

Children's experience of private law proceedings: A summary of reviewed literature

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This paper provides an overview of the studies included in our rapid review of the literature on children's experiences of private law proceedings. Key findings from the literature are summarised in a separate Spotlight series paper, available from:

<https://www.nuffieldfjo.org.uk/resource/childrens-experience-of-private-law-proceedings-six-key-messages-from-research>

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Introduction

The family court has a role in resolving disputes between separating parents over child arrangements—known as private law. More than twice as many private law applications are started in England and Wales each year than public law applications. Yet little is known about the children and families involved in them.

As part of Nuffield Family Justice Observatory's focus on how the well-being of children and families can be improved following parental separation, there is a need to better understand children's views and experiences.

We recently identified and summarised the extent of the research in this area. This paper provides an overview of the studies identified.

Our review highlighted six clear messages that emerged from our synthesis of the literature. These are summarised in a Spotlight series briefing paper:

<https://www.nuffieldfjo.org.uk/resource/childrens-experience-of-private-law-proceedings-six-key-messages-from-research>

Methods

We undertook a rapid qualitative synthesis exercise to identify and summarise key messages from UK and international research studies from the last 20 years that directly obtained children's and young people's thoughts on parental separation and/or their experience of court proceedings. Particular attention was paid to research conducted in England and Wales, and with children whose parents go to court to resolve parenting disputes (although the review also covered research on cases that do not end up in the family courts).

Studies were included in the review if they sought children's views on aspects of private family law proceedings and/or parental separation (i.e. through interviews, surveys and focus groups), and were published in English from 2000 onwards. This included studies focusing on children's direct experiences of proceedings, views on child participation in family law processes, and experiences of parental separation.

Relevant studies were identified and screened using a three-stage process. During the first stage, electronic databases and grey literature were searched to identify studies that met the search criteria.¹ Additionally, key studies were identified by reviewing references in other studies and from the author's own knowledge of the evidence base. Abstracts were reviewed and screened for relevance. During the second stage, full text articles were retrieved and rescreened for relevance. The final stage involved data extraction and the synthesis of key findings across the literature base.

Although studies were identified and screened in a systematic way, this was a rapid review of the literature to highlight key messages for practitioners working with children and young people in the family justice system and is not a formal systematic evidence review.

¹ A systematic search of Google Scholar was undertaken using a series of search strings. Rather than an academic database, Google Scholar was chosen in order to capture both academic publications and grey literature. Search terms included 'children' OR 'young people' AND 'views' OR 'experiences' OR 'voice' AND 'parent(al) separation' OR 'private law' OR 'family law' OR 'proceedings' OR 'parental conflict'.

Summary of studies included in the review

We reviewed UK and international research studies from the last 20 years (2000–2020) that directly obtained children’s and young people’s thoughts on parental separation and/or their experience of court proceedings.

A total of 45 studies from 7 countries were identified that met the inclusion criteria. This included 11 studies conducted in England, 4 in England and Wales and 6 in Scotland. Much of the international research has been conducted in Australia (13 studies) and Canada (4 studies). The review also included four international literature reviews, 2 studies from Ireland and 1 from the United States.

Author	Location	Sample	Age group	Methodology	Study focus
Bailey, S., Thoburn, J., and Timms, J. (2011).	England	141	11–18	Questionnaire, via Cafcass	Children’s experiences of proceedings
Bagshaw, D. (2007).	Australia	19	8–19	Telephone interviews	Parental separation
Barnett, A. (2020).	International	–	–	Literature review	Domestic abuse
Bell, F. (2017).	Australia	–	–	Literature review	Child participation
Birnbaum, R. (2017).	Canada	24	6–17	Telephone interviews	Children’s experiences of talking to a social worker during proceedings
Birnbaum, R. and Bala, N. (2009).	Canada	11	19–21	Interviews	Children’s experiences of being represented in proceedings
Birnbaum, R. and Saini, M. (2012).	International	–	–	Literature review	Parental separation
Birnbaum, R. and Saini, M. (2012)	International	–	–	Literature review	Child participation
Birnbaum, R., Bala, N., and Cyr, F. (2011).	United States, Canada	32	7–17	Semi-structured interviews	Children’s experiences with

Author	Location	Sample	Age group	Methodology	Study focus
					family justice professionals
Butler, I. et al. (2002)	England, Wales	104	7–15	Interviews, drawn from representative sample	Parental separation
Butler, I. et al. (2003)	England, Wales	104	7–15	Interviews, drawn from representative sample	Parental separation
Cafcass (2010).	England	136	6–18	Focus groups	Children's experience of Cafcass involvement during private law proceedings
Callaghan, J.E. et al. (2018)	England, Wales, Scotland	20	8–18	Semi-structured interviews and activities	Domestic abuse
Campbell, A. (2008).	Australia	16	7–17	In-depth interviews	Children's views on being involved in decision-making processes
Carson, R. et al. (2018)	Australia	61	10–17	Face-to-face and online interviews	Children's experiences of the family law system
Cashmore, J. (2011).	Australia	47	6–18	Face-to-face and computer assisted interviews	Child participation
Cashmore, J. and Parkinson, P. (2007).	Australia	47	6–18	Face-to-face and computer assisted interviews	Child participation
Cashmore, J. and Parkinson, P. (2009).	Australia	47	6–18	Face-to-face and computer assisted interviews	Child participation
Douglas, G. et al. (2006).	England	15	7–17	Interviews	Children's experiences of being represented in proceedings
Dunn, J. and Deater-Deckard, K. D. (2001).	England	467	5–16	Interviews, drawn from representative longitudinal study	Parental separation

Author	Location	Sample	Age group	Methodology	Study focus
Fortin, J., Hunt, J., and Scanlan, L. (2012).	England	398	18–35	Telephone interviews, in-depth face-to-face interviews (50 participants)	Young adults' retrospective perspectives of contact and parental separation
Graham, A., Fitzgerald, R., and Phelps, R. (2009).	Australia	12	7–18	Semi-structured face-to-face interviews	Children's experiences of the family law system
Halpenny, A. M., Greene, S., and Hogan, D. (2008).	Ireland	60	8–11, 14–17	Semi-structured interviews	Support during parental separation
Hawthorne, J. et al. (2003).	England	–	–	Literature review	Parental separation; services available to support children
Highet, G. and Jamieson, L. (2007).	Scotland	361	10–14	Questionnaire, follow-up interviews (70 participants)	Parental separation
Holt, S. (2018).	Ireland	24	5–24	Semi-structured interviews	Domestic abuse
Hunter, R., Burton, M., and Trinder, L. (2020).	England, Wales	Not disclosed	Not disclosed	Focus groups	Domestic abuse
Kaspiew, R. et al. (2014).	Australia	10	10–17	Face-to-face semi-structure interviews	Children's experience of being represented
Kay-Flowers, S. (2019).	England	34	18–30	Interviews	Parental separation
McIntosh, J. E. (2009).	England	4	15–21	Presentations from young people	Children's experiences of the family law system
Morrison, F. (2009).	Scotland	11	8–14	Interviews	Domestic abuse
Morrison, F. (2015).	Scotland	18	8–14	Participative research activities	Domestic abuse
Morrison, F. (2016).	Scotland	18	8–14	Participative research activities	Domestic abuse

Author	Location	Sample	Age group	Methodology	Study focus
Morrison, F., Tisdall, E. K. M., and Callaghan, J. E. (2020).	Scotland	18	8–14	Participative research activities	Domestic abuse
Neale, B. (2002).	England	117	4–22	In-depth interviews	Parental separation
Neale, B. and Flowerdew, J. (2007).	England	60	11–17	Interviews	Parental separation
Parkinson, P. and Cashmore, J. (2008).	Australia	47	6–18	Interviews	Child participation
Parkinson, P., Cashmore, J., and Single, J. (2005).	Australia	60	12–19	Computer assisted telephone interviews	Parental separation
Parkinson, P., Cashmore, J., and Single, J. (2007).	Australia	47	6–18	Interviews	Children's experiences of talking to the judge
Qu, L. and Weston, R. (2015).	Australia	726	12–13	Survey, drawn from longitudinal study	Parental separation
Reeves, C. (2008).	Canada	30	13–18	Focus groups	Child participation
Taylor, R. J. (2001).	United States	21	5–20+	Interviews	Parental separation
Thiara, R. and Gill, A. (2012).	England	19	6–16	Interviews	Domestic abuse
Thiara, R. and Harrison, C. (2016).	International	–	–	Literature review	Domestic abuse
Tisdall, K. and Morrison, F. (2012).	Scotland	18	7–15	Interviews	Domestic abuse

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Nuffield Family Justice Observatory

Nuffield Family Justice Observatory (Nuffield FJO) aims to support the best possible decisions for children by improving the use of data and research evidence in the family justice system in England and Wales. Covering both public and private law, Nuffield FJO provides accessible analysis and research for professionals working in the family courts.

Nuffield FJO was established by the Nuffield Foundation, an independent charitable trust with a mission to advance social well-being. The Foundation funds research that informs social policy, primarily in education, welfare, and justice. It also funds student programmes for young people to develop skills and confidence in quantitative and scientific methods. The Nuffield Foundation is the founder and co-funder of the Ada Lovelace Institute and the Nuffield Council on Bioethics.

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