# Towards a Family Justice Observatory: Main findings report of the international scoping exercise

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# Acknowledgements

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## 1. Background

This report forms part of a scoping study to inform the development of a proposed new family justice observatory for England and Wales, commissioned by the Nuffield Foundation. The aim of the study is to better understand the current use of research evidence in family justice systems. Although the primary focus of the scoping study is the views of stakeholders in England and Wales, any observatory that is subsequently commissioned is expected to have a broader, more international reach and will learn from good practice in a range of international jurisdictions. This report complements the major report from the national stakeholder consultation (Broadhurst et al, 2017). It describes the findings of an exercise to gather evidence from international stakeholders, building upon the themes that emerged from the national call for evidence and interviews with leaders in the field.

## 2. Methodology

The international scoping exercise was designed to align closely with the national consultation and consists of two stages of data collection: an international call for evidence; and telephone interviews with leaders in the field.

### 2.1 International call for evidence

The international call for evidence was developed to complement the national call (see **Appendix One**). The international call was advertised in the Association of Family and Conciliation Courts (AFCC) newsletter and also distributed directly to 149 legal and social work practitioners and academics across 33 countries. Recipients were identified by reputation, existing contacts and through online searches. An email invitation was sent out by the research team together with a copy of the submission template and link to the scoping study website, and a follow-up email was circulated shortly before the submission deadline.

Despite extending the submission deadline, the call for evidence resulted in only five responses from participants in four countries. One response was received from a social work practitioner with the remainder coming from academics. **Table 1** shows the number of written submissions by country and **Table 2** illustrates the primary roles of participants.

## 2.2 Telephone interviews with international leaders in the field

Respondents to the written call for evidence were asked to indicate if they would be willing to participate in a follow-up telephone or Skype interview to discuss issues in greater depth and this resulted in three telephone interviews being arranged. Purposive sampling was subsequently used to identify a list of additional potential interviewees representing a range of countries, organisations and roles (e.g. academics, members of the legal profession, social work practitioners and policy-makers) who were invited to participate in an interview. This generated a further 12 interviews with 15 individuals (**Table 1** shows the number of interviews by country). The primary roles of the 18 individuals who took part in a telephone interview are shown in **Table 2**. They include two members of the judiciary, one legal practitioner, two policy-makers and 13 academics (four primarily legal academics and nine social scientists).

Table 1: Breakdown of written submissions and interviews by country.

| Country | Number of written submissions/ interviews | |
|---|---|---|
| | **Written Call for Evidence** | **Telephone or Skype Interview** |
| Australia | 1 | 5 |
| Finland | | 1 |
| France | | 1** |
| Hungary | | 1 |
| Italy | 1* | 1 |
| Northern Ireland | | 1 |
| Republic of Ireland | | 1** |
| South Africa | 1 | |
| Sweden | 2* | 1 |
| U.S.A. | | 2 |
| International organisation | | 1 |
| **Total** | **5** | **15** |

*Multiple authors
**Interview with multiple participants

Table 2: Primary roles held by study participants

| Primary role* | Number of participants | |
|---|---|---|
| | **Written call for evidence** | **Telephone or Skype Interview** |
| Judiciary | | 2 |
| Legal practitioner | | 1 |
| Social work practitioner | 1 | |
| Policy-maker | | 2 |
| Academic (Legal) | 2 | 4 |
| Academic (Social Science) | 5 | 9 |
| **Total** | **8** | **18** |

* Where not directly confirmed by the participant, individuals' primary roles were identified from online profiles.

A wide-ranging interview guide was developed to reflect the range of topics that had emerged from the national consultation. Interviewers then focused on those topics most relevant to each interviewee in response to their experience and interests rather than covering every question. Examples of topics included use of experts, practical access to research, controversies concerning research findings and incorporating the views of the child (see **Appendix Two** for the full interview guide).

The telephone interviews were transcribed. Data from both the call for evidence and the interviews were analysed thematically. Throughout the international scoping exercise, the research team liaised with colleagues responsible for the national call for evidence and interviews with leaders in the field to ensure that the international scoping exercise continued to align with the work being undertaken nationally. Several of the interviewees also sent or made us aware of articles and books relevant to this subject. There is insufficient space in this short report to do justice to their content; however, they will be incorporated into a repository of publications being compiled by the research team to inform the development of the family justice observatory.

## 3. Study limitations

The limited sample size, the range of countries represented and the different backgrounds of interviewees all mean that it is not possible to know how far the findings are more broadly representative of the international use of research evidence in family justice systems. These constraints have also meant that our examination of the issues covered has been necessarily selective rather than extensive. Nevertheless, the findings highlight a range of approaches being used outside England and Wales, providing an additional perspective in the development of an observatory.

## 4. Main findings

Although the use of research evidence varies between and within countries, the picture is very similar to England and Wales in that interviewees report that greater use could be made of research evidence in family justice systems and that it could be more effectively embedded into practice. The findings provide examples of how research evidence is currently being used in several countries, the challenges encountered, and examples of innovative or good practice. Findings are reported in the following sections:

- the training of the judiciary and lawyers
- awareness of social science research evidence
- access to research
- the use of social science research evidence in the courts
- controversies over research findings and their implications
- incorporating the voice of the child
- availability and use of administrative datasets

### 4.1 The training of the judiciary and lawyers

The data addressed two aspects of training for the judiciary and lawyers: training in how to assess the quality of social science research evidence and make use of it; and training on research evidence about the substantive issues affecting children in the family justice system, for instance the impact of domestic violence or the outcomes of adoption.

#### 4.1.1 Training to use and assess the quality of social science research evidence

Almost all interviewees claimed there is little training available to the judiciary or lawyers on the use of research evidence either through research methods courses incorporated into undergraduate or master's degrees or as part of continuing professional development.

> While there are many conferences, seminars and training programs that present the content of research to judges and lawyers in all kinds of settings, I am not aware of any emphasis on training to use such research appropriately. *(Academic, Australia)*

Interviewees from Ireland and Sweden noted that the onus is on individual judges and lawyers to educate themselves in assessing the quality of research evidence once they are in practice. An interviewee from the USA questioned whether judges would consider it to be a good use of their time to spend half a day or a day receiving research methods training, suggesting that they might consider this to fall within the remit of experts rather than that of the judiciary. The interviewee also suggested that judges may receive indirect training on

research methods, giving the example of the Association of Family and Conciliation Courts (AFCC) events where academics touch upon methodological issues within their broader presentations.

### 4.1.2 Training about substantive issues affecting children

The availability of training and information for the judiciary and lawyers about research evidence on the substantive issues affecting children varies, although interviewees expressed the view that it is valuable. For example, one interviewee gave the following explanation of why such training is needed:

> [Decision-making] is a legal matter, but it's also a matter of judging, making a difficult judgement about what is best for the child. It's difficult to do that if you only look at it from a juridical perspective. It's a juridical process, but it's about this child's condition. There's a very important decision if the child is taken away from their family or not. *(Academic, Sweden)*

Sources of training included seminars, conference and specific training courses such as those provided by state judicial commissions in Australia. In Northern Ireland, one of the universities offers a professional development course about children and the courts, which is mainly attended by solicitors and some barristers. However, it was commented: “After a couple of years, we seem to have mopped up everybody who was interested in that. I don't think there was anybody from the judiciary that attended” *(Academic, Northern Ireland)*. In most countries such training is not mandatory, and is consequently dependent upon individuals recognising its value and deciding to prioritise their education in this area.

An interviewee from Australia reflected that more needs to be done to promote child and family law issues amongst law students before they begin to make decisions about their areas of specialisation. This is relevant to the situation in England and Wales as law students apply for work experience and training positions with legal practices whilst undergraduates.

## 4.2 Awareness of social science research evidence

Overall, awareness of social science research evidence is not perceived as being widespread amongst the judiciary, although interviewees consider it to be valuable. As one interviewee explained: “We’re learning more and more every day about child development, and every legal decision [judges] make has a child development result…” *(Judge, USA).* However one interviewee gave us details of a training programme on early childhood development, specifically aimed at family justice professionals, which has been taken up as part of a family court improvement programme throughout the USA (see Katz, Lederman and Osofsky, 2011; Lederman, 2011).

### 4.2.1 The available channels for awareness-raising

The judiciary are primarily viewed as learning about research evidence through seminars, conferences and training sessions and a consistent message emerges that the level of engagement rests heavily upon the interests of the individual judge. In Australia for example, the judicial commission in each state, the children’s court and the Australian Institute of Judicial Administration (AIJA) all provide training to the judiciary. Interviewees from Australia, Sweden and South Africa all described academics as communicating research findings to the judiciary through contributing to legislative consultations and committees, which could in the long run influence decision-making in the courts. The social scientists interviewed had

limited first-hand experience of work directly targeted at informing the judiciary. In Hungary however, an interviewee was involved in lecturing on a postgraduate course for legal professionals: “Primarily judges, prosecutors, lawyers, on forms of mediation and I'm doing a lot of work on raising awareness about restorative justice and family conferencing” *(Academic, Hungary)*. Interviewees identified the following examples of innovative channels for awareness-raising amongst the judiciary:

- Partnering in the USA between a judge and academics to provide regular up-to-date information on research evidence and promote system reform.
- ‘Bench Books’ published by state judicial commissions and the AIJA in Australia. These provide a central resource for the courts, and can include references to social science research. For example, the National Domestic and Family Violence Bench Book 2017 includes references to research literature, which it describes as being intended “to promote a greater understanding of the dynamics and behaviours associated with domestic and family violence identified in a significant body of academic research conducted in Australia and internationally over recent decades” (Douglas and Chapple, 2017).
- Research associates employed by some senior judges in Australia to identify social science evidence as well as relevant case law.
- Translation of research messages into practice through innovative inter-disciplinary approaches introduced through the courts and usually led by judges. Examples include Zero to Three Safe Babies Court Teams (see section 4.4 below), Family Drug and Alcohol Courts and the Miami Child Wellbeing Court Program. Family Drug and Alcohol Courts and the Miami Child Wellbeing Court Program are both problem-solving courts which offer treatment as well as adjudication; in these programmes the judge works directly with parents and a multi-disciplinary team that assesses and treats parents and children, links them to other community services where appropriate and advises the court on their progress. Within the context of making decisions about whether children can safely remain with or return to birth parents, Family Drug and Alcohol Courts focus on treating parents who misuse illicit drugs and alcohol while the Miami Child Wellbeing Court Program provides evidence-based clinical interventions (most frequently Child-Parent Psychotherapy) aimed at addressing child-caregiver relationships and improving children’s wellbeing in families where maltreatment is an issue.

### 4.2.2 Judicial independence

The emphasis on judicial independence, which is a key element of the English and Welsh legal systems, is identified as a potential challenge for those seeking to raise awareness of research evidence. In particular, interviewees from Australia and Ireland referred to a preference by the judiciary for training to be delivered by their peers. An Australian academic spoke of spending several years establishing trust with the judiciary, in order to be able to

communicate research messages to them directly. An interviewee from Ireland had addressed judicial reluctance to learn from academics by feeding messages from their research into judge-led training rather than attempting to communicate directly: “They don't like to be lectured by people who are not judges, they get very uncomfortable. There's a real hierarchy” *(Academic, Ireland).* In the USA, an interviewee found that presenting training to the judiciary as part of a multi-disciplinary team was a useful approach.

> I have a partner so if I’m ever [training] around the country, [I go as part of a team]… a psychologist and a judge, which I’m not saying gives it more credibility but it gives it more credibility to a judicial audience. *(Judge, USA)*

### 4.2.3 The impact of system structure

Raising awareness of research evidence is also influenced by the way that family justice systems are structured in different countries. Interviewees in countries with federal systems such as the USA or Australia describe examples of training being different in each jurisdiction. In Australia for example, state and territory approaches to public law processes focussing on child protection issues differ from each other and in turn differ significantly from legislation and processes for private law post separation matters, which are a federal concern. In contrast, France is described as having a more centralised approach intended to provide consistency nationally. Similarly, in some systems there are dedicated family courts with specialist family judges, whereas others use non-specialist judges who hear a range of types of case. In Ireland, for example, the only designated Family Court is in Dublin, whilst in the rest of the country time is set aside for family sittings and the judges also hear criminal or civil matters. Non-specialist judges are likely to be less familiar with research evidence concerning children and families and are more reliant upon the parties or their experts referring to relevant issues.

### 4.2.4 Communication through the media

Interviewees in five countries (the Republic of Ireland, Australia, Finland, the USA and Sweden) referred to the use of media to communicate research messages to members of the judiciary, particularly through the written press. In one example from Ireland, academics are particularly proactive in regularly using print and radio media to raise awareness of their research, targeting judges through the broadsheets. “We pitch the type of information, the type of empirical pieces and the language of that piece… and we keep it tight and interesting” *(Academic, Ireland)*. This had been successful and led to them writing editorials which provide greater control. However, interviewees also acknowledge the risk of messages being distorted by the media, particularly due to the emotive nature of family law issues. There was acknowledgement that direct contact between judges and academics is preferable: “Then you can be a bit more nuanced about the pros and cons of the system, but when journalists get hold of results they blow it up” *(Academic, Sweden).*

In addition to use of the print media, an example was given from the USA of video being used to illustrate research findings, for example, showing the impact of neglect on young children. The approach was viewed as having a greater impact on the judiciary than reading the research.

Although the media was viewed by some interviewees as a useful means of communicating research findings, one interviewee from the USA had made a conscious decision not to use the media because of the negative experience of colleagues who had felt threatened after coming to the attention of some of the more vociferous interest groups.

## 4.3 Access to research evidence

The challenges in accessing research evidence described by interviewees from several countries closely reflect those identified in the national consultation, namely time, cost and difficulty identifying relevant research. Although interviewees in a number of countries referred to initiatives to disseminate research evidence more widely, awareness of open access is not widespread and funding for journal subscriptions remains an obstacle: "Certainly work is being done to make academic work more available, but the reasons for that are complex and do not necessarily relate to providing greater access to research for lawyers and judges" *(Academic, Australia)*. Consequently, one interviewee described a judge emailing an academic contact whenever they required access to a journal paper. An interviewee from Australia referred to certain trusted organisations, for instance the Australian Institute of Family Studies (AIFS), providing a means of direct access for the judiciary by making research available online. Besides this, interviewees suggested that the judiciary relied upon conference papers and information available online. Reliance upon secondary information holds the risk that messages may be distorted or misinterpreted and also that the reader may be unable to assess the quality of the source material. A policy-maker from an international organisation expressed some frustration with accessing research evidence and hoped that a family justice observatory would be able to help to overcome some of these issues:

> You'll finally get to the abstract of something that looks as though it might be very interesting and might be very relevant and then, of course, it's on an academic site that requires either paid subscription, or somebody to have a particular form of affiliation to be able to access the paper. *(Policy-maker, international organisation)*

An interviewee from the USA highlighted the potential conflict for academics caused by the pressure to publish in 'high quality' academic journals rather than journals aimed at practitioners, and suggested a need for simultaneous publication in both types of journal - "two versions that the different audiences can understand" *(Academic, USA).*

### 4.3.1 The role of research summaries

Research summaries were referred to as a valuable resource for practitioners who may have neither the time nor necessary skills to review primary sources of research evidence. Specific examples included the following:

- The National Child Protection Clearinghouse in Australia was until recently responsible for synthesising research evidence for a non-academic audience. The clearinghouse has now been replaced by the Child Family Community Australia (CFCA) Information Exchange, although the interviewee considered that the closure of the clearinghouse had been detrimental to child protection practice.

  > We have a relatively inexperienced workforce in child protection and if there's no systematisation of the ability to access high quality information that talks to the complexity of the work and supports people in either supporting their practice or supporting their programme design, or whatever it might be that they're doing…that it's just left a really big gap and real implications for quality of practice. *(Academic, Australia)*

- Although its focus is not specifically family justice, one interviewee referred to a searchable database provided by the International Panel on Juvenile Justice (no

longer in existence) which provided synthesised information: “You would get the long list of research papers; abstract summaries, et cetera. Whatever material was there and it was all in one place. That was phenomenally useful” *(Policy maker, international organisation).*

- In Northern Ireland, the Children Order Advisory Committee published a newsletter bringing together international research evidence on matters relating to family law to provide a research digest accessible to practitioners across a range of disciplines. The committee was chaired by a senior judge and had representatives from academia, social services, legal representatives, psychology and psychiatry. Publication has now ceased. However the newsletters were described as providing a useful resource to signpost readers to relevant sources of information although issues around accessing publications remained.

  A lot of the research [referred to in the newsletter] would have been in peer reviewed journals, which people may have been able to get access to but was a bit more complicated and convoluted as to how practitioners might do that. *(Academic, Northern Ireland)*

Despite the potential value of research summaries, interviewees also highlighted the potential for inconsistency and confusion if multiple organisations are summarising research evidence on the same issues. They therefore suggest that an authoritative body is required to fulfil this role. The difficulties of sustaining a regular production of research summaries over a lengthy period should also be noted. It would be useful to make further enquiries as to why the initiatives noted above have not been sustained.

## 4.4 The use of social science research evidence in the courts

The prevailing view is that social science research evidence is not used as extensively as it could be in the courts. A number of reasons for this were suggested including a lack of confidence amongst practitioners in referring to such evidence within their submissions; the belief that judges are more interested in legal issues rather than ‘messy’ social science research; and the suggestion that judges tend not to be interested in research evidence until its messages have been incorporated into legislation. One interviewee explained how the lack of emphasis on social science evidence in the early stages of a judge’s career will affect their use of it later on.

> If you spend your career [not using social science research evidence] and you become a judge, you're not going to turn around someday and say, ‘Now research is going to be the basis of my decision-making’ because if you haven't got into the practice of doing that… you haven't been doing that all along. *(Academic, Ireland)*

The court processes for introducing evidence are also identified as a potential barrier to the use of social science research. Two Australian interviewees referred to the possibility that decision-making by individual judges can be unfairly influenced by the research literature they read rather than research introduced by expert witnesses. In a landmark Australian case (McGregor and McGregor, 2012) the Federal Magistrate placed ‘significant reliance’ on an academic paper in making his judgment. This paper had not been submitted as evidence to the court, with the result that the opposing party had not had the opportunity to present contradictory research evidence or to question an expert witness on the issues covered. At

Appeal, the argument that: 'procedural fairness required his Honour to have alerted the parties to his intended use of and reliance on the articles and to have invited further submission or argument' was upheld. This has clarified the need for judges not to rely on social science evidence unless parties are afforded natural justice and procedural fairness in relation to its use, which must also comply with the rules of admissible evidence.

The interview data also highlights how attempts to introduce new ideas into the family justice process often result from the efforts of individuals or groups of individuals as much as from top down, system-wide reform. An example of this is the introduction of initiatives such as Zero to Three Court Teams for Maltreated Infants and Toddlers (also known as 'baby courts') in the USA (McCombs-Thornton and Foster, 2012). This 'community engagement and systems-change initiative' focuses on improving how the courts, child welfare agencies, and related organisations work together, share information, and expedite services for young children who come to the attention of child welfare professionals. Each Safe Babies Court Team is convened by a judge who works closely with a child development specialist to build a community-wide collaborative Safe Babies Team.

### 4.4.1 Understanding research evidence and assessing its quality

Interviewees generally perceived the judiciary as having limited understanding of research evidence and how to assess its quality except where individual judges have developed a specific interest in research methodology. They suggested that rather than assessing the quality of an individual research study on its methodological rigour, assumptions are sometimes made based on other factors including researcher reputation and the opinion of a trusted contact. One interviewee from Australia also referred to reliance upon well-established and respected research bodies whose work is implicitly considered to be high-quality, and other 'official' organisations that produce research syntheses (for example, the Australian Law Reform Commission, various State law reform commissions and the Family Law Council) and which hold an elevated status.

A number of tools are available to assist the courts and practitioners in identifying and selecting appropriate interventions or approaches. Interviewees provided the following examples:

- The California Evidence-Based Clearinghouse for Child Welfare[1] (CEBC), which reviews research evidence and rates interventions is viewed as a valuable source of information.
- In Sweden, the outcome or effects of specific approaches used in children's social work are displayed on the website of the National Board of Health and Welfare in a 'Methods guide'. An attempt was initially made to grade the evidence base for specific methods; however, the accuracy of the grading was called into question. It will therefore be important to ensure that any process for reviewing and assessing research quality by a proposed family justice observatory is capable of standing up to scrutiny.

[1] See www.cebc4cw.org

### 4.4.2 Expert witnesses

Interviewees from the USA and Sweden described a lack of faith in expert evidence. In Sweden, there has been a controversy involving an expert witness in a criminal case, and the incident is viewed as potentially having also negatively affected the perception of experts in non-criminal cases. In the USA, the ability of parties to appoint multiple expert witnesses with potentially divergent opinions is seen as having undermined judges' faith in research, 'because you get what you pay for' (*Judge, USA*).

However, interviewees also identified the following mechanisms to strengthen the use of experts:

- In Australia, both parties to a case can be required to agree to a joint or single expert as a means of avoiding 'expert shopping' for a favourable opinion. A court order is then required to appoint an additional expert.
- In Northern Ireland, there is also a move towards parties agreeing on experts:

  > So that both parties, both the applicants and the respondents in a case would try and agree what are the areas of contention and where an expert opinion might be useful for the court, and try and agree who that expert would be. *(Academic, Northern Ireland)*

- Some courts in the USA use the *Daubert* standard to establish an expert's credentials. The test makes "a preliminary assessment of whether an expert's scientific testimony is based on reasoning or methodology that is scientifically valid and can properly be applied to the facts at issue".[2]
- In Australia, a process of 'hot tubbing' is being developed, where two experts challenge each other on an issue in front of the court and face judicial questioning, avoiding lawyers for the parties having to understand the detail of the issues in question.

### 4.4.3 Social workers as experts

Social workers from the countries represented in this scoping exercise were all described as being involved in providing opinions and recommendations to the court, whether this was through a written report, in person or both. Although social workers' evidence is considered key, the weight given to their opinions varies between countries.

In Italy, judges "give a lot of importance and credibility to social workers in the field" *(Academic, Italy).* However, in Australia, interviewees reported that the social workers' opinions are given less credence than those of other professionals. For example, much reliance is placed on the recommendations contained in the report of the children's court clinician in care and protection (public law) proceedings. The reports are mainly prepared by clinical psychologists or psychologists, but social workers can be involved. There is perceived to be a hierarchy with most weight being given to the recommendations of psychiatrists and least weight being given to those of social workers.

[2] See https://www.law.cornell.edu/wex/daubert_standard

However, an interviewee described how a new children's court clinic director was doing a positive job of challenging this hierarchy of trust, with more social workers becoming involved in preparing court clinician's reports and greater respect being given to them. This reflects attempts by the President of the English and Welsh Family Courts to recognise social workers as experts in their own right. Principal social work practitioners are used in Northern Ireland to assist social workers in reporting to the court and can also appear in court themselves as expert witnesses.

The emphasis placed on social workers being able to underpin their recommendations to the courts with research evidence also differs between countries. In South Africa, social workers make infrequent use of research evidence to support their recommendations as their expert knowledge is generally deemed sufficient support for their conclusions. In Sweden, guidance requires social workers to refer to research evidence in support of their recommendations and there is an expectation that the court will want to know the basis of their decision-making (Socialstyrelsen, 2009). However, the interviewee suggested that the extent to which this occurs in practice varies from case to case and that the extent to which social workers cite the research evidence may be linked to the prominence given to evidence-based social work in their training. More recently qualified social workers were thought more likely to refer to the research evidence.

### 4.4.4 The handling of controversial research evidence

Several interviewees were aware of controversies that had arisen from academic disagreements about the interpretation of research evidence. Examples of recent controversies include the impact of parental separation and overnight stays (Australia); the impact of abuse and neglect on children's neuro-biological development in the early years (England and France); the overrepresentation of black and minority ethnic children in care (USA); and parental alienation syndrome (USA). Such controversies can be bitterly contested. An interviewee from Australia suggested that different interpretations of the research evidence could be expected because of the range of professionals involved in child protection and family law, including social workers, health and legal professionals, and those engaged in research. However another argued that certain pressure groups with a specific agenda, such as fathers' rights groups, have succeeded in influencing the debate in such a way that presumptions have acquired an aura of truth (see also Rathus, 2010). Recent research conducted by the Australian Centre for Child Protection regarding decision making in child and family services has cited the influence of competing sources of information as one of the most frequently endorsed barriers to evidence-based practice and policy (see Arney, Lewig, Bromfield, & Holzer, 2010).

The consequence of controversies is that they make the task of identifying relevant research evidence even more difficult for the courts. Most interviewees were unable to provide examples of how such disagreements had been resolved. However, one interviewee described how a controversy over the impact of overnight contact with a non-resident parent had eventually been resolved by the formal mediation process developed through the Association of Family and Conciliation Courts. An interviewee thought that where such contentious issues were being addressed in the court, expert witnesses would be called upon, but noted the potentially negative consequence of this:

> There's a potential that most of the time then gets focused in on trying to deal with these small number of very contentious issues and other issues that should be part of the care plan probably get less scrutiny. *(Academic, Northern Ireland)*

It was also suggested that academics do not always know when their research is being cited and potentially misconstrued, for instance, in cases where judgments are unreported or where hearings are held *in camera*.

A family justice observatory could inform the courts by producing position papers based on syntheses of the evidence relating to contentious issues, including an identification of those factors that are not contested and those that are.

### 4.4.5 Incorporating the voice of the child

Incorporating the views of the child is described as an important principle in family justice systems, although how this occurs in practice differs significantly between countries. There is little reference to formal guidance setting out how this should be achieved, for instance, by a young person expressing their views directly to a judge, through a guardian ad litem, or through the social worker's report. Within countries, the approach can also differ depending upon the state in question, the type of court or the individual presiding judge. One interviewee described how, following a recent court case in Ireland, judges appear to feel compelled to bring children into the courtroom to talk directly with them, but also highlighted the need for them to be trained to do this effectively.

> Talking to children in the courtroom, [judges] don't have any training. It's not the fault of the judges. It's actually the fault of the resources for judges. Expecting judges as a result of a court case to engage in that way without any training to do it…it's good that they're hearing the voice of the child, but it's not good that it's being done like this. *(Legal practitioner, Ireland)*

The lack of training given to judges about how to listen to children is cited as a potential deterrent to the practice. It was suggested that judges may be hesitant to speak directly to the child for fear of raising their expectations that their views might be acted upon when theirs was one of several voices considered by the court. One interviewee argued that when children's views are presented through an intermediary there is a risk of distortion:

> There is a strong discourse about really showing what the opinion of the child is but the criticism is that social workers are not good enough to talk with children and it's a bit difficult sometimes to know how to value what children say. *(Academic, Sweden)*

In Ireland limited resources were identified as a barrier to incorporating the voice of the child into court reports, but this may lead to more direct communication:

> [The families are] in the District Court because they don't have any money and they can't afford to pay for [a court report], so the judge is having to bring the child in and just say, okay, let's have a go here! *(Academic, Ireland)*

The interviews highlighted the need for the system to secure the right balance between following the wishes of the child and acting in their best interests, which may or may not be mutually exclusive. An interviewee highlighted how, in the USA, the cultural emphasis on ensuring the rights of an individual could lead to lawyers representing the 'wishes' of children, however inadvisable, and causing difficulties for judges seeking to ensure that the courts acted in their best interests. In one specific case a lawyer had argued that he could legitimately withhold details of a runaway child's whereabouts because the child did not want the court to know them.

In New South Wales, children do not attend court in public law cases, but have their own legal representation. The age of the child dictates whether their legal representative acts in

their best interests or upon their instructions. Provided there are no concerns regarding competency, a child can give their own instructions from the age of twelve.

## 4.5 The availability and use of administrative datasets

The availability and use of data in countries such as Australia, Sweden and Northern Ireland bear many similarities to the systems in England and Wales. Experiences in these countries therefore provide a valuable insight when considering how a family justice observatory could support the use of datasets in England and Wales.

### 4.5.1 Data from longitudinal studies

The availability and use of evidence from longitudinal studies varies between countries. In South Africa there are few instances, if any, of longitudinal studies looking at longer term outcomes, whereas in Sweden and Australia this type of data is more widely available. The interviewees gave the following examples:

- The Australian Institute of Family Studies has undertaken longitudinal studies about children for many years and the resulting data are mined by both AIFS and other researchers to inform their understanding of outcomes for children in separated families.
- The New South Wales Pathways of Care Longitudinal Study (POCLS) which is following children who entered care in 2010-11 is also identified as a major longitudinal study.[3]
- In Sweden longitudinal research has been undertaken which focusses on placement outcomes for children in out of home care and children who have had other types of intervention from municipal social services (see for instance Vinnerljung and Sallnas, 2008; Vinnerljung and Hjern, 2014; Osterberg et al., 2016; Brannstrom *et al*., 2017).

### 4.5.2 The availability and use of administrative datasets concerning children's outcomes

The following examples of the use of administrative datasets were provided by interviewees:

- Researchers in Sweden have access to high quality and reliable datasets, for example, in relation to health and socio-economic indicators. The data collected has helped to highlight the vulnerability of young adults placed in care during childhood. Social workers often allude to these findings although they are sometimes misinterpreted. However, it is unclear if and to what extent lawyers and the judiciary are aware of or use the findings.
- In Northern Ireland, data are used for a range of purposes including identifying trends and the impact of interventions. However, health and associated care services potentially do not have in-house staff capable of undertaking sophisticated analyses of these data and academic assistance may therefore be required.

[3] See http://www.community.nsw.gov.au/about-us/research-centre/pathways-of-care-longitudinal-study

- In France, data about children's outcomes are collected by the Observatoire National de la Protection de l'Enfance (ONPE) (formerly L'Observatoire National de l'Enfance en Danger (ONED) in a similar way that data are collected in England by the Department for Education.

A key factor in understanding outcomes for children is being able to link datasets to enable analysis of outcomes across several fields such as health, education and the family justice system. Examples were provided from a number of countries including Sweden, Australia and Northern Ireland. The POCLS study (see above) in Australia successfully links police, education and social care data, although practical challenges have been encountered due to the range of data sources involved. For example, some data will be electronic whilst court data tend to be paper-based. The Longitudinal Study of Australian Children (LSAC)[4] has also successfully linked datasets and that team has addressed issues to make the data more broadly available to researchers. In Sweden and Northern Ireland, it is possible to link datasets, although this is not necessarily easy to do.

### 4.5.3 The availability and use of administrative datasets concerning the functioning of the family justice system

The availability and use of administrative datasets about the functioning of the family justice system also varies between countries:

- Australia is described by one academic as being quite exceptional in its ongoing evaluations of the family justice system, with AIFS and other researchers being commissioned to undertake studies. Examples provided include: an evaluation of the 2012 Family Violence Amendments (Kaspiew *et al.* 2015); an evaluation of the 2006 Family Law Reforms (Kaspiew *et al.* 2009); and an evaluation of the views and experiences of children and adults from families that have separated (Bagshaw *et al.* 2010).
- Data relating to family law are also available in Northern Ireland from the court service and the guardian ad litem agency and these data are described as being fairly complete.
- In South Africa, data about the functioning of the family court system is collected, but the data are only made available on request and are difficult to access. Some statistics are made available in annual reports, but these include only limited information on the children's court and are insufficient for use in analysis.
- In Hungary, data about the family justice system do exist, however they are collected by the Prosecutor's Office and academics are not asked to undertake any analysis.

### 4.5.4 Problems in the collection and use of data

Interviewees identified a number of problems in relation to the collection and use of administrative data. These include:

[4] See http://www.growingupinaustralia.gov.au/

- In Sweden, a unique 10 digit number is allocated to every resident from birth and is used as the unique identifier in datasets. However, since 2013, unaccompanied asylum-seeking children have not been included in the data as they do not have this identifier. This means, for example, that outcome data on approximately 30,000 children who arrived in Sweden in 2015 are not currently being collected.
- Sweden does not collect data on the reasons for children entering care, although academics have been asking for this data item to be added for a number of years.
- In South Africa practitioners are not supported to use available data to better understand practice unless a need has been identified by government. In any event the size of practitioners' caseloads (often between 200 and 300 active cases) leaves little time for practice development.
- In Northern Ireland, it is difficult in practice to compare data with neighbouring countries.
- An Australian academic suggested that in addition to the administrative data already held, a national prevalence study of child abuse and neglect is required to understand the scale of child protection issues.
- In Australia, case file data about the concerns that lead to children entering care need to be used to supplement the administrative data on what is done about those concerns.

## 4.6 Discussion and conclusions

This scoping exercise suggests that in many countries outside England and Wales family courts could make greater use of social science research evidence, reflecting the findings of the national consultation. All of the international experts involved in the study considered that it would be beneficial if the courts were better informed about social science research evidence.

The interview data point to the existence of a gap between the worlds of social science research and family justice practice with only some academics, members of the judiciary and lawyers seeking to build links between the two. Although social science academics are involved in various dissemination activities in several countries, there is little indication in the scoping exercise of direct dissemination work with legal practitioners and particularly with the judiciary. Similarly, the onus is very much on individual family justice professionals to ensure they receive sufficient training to use and assess the quality of research evidence. The practical challenges of accessing research evidence also echo those identified in the national consultation. In addition to addressing practical issues that hinder access to research, a family justice observatory would need to work to increase the status afforded to social science research findings.

The international scoping exercise highlights some innovative approaches to promote the use of social science research evidence in family justice systems, which could be further explored by a family justice observatory for replication within the context of England and Wales. Examples might include: partnering between the judiciary and academia; systematic

and proactive use of the media; and producing research summaries and assessments of research quality as a 'clearinghouse'.

Finally, the international scoping exercise highlights how improved use of research evidence could result from the efforts of individuals or groups of individuals as much as from top down, system-wide reform. In further developing the role of a family justice observatory, it would be valuable to complete a selection of case studies to explore the *process* by which such innovations have grown in popularity. Lessons could thus be learnt about how to successfully engage with and introduce change to those involved in the family justice system.

### 4.6.1 Key recommendations

- More might be done to introduce the issues addressed by child and family courts to law students before they begin to make decisions about their areas of specialisation.
- Programmes designed to raise awareness amongst the judiciary about key findings from social science research are likely to be most effective if they are delivered by peers.
- Involving judges in the delivery of training might also make it clear that proper attention was being given to the need to preserve judicial independence – a major concern identified both in England and Wales and in other countries.
- Such programmes should be delivered at an early stage as judges who have not been aware of the research evidence when they are first appointed are unlikely to use it in decisions they make later.
- A specific initiative aimed at encouraging academics to make proactive and systematic use of newspapers and practice journals to disseminate research findings to judges and other family justice professionals might help overcome some of the barriers to accessing research that have been identified.
- It would be valuable to trial some models designed to promote closer relationships between academics and the judiciary. In Australia, for instance, some judges have research assistants whose role is to help identify both relevant case law and also up to date social science research findings; in the USA, partnerships exist between academics and some members of the judiciary.
- Greater support might be given to judge-led initiatives that bring the judiciary into closer relationships with other professionals working to support families. Family Drug and Alcohol Courts have been introduced in England and Wales with some success; other initiatives that have had a positive impact elsewhere include Zero to Three Safe Babies Court Teams and the Miami Child Wellbeing Court Program.
- Any programme designed to increase the use of research evidence in the family justice system will need to make certain that procedures are in place to ensure that

all parties are afforded natural justice and procedural fairness and that usage also complies with the rules of evidence.

- Anybody appointed to scrutinise research findings and advise on their validity is more likely to be perceived as authoritative if it includes members of the judiciary and is led by a judge.
- Such a body will need to take care to ensure that a formal process for selecting criteria and reviewing and assessing research quality is sufficiently robust to stand up to outside scrutiny. Failure to address this issue led to a similar initiative being abandoned in Sweden.
- Several initiatives designed to model some of the proposed functions of the family justice observatory (eg the National Child Protection Clearinghouse in Australia and the International Panel on Juvenile Justice) have been introduced and then discontinued. It would be valuable to explore further the reasons why it has not been possible to sustain such initiatives, despite their being highly valued by professionals.
- Concerns about the use of expert witnesses have been raised in several other countries as well as England and Wales. Ways of addressing these issues that could be piloted in England and Wales including: using the *Daubert* standard to establish an expert's scientific credentials; requiring both parties to a case to agree on the appointment of a single expert who is qualified to provide impartial, scientifically based advice; requiring experts to challenge each other in front of the court and face judicial questioning directly rather than through their lawyers.
- Controversies over research findings and their implications are relatively common. One of the functions of the family justice observatory might be to produce position papers based on syntheses of the evidence relating to contentious issues: these could inform the courts about those factors that are, and those that are not, contested.
- As more families appear before the family courts as litigants in person, judges are increasingly likely to require training on how to listen to children and ascertain their views.
- Some countries are further advanced in the collection and use of administrative data than are England and Wales. There is much to learn from colleagues in countries such as Sweden, Australia and Northern Ireland concerning issues such as: the usage of administrative datasets to monitor court performance; the collection, analysis and use of longitudinal data concerning children's outcomes; the technicalities of linking datasets and the various problems that may be encountered in making greater use of such data. We recommend that, as this area of work is

developed, the family justice observatory establishes and maintains close links with colleagues exploring these issues in other countries.

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# Appendices

## Appendix 1 Written submission template

**International Call for Evidence**

**Submission Template**

### How to complete and submit

- **Save** this word document to an appropriate place on your computer.
- Enter your responses into the text boxes provided.
- Once complete, email this document with the subject heading "**International Call for Evidence Response**" to:
  observatory.scoping.study@lancaster.ac.uk
- Please respond by Monday 1st May 2017

### Introduction

In Section A, you are asked to complete participant and organisational details and to confirm consent in order to comply with Lancaster University's ethical clearance procedures.

Questions are then divided into two sections: use of research evidence in policy and practice (section B) and priority research topics and audiences for a new family justice observatory (section C) as shown below. We would welcome detailed responses to all sections but understand that participants may not feel able to complete all questions. Section D provides space for additional comments.

### Contents

## Section A: Participant details and consent

### A.1 Your details

| | |
|---|---|
| Your name | |
| Name of your organisation | |
| IF FROM OUTSIDE ENGLAND AND WALES<br>In what country is your organisation based? | |
| Which states/provinces/regions/other countries does it cover? | |
| Primary function(s) of your organisation | |
| Your role within the organisation | |
| Your own research experience/formal research training | |
| Describe primary roles and functions of your employees/members | |
| Please indicate which jurisdiction your responses relate to, e.g. which country/state/province/region | |

### A.2 a Please indicate if you are responding as an individual or on behalf of an organisation or wider group:

**I am responding as an individual : ☐**

**I am responding on behalf of my organisation: ☐**

### A2 b Consultation within your organisation

If you are responding on behalf of an organisation please describe any internal consultation that has taken place within your organisation to inform this call for evidence (e.g. internal meeting, seminar, email discussion).

| |
|---|
| |

### A.3 Telephone /Skype interviews

We will be interviewing a select number of respondents from outside England and Wales by phone or SKYPE in the first half of 2017. If you would be willing to be interviewed on these issues specifically from your perspective as a respondent from outside England and Wales, please complete the following:

| | |
|---|---|
| Name | |
| Job title | |
| Telephone number | |
| Email | |

**Interviews will be arranged to take place in May and June 2017**

### A.4 Consent Form

Please sign to indicate that you have read the background document provided with this call for evidence and that you make this submission with full agreement of your organisation. By signing you also agree that your submission will be retained electronically, in accordance with Lancaster University guidelines, which stipulate that data must be kept for a minimum of 10 years after the end of a research study.

| | |
|---|---|
| Signature | |
| Date | |

### A.5 Publication of submissions

We intend to publish submissions to this call for evidence online in the spirit of transparent consultation. Unless indicated below, we assume that you agree to your full response being published via the websites of Lancaster University and the Nuffield Foundation.

| | |
|---|---|
| Please remove my name/ the name of my organisation from the published response. | |

## Section B: Use of research evidence in policy and practice

### Question B1: Access to research

The national call for evidence found that in England and Wales practitioners want research reviews that have been authorised by an external body. While social workers and health professionals are interested in improving their own knowledge, judges and lawyers are less sure that the appropriate way forward is for them to increase their skills in research appraisal. Costs of accessing journal articles and limitations on time also discourage practitioners from making use of such resources.

In your jurisdiction:

**B1.1** What training do lawyers and judges receive concerning the use of research?

**B1.2** Is there any recognised mechanism for endorsing and establishing quality standards for research findings for use in the courts?

**B1.3** Are there any arrangements (e.g. open access/ research synthesis initiatives) that facilitate access to research findings?

**B1.4** How successfully have issues concerning access to research evidence been resolved in your jurisdiction? (Please provide examples of successes and failures).

### Question B2: Use of datasets

The national call for evidence in England and Wales points to a lack of robust longitudinal studies of child welfare outcomes. There are few studies that explore the long-term outcomes of abuse and neglect (particularly exposure to domestic violence) and/or the rationale for permanency decisions and their consequences for children's wellbeing. National administrative datasets are currently insufficiently used and the data within them is incomplete. At a local level, there is also a lack of regional variability data to help practitioners understand their own practice outcomes in relation to other courts in their jurisdiction.

In your jurisdiction:

**B2.1** Is evidence from longitudinal studies looking at longer-term outcomes available and utilised in decision-making?

**B2.2** Are national datasets concerning both the outcomes and the day to day functioning of the family justice system available and utilised? If not, why do you think that is?

**B2.3** How complete is the data in your national datasets relating to family justice? What are the obvious gaps and inconsistencies?

**B2.4** How are practitioners supported to:

- Use local data to understand practice locally? (E.g. How transparent are any differences in decision-making between courts in the same jurisdiction?)
- Innovate and develop practice?

**B2.5** How successfully have issues concerning availability and utilisation of administrative datasets and longitudinal research studies on outcomes been resolved in your jurisdiction? (Please provide examples of successes and failures).

### Question B3: Knowledge exchange between researchers, policy-makers, practitioners and organisations representing parties to cases

The national call for evidence reveals a need to strengthen the mechanisms for exchanging knowledge between researchers, policy-makers, practitioners and organisations representing parties to cases in England and Wales. In particular, judges do not feel included in the setting of research priorities. The co-production of research involving researchers, policy-makers, practitioners and parties to cases is also considered an important process to ensure the relevance of research to practice.

In your jurisdiction:

**B3.1** Have you or your organisation found opportunities to engage in any form of knowledge exchange between researchers, policy-makers, practitioners and organisations representing parties to cases? Please briefly explain what this involved and how successful it was.

**B3.2** How important is co-production of research in ensuring that research is relevant to practice?

**B3.3** Please rate how influential the following individuals/ organisations are in setting research priorities relating to family justice. (1= Very influential, 2=Quite influential, 3=Not very influential, 4= Not at all influential, 5= Do not know)

| Individual/ organisation | Rating |
|---|---|
| National government | |
| Local government | |
| Legal practitioners (E.g. Judges and lawyers) | |
| Other practitioners (E.g. Social workers, healthcare professionals) | |
| Researchers and analysts (E.g. Academic, government, independent) | |
| Charities/ lobbying organisations | |
| Other groups representing the views of children or families/ parties to cases | |
| Other (please state) | |

**B3.4** Would you like to be more involved in setting research priorities relating to family justice? If so, what is preventing you from doing this?

**B3.5** Please can you specify any particularly successful or unsuccessful knowledge exchange initiatives that have been introduced?

### Question B4: Trust in research evidence

The national call for evidence in England and Wales found that practitioners felt strongly that research must be independent of government and must not be tied to political agendas. Practitioners more commonly describe placing their trust in judicial authority and trusting research cited in case law rather than considering the research methodology or assessing its

quality in other ways. Health and social work practitioners were most able to articulate different ways of validating research.

In your jurisdiction:

**B4.1** Which of the following methods, if any, would you/ individuals in your organisation use to judge research quality?

- A consideration of the researchers – their reputation and standing.
- A consideration of the source of funding – is independence compromised?
- Seeking advice from a knowledgeable personal contact.
- Establishing whether the work has been formally peer reviewed.
- Using national standards or critical appraisal frameworks.
- Establishing whether the work has been recognised by the courts and is cited in case law.
- Other (please state).

**B4.2** Do you feel that you personally have the skills to judge the quality of research evidence?

**B4.3** What, if anything has been done to help practitioners and organisations representing parties to cases judge the quality of research evidence and how successful (or unsuccessful) has that been?

### Question B5: Research relevant to private law

The national call for evidence in England and Wales found that private law (i.e. legal proceedings between individuals rather than proceedings involving the state) is a very under-researched area. There is a lack of information relating to outcomes for children affected by private law proceedings. Individuals who choose to represent themselves in court, families affected by domestic violence and the impact of reductions to legal aid

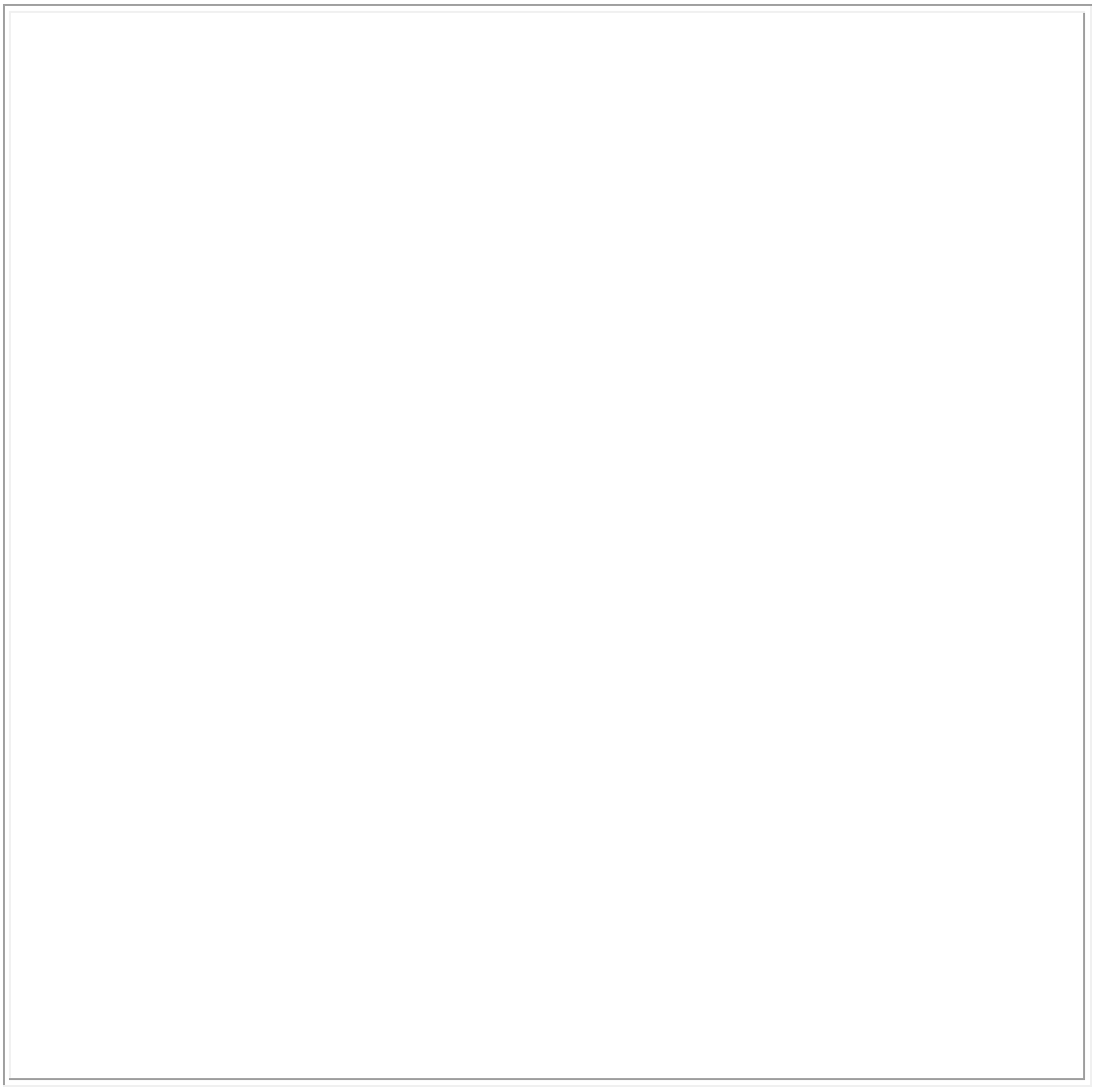
(financial support from the state to take legal proceedings) are all considered important under-researched issues in this area.

In your jurisdiction:

**B5.1** Is the paucity of research on private law matters also an issue?

**B5.2** If so, what are the areas of private law where more research evidence needs to be generated?

**B5.3** Please can you specify any particularly successful or unsuccessful initiatives that have been introduced to address the lack of research relevant to private law?



## Section C: Priority functions and audiences for a new national observatory

The Nuffield Foundation proposes a new national family justice observatory (England and Wales) that aims to improve both research generation and research utilisation and that is expected to have a broader international reach. The Foundation indicates that the new organisation could have one or more of the following functions:

- Improving the research evidence-base (e.g. through better use of administrative and survey datasets to establish national patterns and outcomes of the family justice system and regional variation).
- Synthesising and integrating existing research (e.g. authoritative research reviews on key topics).
- Promoting the use of research (e.g. events and dissemination).
- Capacity building (e.g. through secondments, research internships, research training, research design service).

The Foundation also has a vision for a system-wide approach to the generation of new research, so that priority topics are addressed and duplication of effort is avoided**. Choices need to be made to ensure investment has the greatest impact.** A system-wide approach would also need to be informed by agreed quality standards for research specific to the family justice system.

### Question C1: Priority functions

A new family justice observatory cannot be 'all things to all people'. In the first inaugural cycle (1-3 years), the observatory needs to focus on priority functions that will enable it to make the greatest impact on the family justice system. Priorities can, of course, change over time.

Please give each of the following nine functions a ranking, with a rank '1' meaning highest priority. Use Section D for any additional comments.

| Priority functions | Rank |
|---|---|
| Improving the research evidence base through the use of national large-scale administrative and survey datasets. | |
| Support for regional performance and outcomes monitoring, to identify and respond to unexpected variability. | |
| Developing national and international quality standards for research to both improve the quality of research and confidence in its use. | |
| Commissioning authoritative knowledge reviews to distill key and trusted messages. | |
| A research design service to ensure better quality of new practice or policy pilots, along with robust evaluation. | |
| Research internships to strength the links between practice and research. | |
| Research training to improve the skills and knowledge of practitioners to enable better access and understanding of research. | |

| | |
|---|---|
| Events and conferences to improve dissemination of research findings. | |
| Authoritative response to media coverage of service failures/Serious Case Reviews/current debates by providing balance and context. | |

### Question C2: Priority research topics

The family justice observatory will have potential benefits for international practitioners, policy-makers and researchers, so it is therefore important to understand how the research priorities of the observatory will fit within the broader international context. Responses to the national call have already indicated that topics concerning private law, and analyses of longitudinal datasets concerning child welfare outcomes should be priority research areas for the observatory. Please could you indicate a maximum of three other priority topics that would be of value to your organisation.

| Priority research topics |
|---|
| |
| |
| |

### Question C3: Priority audiences

In order to effect change in the use of research evidence within the family justice system, the observatory will engage with a wide range of stakeholder groups:

- Independent practitioners
- Parties to cases and organisations that represent their interests
- The media
- National policy and practice leads
- Government researchers and analysts
- National organisations (e.g. Associations for legal or social care professionals)
- National evidence intermediaries and educational bodies
- Local family justice boards
- Frontline practice organisations (social work, family law) and the family courts
- Academics

Which groups do you consider to be the **priority audiences because they are best placed to catalyse and steer change**? Please explain your reasoning.

### Section D: Additional comments

Please add any further comments you wish to make regarding sections B and C.

## Appendix 2 Telephone interview guide

### Topic Schedule – International Interviews

**Introduction**
From the work we have completed so far, we have identified a number of issues relating to the use of research evidence and national and local datasets. We are interested to know whether these issues are also relevant to your country and / or jurisdiction and how these issues have been approached and addressed.

**Opening questions**

1. Which country or jurisdiction do your answers relate to?

2. Can you briefly describe the structure of your family court system?

    a. Is it an adversarial system?
    b. What types of cases fall within private and public law?

**Legal training**

1. What training do judges and lawyers receive including ongoing training?

2. Does legal training for the judiciary and lawyers include the use of social science research evidence?

    a. Is this mandatory training?

    b. Is this training provided nationally to all judiciary and / or lawyers?

    c. Is there any ongoing training available on this topic?

3. Does social work training include anything on the use of social science research evidence?

**Use of experts**

1. How many experts are permitted in each case?

2. Who selects them?

3. Are expert witnesses regularly used in family courts?

4. Who tests/ cross-examines the evidence given by an expert witness? (E.g. the judge/ opposing lawyers)

5. What types of expert witness are most commonly used in the family courts? (E.g. Medical experts, child and adolescent psychiatrists, adult psychiatrists, paediatricians, psychologists)

6. What are the strengths and weaknesses of your system in relation to expert

witnesses?

**Practical access to research**

1. What challenges, if any, does the legal profession in your country or jurisdiction face in accessing social science research?

   *For example:*
   - *Knowing where to access up –to-date research*
   - *Knowing what to look for*
   - *The volume of available research*
   - *Costs involved in accessing journals, websites]*

2. What measures have been taken to address these difficulties?

3. How successful have these measures been?

4. What more could be done to address this issue?

**Knowledge exchange**

1. What mechanisms or channels are available in your country or jurisdiction to exchange knowledge between researchers and other parties?

2. How commonly used are these mechanisms or channels?

3. How effective are they?

4. What could be done to improve their use or effectiveness?

*[Where no existing mechanisms or channels are identified]*

5. What type of mechanisms or channels do you think would improve knowledge exchange?

**Use of social science research evidence**

*Extent of use*

1. How frequently is social science research evidence referred to in the family courts?

2. Who predominantly refers to social science research evidence in the courts (e.g. judges, lawyers, social workers) and at what point? (E.g. as background context or in relation to an individual case).

3. Are any social science papers/ research studies commonly referred to?

*Understanding the evidence-base for interventions and programs*

1. What processes or mechanisms exist to promote awareness of the evidence base for interventions or programs amongst the judiciary?

2. Generally, how aware is the judiciary of the evidence base?

3. Is the evidence base for an intervention or program specifically considered by the court when deciding whether it is appropriate to use in an individual case?

4. How important is this?

*Quality control*

1. What processes are in place for assessing or endorsing the quality of social science research evidence used in court?

2. How effective are those processes?

3. How could these processes be improved?

*Impact of political or lobbying interests*

1. To what extent do political or lobbying interests influence the use of social science by the courts in your country / jurisdiction?

2. Does this affect which social science research is incorporated into judicial decision-making?

3. Has it affected how research findings are interpreted?

*Impact of disagreements or controversies*

1. Are you aware of any particular disagreements or controversies in the legal or academic communities concerning social science research evidence?

2. What is the impact of such disagreements or controversies on the use of social science research evidence?

3. Are there any mechanisms for dealing with such disagreements or controversies in your jurisdiction or country? E.g. conflict resolution techniques.

4. How can we overcome such issues having a negative impact on the use of social science research evidence?

*The use of decision-making frameworks or aids*

1. Does your judiciary use any form of decision-making framework or aid to assist decision-making processes? (E.g. Sheldrick and colleagues' methodology)

2. Which frameworks or aids are used?

3. What impact has this had on judicial decision-making?

**Trust in evidence**

1. In your jurisdiction or country what issues affect the level of trust the legal profession has in social science research evidence?

*[For example:*

- *Quality of research*
- *Independence from government / political agendas*
- *Influence of interested parties/ lobbying organisations*
- *Use of experts (e.g. medical experts, child and adolescent psychiatrists, adult psychiatrists, paediatricians, psychologists)]*

2. How have these issues been addressed and how successfully?

**Use of datasets**

*Extent of available data*

1. Is evidence available on child outcomes from longitudinal research studies?
2. Are national or local datasets available concerning child outcomes?
3. Are these used by the courts?
4. Why / why not?
5. Are national or local datasets available concerning the day-to-day functioning

   of the family justice system? (E.g. highlighting different practices between courts).
6. How complete are these datasets?
7. What are the gaps or inconsistencies in the data?

*Access, use and storage of data*

1. How are national and local datasets currently used to inform the family justice system?
2. How valuable is this?
3. How easy is it to access your national and / or local datasets?
4. What are the main barriers and facilitators to access?
5. Are datasets maintained by different organisations / departments linked together in any way? (E.g. datasets on children's health and education).
6. How valuable is that?
7. Are there any rules on data access or storage restricting the potential value or usefulness of the datasets (E.g. limits on length of data storage)
8. How could the availability and use of national or local datasets to inform your family justice system be strengthened?

**System reform**

*Impact of research evidence on system reform*

1. What changes, if any, have been made to the structure or processes involved in your family justice system as a result of research evidence? (E.g. evidence concerning early childhood development).

2. How successful do you think these changes have been?

3. What further changes are still required and why?

*Incorporating the views of the child*

1. To what extent does seeking the child's view form part of the judicial decision-making process in your country or jurisdiction?

2. What processes and /or programs are used to achieve this?

3. How successful are these processes and / or programs?

4. What are the key factors required to successfully incorporate the child's view into the judicial decision-making system?

**Children's Ombudsman or Commissioner**

1. If you have a children's ombudsman or commissioner in your country or jurisdiction, can you briefly describe their role?

2. How much influence do they have over the setting of research priorities?

3. How much influence or involvement do they have in promoting family justice system reforms?

4. Are they involved in promoting the use of social science research evidence in the family justice system?

5. How valuable is this contribution?

6. Is there anything more they could do to promote the use of social science research evidence?

**Priority functions and research topics**

1. What do you think should be the main functions of a family justice observatory? (E.g. promoting the use of research, improving the research evidence-base, synthesizing and integrating existing research).

2. What topics would it be most valuable to you and / or your organisation for the family justice observatory to address?

## About the Nuffield Foundation

The Nuffield Foundation is an independent charitable trust that funds research and student programmes to advance educational opportunity and social well-being across the UK. The Foundation aims to improve people's lives, and their ability to participate in society, by understanding the social and economic factors that affect their chances in life. The research it funds aims to improve the design and operation of social policy, particularly in Education, Welfare, and Justice. The Foundation's student programmes provide opportunities for young people to develop skills and confidence in quantitative and scientific methods.



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