although it is expected that they would be similarly dressed.

### Courtroom

The below photographs are of a typical courtroom for family law proceedings.

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<sup>47</sup> Ministry of Justice, 'The Witness Charter: Standards of Care for Witnesses in the Criminal Justice System' (December 2013)

<[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/264627/witness-charter-nov13.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/264627/witness-charter-nov13.pdf)> accessed 13 May 2021, standard 11.

<sup>48</sup> Judicial College, 'Equal Treatment Bench Book' (February 2021) <[www.judiciary.uk/wp-content/uploads/2021/02/Equal-Treatment-Bench-Book-February-2021-1.pdf](http://www.judiciary.uk/wp-content/uploads/2021/02/Equal-Treatment-Bench-Book-February-2021-1.pdf)> accessed 28 April 2021, Chapter 2, para 81.

<sup>49</sup> *ibid*, Chapter 2, para 86.

<sup>50</sup> *ibid*, Chapter 2, para 84.





**(7) Is there a protocol on how to address questions to the child in family and child protection issues? Who developed it? Can you share it with our members? If there is not, how do you do it?**

There is a keen appreciation of that fact that questioning will need to be tailored to the needs of the child so as to “enable the child to give the best

evidence of which he or she is capable”.<sup>51</sup> Baroness Hale in *Re W (Children)* stated that the “family court would have to be astute both to protect the child from harmful and destructive effects of questioning and also to evaluate the answers in the light of the child’s stage of development”.<sup>52</sup>

The Working Party of the Family Justice Council produced the ‘Guidelines in relation to children giving evidence in family proceedings’. It states that questioning should:<sup>53</sup>

- a. be at the child’s pace and consistent with their understanding;
- b. use simple common words and phrases;
- c. repeat names and places frequently;
- d. ask one short question (one idea) at a time;
- e. let the child know the subject of the question;
- f. follow a structured approach, signposting the subject;
- g. avoid negatives;
- h. avoid repetition;
- i. avoid suggestion or leading, including ‘tag’ questions;
- j. avoid a criminal or ‘Old Bailey’ style cross examination;
- k. avoid ‘do you remember’ questions;
- l. avoid restricted choice questions;
- m. be slow and allow enough time to answer;
- n. check child’s understanding;
- o. test the evidence not trick the witness;
- p. take into account and check the child’s level of understanding;
- q. not assume the child understands;
- r. be alert to literal interpretation;
- s. take care with times, numbers and frequency;
- t. avoid asking the child to demonstrate intimate touching on his or her own body (if such a question is essential, an alternative method, such as pointing to a body outline, should be agreed beforehand).

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<sup>51</sup> *R v Barker* [2010] EWCA Crim 4, [2010] All ER (D) 126 (Jan), <<https://www.bailii.org/ew/cases/EWCA/Crim/2010/4.html>>, [42].

<sup>52</sup> *Re W (Children)* (n 8) [27].

<sup>53</sup> Working Party of the Family Justice Council, ‘Guidelines in relation to children giving evidence’ (n 35) para 9.

The issue of how to question children is also considered, and many of the above points reiterated, in a number of other guidance materials, including:

- Judicial College, *Equal Treatment Bent Book* (February 2021), Chapter 2
- Advocacy Training Council, *Raising the Bar* (2011), Chapter 4
- The Advocate’s Gateway, *Vulnerable witness and parties in family courts* (September 2019)
- Ministry of Justice, *Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses, and guidance on using special measures* (March 2011)

In particular, Paragraph 5.7 of Practice Direction 3AA states that all advocates are “expected to be familiar with and to use the techniques employed by the toolkits and approach of the Advocacy Training Council.” Their toolkits can be found at [www.theadvocatesgateway.org/toolkits](http://www.theadvocatesgateway.org/toolkits).

**(8) Who is allowed to ask questions the child? Are the questions asked directly by the party or are they intermediated by the judge? What are the concerns adopted by the judge to avoid questions that may embarrass or violate the rights of the child? How does the debate unfold around the regularity of questions if the child is present in the atmosphere?**

Who is allowed to ask questions?

When the child is giving evidence, any of the parties or their representatives may ask the child questions. However, the Working Party of the Family Justice Council guidelines clearly state that a child should never be questioned directly by a litigant in person who is an alleged perpetrator.<sup>54</sup> In those instances, another party's barrister or the judge may ask the questions which the litigant in person or alleged perpetrator wishes to put to the child.

One of the special measures available to child is providing them with the assistance of an intermediary. An intermediary is a specialist in assessing communication needs and pursuant to Rule 3A.1 FPR 2010 their function is to:

- (a) communicate questions put to a witness or party;
- (b) communicate to any person asking such questions the answers given by the witness or party in reply to them; and
- (c) explain such questions or answers so far as is necessary to enable them to be understood by the witness or party or by the person asking such questions.

Therefore, while an intermediary will not be questioning the child directly, they may help reframe or amend questions put to the child to ensure that the child can properly engage in the questioning and have a clear understanding of what is being asked of them.

Judicial control over questioning

Once it has been decided that a child will give evidence, Paragraph 5.2 of Practice Direction 3AA states that there shall be a Ground Rules Hearing prior to the hearing at which the evidence will be heard.

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<sup>54</sup> *ibid*, para 17.

The Equal Treatment Bench Book explains that at a Ground Rules Hearing the court should discuss the following:<sup>55</sup>

- The general care of the witness
- If, when and where the witness is to be shown their video evidence
- Where, when and how the parties (and judge if identified) will introduce themselves to the witness
- Any communication aids which may be needed
- Length of questioning and frequency of breaks
- The manner, techniques and type of questioning

Considering the manner and types of questions at this stage ought to prevent the child from having to answer any questions which may embarrass them or violate their rights. As outlined above at question (7), there is detailed guidance about the manner in which the questioning of children should take place. For instance, barristers are advised to be led by the child's choice of vocabulary in relation to intimate body parts and to avoid asking the child to demonstrate intimate touching on his or her own body, as an alternative they should point to a body outline.

This should be further supported by representatives disclosing their proposed questions in writing to the judge in advance, which means that they can then be approved or amended. Ultimately, it is the court's responsibility to "ensure that the child gives the best possible evidence".<sup>56</sup> Therefore, "judges should be prepared to intervene if the questioning is inappropriate or unnecessary"<sup>57</sup> and "construct developmentally appropriate questions if advocates fail to do so".<sup>58</sup> Where judges are having to ask questions, the court in *PS v BP* emphasised that the judge should never feel constrained to ask every question the lay party has requested, instead the judge will have to evaluate the relevance and proportionality of each question.<sup>59</sup> That case also warned that judicial questioning

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<sup>55</sup> Judicial College, 'Equal Treatment Bench Book' (n 48) Chapter 2, para 143.

<sup>56</sup> Working Party of the Family Justice Council 'Guidelines in relation to children giving evidence' (n 35) para 21.

<sup>57</sup> *ibid.*

<sup>58</sup> Judicial College, 'Equal Treatment Bench Book' (n 48) Chapter 2, para 144.

<sup>59</sup> [2018] EWHC 1987 (Fam), [2018] 4 WLR 119, <<https://www.bailii.org/ew/cases/EWHC/Fam/2018/1987.html>>.

cannot be formulaic and judges must craft questions that respond to the answers given.<sup>60</sup>

The Ground Rules Hearing should take the form of a discussion and any representations can be made on behalf of the child by their legal representatives, Cafcass officer and/or intermediary. This means that any debate regarding the questions to be posed to the child will take place in their absence. Further, the pre-approved questions should minimise any issues arising at the trial while the child is giving evidence and, if any issues do arise, the judge can intervene in order to rephrase or prohibit a question.

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<sup>60</sup> *ibid*, [34].

**(9) Is the decision taken in front of the child? If the child wants to, can he/she stay in the room?**

Pursuant to Rule 12.14(2) FPR 2010, a party to proceedings must attend hearings but if the party is a represented child, then the proceedings will take place in their absence if it is in their interests “having regard to the matters to be discussed or the evidence likely to be given” and the child is represented by a Children’s Guardian or solicitor [Rule 12.14(3)].

In *A City Council v T*, the court held that “[i]t can no longer be presumed that attendance in court is likely to be harmful: if this is so, thought must surely first be given to adapting court procedures to meet children’s needs before deciding to exclude them. Nor should children have to prove that their attendance at proceedings about them is in their interests. The starting point should be an open evaluation of the consequences of attendance or non-attendance in terms of the welfare of the child and the court’s ability to manage its proceedings fairly.”<sup>61</sup>

The judge should consider the following factors:<sup>62</sup>

- The age and level of understanding of the child
- The nature and strength of the child’s wishes
- The child’s emotional and psychological state
- The effect of influence from others
- The matters to be discussed
- The evidence to be given
- The child’s behaviour
- Practical and logistical considerations
- Integrity of the proceedings

Rule 12.14(4) FPR 2010 requires the court to also give the Children’s Guardian, the child’s solicitor and the child (if of sufficient understanding) the opportunity to make representation about the child’s attendance at a court hearing.

Jackson J in *A City Council v T* summarised that “[t]he above evaluation may well lead to the conclusion that a child of sufficient understanding who wants

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<sup>61</sup> [2011] EWHC 1082 (Fam), [2011] All ER (D) 217 (May)  
<<https://www.bailii.org/ew/cases/EWHC/Fam/2011/1082.html>>, [33].

<sup>62</sup> See *ibid*, [34].

to attend an important hearing about his or her future should be allowed to do so for at least part of the time, unless there are clear reasons justifying refusal. This situation will most often be found in, but is not limited to, public law proceedings. In cases where attendance at the hearing itself is not thought appropriate, a meeting with the judge is a possible alternative.”<sup>63</sup>

**(10) Are there any special rules about the consideration of the child's opinion in the context of the reasons for the decision? What's the weight given to the child's opinion? Is it the age a criteria? Which one? If the child's degree of maturity is taken into account, how is this maturity assessed? By whom? What are the criteria considered?**

Under Section 1(3)(a) of the Children Act 1989 the court shall have regard to “the ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding)” when determining any question in respect of the child's upbringing. However, the child's views are but one of the factors for judges to have regard to in the welfare checklist in Section 1(3), which also includes the following:

- The child's physical, emotional and educational needs
- Likely effect on the child of any change in circumstances
- Age, sex and background of the child
- The harm the child has suffered or at risk of suffering
- Capacity of adults to meet the child's needs
- Range of powers available to the court

The child's views are therefore just one factor to be balanced among the other considerations and there is no statutory guidance on the weight that should be accorded to the child's views in particular. It will instead depend on the circumstances of each case. Generally, it is advised that the judge should go through each of the factors, which will ensure specific consideration of the child's wishes and feelings in the judgment.

With regards to the age of the child, there is no specific age when the child's views will be given greater weight. There is, however, an appreciation that the older the child is, the less likely it will be in the child's best interests to override

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<sup>63</sup> *ibid*, [35].



their wishes and order them to do something they do not want to do. For example, in *Re S (Contact: Children's Views)* the court held that ordering the children in the case to have contact with their father would be "invariably counter-productive".<sup>64</sup> However, this is in no sense a rebuttable presumption in favour of complying with older children's views.<sup>65</sup>

As explained above, the court takes a functional approach to children's understanding and therefore there is less of a focus on the child's age and more on their understanding (see the discussion of *Gillick* competence at question (1)). This is a qualitative judgement that a judge has to make in light of the evidence in front of them, including any assessment made by the Cafcass officer. Cafcass officers will also consider the welfare checklist in their reports to the court. In the report, the FCA, using their expert knowledge as a social worker, should advise the court on the weight that should be attached to the child's wishes and feelings and their recommendation to the court may ultimately be that the child's expressed views are not in the child's best interests.

In *Re M (Children)(Abduction)*, Baroness Hale stated:

*"These days, and especially in the light of Article 12 of the United Nations Convention on the Rights of the Child, courts increasingly consider it appropriate to take account of a child's views. Taking account does not mean that those views are always determinative or even presumptively so. Once the discretion comes into play, the court may have to consider the nature and strength of the child's objections, the extent to which they are 'authentically her own' or the product of the influence of the abducting parent, the extent to which they coincide or are at odds with other considerations which are relevant to her welfare, as well as the general [Hague] Convention considerations referred to earlier. The older the child, the greater the weight that her objections are likely to carry. But that is far from saying that the child's objections should only prevail in the most exceptional circumstances".*<sup>66</sup>

Although this case related to international abduction, it demonstrates more broadly some of factors judges may have regard to when considering children's

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<sup>64</sup> [2002] EWHC 540 (Fam), [2002] 1 FLR 1156

<<https://www.bailii.org/ew/cases/EWHC/Fam/2002/540.html>>, [110].

<sup>65</sup> *Re P-S (Children)(Care Proceedings: Right to give evidence)* [2013] EWCA Civ 223, [2013] 1 WLR 3831,

<<https://www.bailii.org/ew/cases/EWCA/Civ/2013/223.html>>.

<sup>66</sup> [2007] UKHL 55, [2008] 1 AC 1288 <<https://www.bailii.org/uk/cases/UKHL/2007/55.html>>, [46].

maturity and wishes and feelings in all family law proceedings. While not clearly defined, the judge is required to undertake a careful balancing process, bearing in mind the totality of the evidence in front of them and any expert opinion of the Cafcass officer or any other professional. Lady Justice Black discouraged “an over-prescriptive or over-intellectualised approach” given the “huge experience” judges and Cafcass officers build up when regularly dealing with such cases.<sup>67</sup>

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<sup>67</sup> *Re M (Children)(Republic of Ireland)(Child’s Objections)(Joinder of Children as parties to appeal)* [2015] EWCA Civ 26, [2015] 3 WLR 803 <<https://www.bailii.org/ew/cases/EWCA/Civ/2015/26.html>>, [76] - [77].

**(11) How is the decision communicated to the child? Are there any protocols for this communication? If the child has doubts or questions, is he/she allowed to speak with the judge? How do you do that?**

Usually, the decision will be communicated to the child via the Cafcass officer or their representative. Typically, they will “distil and explain the most relevant aspects of court decisions and consider follow-up options, drawing on their professional training and understanding of the child’s personal characteristics and situations”.<sup>68</sup> Also, if the child has a meeting with the judge while the proceedings are ongoing, judges may use this as an opportunity to discuss with the child how their decision will be communicated.<sup>69</sup>

There have been a handful of cases where judges have written “child-friendly judgments”, including, for example, *Re A: Letter to a Young Person* where the judge gave his final decision to the form of a letter to the child which was read to the parents and given to the child’s solicitor to pass onto the child.<sup>70</sup> However, this is rare and there are no protocols relating to when or how child-friendly judgments should be written.

Cafcass supports the idea of judges writing short child-friendly judgments or otherwise writing letters to children about the outcome of the case.<sup>71</sup> The Family Justice Council’s guidelines for meeting judges envisages that there will be instances where a child will meet the judge after a hearing has concluded, if this is considered to be appropriate. This may provide an opportunity for the child to raise any questions they may have about the decision reached by the judge. The procedure for meeting the judge is the same as if it were taking place while the proceedings were ongoing.

**(12) Does the child have the right to appeal the decision?**

Appeals within the family court and appeals to a High Court Judge are governed by Part 30 FPR 2010. However, appeals relating to public law proceedings are expressly excluded from this Rule and Section 31K of the Matrimonial and Family Proceedings Act 1984 confirms that these appeals will

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<sup>68</sup> Helen Stalford and Kathryn Hollingsworth, “‘This Case is about you and your future’: Towards Judgments for Children’ (2020) 83 *Modern Law Review* 1030  
<<https://onlinelibrary.wiley.com/doi/full/10.1111/1468-2230.12536>> accessed 13 May 2021, 1038.

<sup>69</sup> Family Justice Council ‘Guidelines for Judges Meeting Children’ (n 16).

<sup>70</sup> [2017] EWFC 48, [2017] All ER (D) 200 (Jul)  
<<https://www.bailii.org/ew/cases/EWFC/HCI/2017/48.html>>.

<sup>71</sup> Cafcass, ‘Operating framework’ (n 7) para 2.12.

instead go to the Court of Appeal. Appeals to the Court of Appeal are governed by Part 52 of the Civil Procedure Rules (CPR). Part 30 FPR 2010 closely mirrors Part 52 CPR, so there is a great deal of similarity between these two regimes.

Under both the FPR and CPR, permission is required in order to appeal unless it is an appeal against a committal order, a secure accommodation order or a refusal to grant habeas corpus for the release in relation to a minor (Rule 30.3(2) FPR 2010; CPR 52.3(1)). Paragraph 2.1 of Practice Direction 30A has a further exception for decisions made by a bench of two or three lay magistrates or a lay justice. Where permission is needed, it will only be granted where the court considers that the appeal would have a real prospect of success or there is some other compelling reason why the appeal should be heard (Rule 30.3(7) FPR 2010; CPR 52.6(1)).

An appeal may be brought by an appellant or a respondent. An appellant is a person who brings or seeks to bring an appeal (Rule 30.1(3) FPR 2010; CPR 52.1(3)(d)). A respondent is a person other than the appellant who was a party to the proceedings in the lower court and who is affected by the appeal and permitted by the court to be party to the appeal (Rule 30.1(3) FPR 2010; CPR 52.1(3)(e)).

Therefore, if the child is a party to the proceedings, then they will be able to appeal a decision as any other party would be able to. A child, however, is also able to appeal the judge's decision not to make them a party to the proceedings.<sup>72</sup>

Further, the word 'appellant' has been given a wide reading, such that a child may be permitted to bring their own appeal, even though they were not a party in the court below, if the appeal would have a real prospect of success or that there is some other compelling reason why the appeal should be heard.<sup>73</sup> Further, the court in *Re W (A Child)* noted that "where it is established that an

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<sup>72</sup> *Re LC (Children)(Abduction: Habitual residence: State of mind of child)* [2014] UKSC 1, [2014] 1 All ER 1181 <<https://www.bailii.org/uk/cases/UKSC/2014/1.html>>.

<sup>73</sup> *George Wimpey UK Ltd v Tewkesbury Borough Council* [2008] EWCA Civ 12, [2008] 1 WLR 1649 <<https://www.bailii.org/ew/cases/EWCA/Civ/2008/12.html>>.

individual's rights under ECHR, Art 8 have been breached by the outcome of the proceedings in the lower court, then this court has a duty under [Human Rights Act 1998], s 3 to read down s 31K [of the Matrimonial and Family Proceedings Act 1984] and the court rules in such a manner as to afford that individual a right of appeal".<sup>74</sup>

## Resources

Advocacy Training Council, 'Raising the Bar' (2011) <<https://www.icca.ac.uk/wp-content/uploads/2019/07/Raising-the-Bar.pdf>> accessed 28 April 2021

Cafcass, 'Assessing Children's and young people's wishes and feelings guidance' <[www.cafcass.gov.uk/grown-ups/professionals/ciaf/resources-for-assessing-child-refusal-resistance/](http://www.cafcass.gov.uk/grown-ups/professionals/ciaf/resources-for-assessing-child-refusal-resistance/)> accessed 28 April 2021

Cafcass, 'Engaging with and seeing children policy' (April 2021) <[www.cafcass.gov.uk/about-cafcass/policies/](http://www.cafcass.gov.uk/about-cafcass/policies/)> accessed 28 April 2021

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<sup>74</sup> [2016] EWCA Civ 1140, [2017] 1 WLR 2415 <<https://www.bailii.org/ew/cases/EWCA/Civ/2016/1140.html>>, [42].

content/uploads/JCO/Documents/FJC/voc/Guidelines\_+Judges\_seeing\_+Children.pdf> accessed 28 April 2021

Judicial College, 'Equal Treatment Bench Book' (February 2021) <[www.judiciary.uk/wp-content/uploads/2021/02/Equal-Treatment-Bench-Book-February-2021-1.pdf](http://www.judiciary.uk/wp-content/uploads/2021/02/Equal-Treatment-Bench-Book-February-2021-1.pdf)> accessed 28 April 2021

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Working Party of the Family Justice Council, 'Guidelines in relation to children giving evidence in family proceedings' (December 2011) <<https://www.judiciary.uk/related-offices-and-bodies/advisory->

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### **Table of Legislation and Practice Directions**

Children Act 1989

Civil Procedure Rules

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Matrimonial and Family Act 1984

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Practice Direction 3AA – Vulnerable Persons: Participation in Proceedings and Giving Evidence

Practice Direction 16A – Representation of Children

Practice Direction 30A – Appeals

### **Table of Cases**

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<<https://www.bailii.org/uk/cases/UKHL/1985/7.html>>

*Mabon v Mabon* [2005] EWCA Civ 634, [2005] 3 WLR 460  
<<https://www.bailii.org/ew/cases/EWCA/Civ/2005/634.html>>

*PS v BP* [2018] EWHC 1987 (Fam), [2018] 4 WLR 119  
<<https://www.bailii.org/ew/cases/EWHC/Fam/2018/1987.html>>

*Re A: Letter to a Young Person* [2017] EWFC 48, [2017] All ER (D) 200 (Jul)  
<<https://www.bailii.org/ew/cases/EWFC/H CJ/2017/48.html>>

*Re J (Child Giving Evidence)* [2010] EWHC 962 (Fam), [2010] 2 FLR 1080

*Re KP (A Child)* [2014] EWCA Civ 554, [2014] 1 WLR 4326  
<<https://www.bailii.org/ew/cases/EWCA/Civ/2014/554.html>>

*Re L (A Child)* [2019] EWHC 867 (Fam), [2019] All ER (D) 66  
<<https://www.bailii.org/ew/cases/EWHC/Fam/2019/867.html>>

*Re LC (Children)(Abduction: Habitual residence: State of mind of child)*  
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<<https://www.bailii.org/ew/cases/EWCA/Civ/2015/26.html>>

*Re P-S (Children)(Care Proceedings: Right to give evidence)* [2013] EWCA Civ 223, [2013] 1 WLR 3831  
<<https://www.bailii.org/ew/cases/EWCA/Civ/2013/223.html>>

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*Re S (A Minor)(Guardian ad Litem/Welfare Officer)* [1993] 1 FLR 110

*Re S (Contact: Children's Views)* [2002] EWHC 540 (Fam), [2002] 1 FLR 1156, <<https://www.bailii.org/ew/cases/EWHC/Fam/2002/540.html>>

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