



family  
solutions  
group.

# WHAT ABOUT ME? A CHILD'S RIGHT TO MATTER

REPORT OF MULTI-DISCIPLINARY AND YOUNG  
PEOPLE CONSULTATIONS EXPLORING THE NEEDS  
OF CHILDREN WHEN PARENTS SEPARATE

## EXECUTIVE SUMMARY

*"There are large parts of the system that have no recognition of the vulnerability of children when parents separate."*

NOVEMBER 2023

## A CHILD'S RIGHT TO MATTER - EXECUTIVE SUMMARY

*"I very much welcome the publication of 'A Child's Right to Matter'.*

*It is, sadly, necessary for this report to state its standout finding that 'the needs of children when parents separate have been overlooked'. It is a palpable truth.*

*We should all now heed the report's clearly stated call for action."*

### **Sir Andrew McFarlane, President of Family Division**

- In 2021, there were 2.3 million separated families in the UK, with 3.6 million children.
- Almost half of children are growing up outside the traditional nuclear family.
- 44% of babies born at the start of the century did not live with both biological parents their entire childhood.
- Every year, approximately 280,000 children have parents who separate.

This report shines a light on these children and asks:

### **'Who in Government takes responsibility for children when parents separate?'**

- The Department for Education takes responsibility for 'Public Law', for families with child protection concerns, where the state becomes involved.
- The Ministry of Justice is responsible for 'Private Law', where parents apply to the family court to address safety concerns, or finance or child arrangements.
- Most families who separate need neither public law nor access to the family court under private law. Who takes responsibility for them?
- The answer from this report appears to be no one.
- UK Youth Parliament found that young people face a wide range of concerns when parents separate but 74% would not know who to ask for information or support.

*'The separation of parents affected children both emotionally and practically in their everyday lives... Children and young people said they were not given information about what was going on, were not able to participate in decisions affecting them and did not feel listened to, leaving them feeling distressed.'*<sup>1</sup>

### **Nuffield Family Justice Observatory Research 2022**

There have been many reports and research studies over the last 10 years, with clear recommendations for children going through a family separation<sup>2</sup>. The lack of any ministerial responsibility means that these have been largely ignored.

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<sup>1</sup> Symonds, J., Dermott, E., Hitchings, E. and Staples, E. (2022) Separating Families: Experiences of separation and support. Nuffield Family Justice Observatory.

<sup>2</sup> Family Justice Review 2011, Voice of the Child Dispute Resolution Advisory Group Final Report 2015; Creating Paths to Family Justice Briefing Paper 2017; Private Law Working Group Report 2020; Family Solutions Group 'What about me?' Report 2020; Nuffield Family Justice Observatory Separating Families 2022; Archbishop's Commission on Families & Households 'Love Matters' 2023

## Two Consultations

The Family Solutions Group is a multi-disciplinary group set up by the Honourable Mr Justice Cobb to consider what is needed to improve the experience of families who separate before any application is made to the family court. It's first report '*What about me? Reframing support for families following separation*' was published in 2020.

In 2023, the Family Solutions Group carried out two consultations which focused on the needs of children when parents separate: the first with a cross section of experienced multi-disciplinary professionals and the second with 112 members of the UK Youth Parliament, aged 11-18. They provided responses from a pilot study of 31 young people followed by a wider UK study incorporating the views of a further 81.

The results revealed common themes about the views and experiences of children. It also showed that, despite the large numbers of children affected, a key barrier to progress is a lack of political oversight for separating families, with no one government department taking responsibility for child welfare. We believe that the removal of this barrier will significantly improve the lives of these children and will make a positive difference to society.

## What Multi-disciplinary Professionals told us

- The standout finding from all consultees was that the needs of children going through a family separation have been overlooked.
- It is normal for children to be affected by family separation; some may experience family separation as a relief, but many children will struggle; how it is handled can have a long-lasting impact.
- Parents are not always the best judge of how their children are coping.
- Children need information and support to help them navigate a family separation, but there are no nationally coordinated services or information, universally accessible to all children. These are desperately needed.
- Parents and children need a 'one stop shop' website with educative and supporting information and signposting that they can trust.
- Schools are a neutral and accessible space; other than online, they are the most obvious source for information and support. This needs to be acknowledged at a policy level.
- Children need access to a listening ear, not necessarily counselling or specialist support, just someone to listen, a person they can talk to.
- Outcomes are better when children of a suitable age are consulted about arrangements, but this rarely happens. They are not seen as having any agency and feel powerless to influence everyday decisions which affect them.
- Parental separation may mean that children see less of key family members who are important to them.
- Specialist support for children only becomes available in extreme cases when children are already distressed.
- The lack of any one government department taking responsibility means that children in separating families are largely invisible in terms of public policy and data. The lack of data contributes to them continuing to be overlooked.

## What Young People (ages 11-18) told us

- Young people talked of a number of concerns they face during and following a family separation: about practical changes such as their housing, about their siblings, about spending time with both their parents, and about their own wellbeing.
- They want to know what is happening, to have open communication, especially to know when and how they would spend time with both parents.
- They wanted stability, and to have a voice in future arrangements. They highlighted their sense of powerlessness and spoke of being '*done to*' not '*done with*'. They felt trapped within other people's choices.
- Over half (53%) said they did not know they had a right to be consulted when decisions are made which affect them.
- They spoke of family separation being a taboo subject, nobody talks about it and there aren't places to go to talk things through.
- 74% did not know who to ask for support and the majority of children did not know of any support services who could help them. (They identified a number of general support services (eg Childline), none of which are specific to issues of a family separation)
- Most (67%) said they would turn to friends or family for support, especially grandparents and aunts; some children felt very isolated.
- 67% felt that teachers did not understand their needs when going through a separation or could help only to a limited extent.
- Just under half (48%) said they did not know they had a right to information when parents separate.
- Looking to the future, they identified schools as the best way to access information and support, including PSHE lessons. They had lots of other ideas too, including social media.
- Young people said they had to grow up more quickly and choose which parent they preferred, which they felt was an unfair question. Parents and adults could be manipulative.

## RECOMMENDATIONS

### Recommendations for Government:

1. Allocate overall responsibility for the wellbeing of children in separated families to the Department for Education; under current structures, the Minister for Children, Families and Wellbeing (Despite the title, the wellbeing of children and parents in separated families are not within this Minister's portfolio).
2. Working across Government departments, we recommend the Minister has responsibility to:
  - a. Establish an authoritative website to provide a dedicated 'place to go' for all children and young people at all stages of their parental separation journey.
  - b. Establish mechanisms for children over 10 to be offered consultation, so their views can be considered when decisions are made which affect

- them. The presumption of child consultation should apply to all decision-making which affects them, including mediation and solicitor-led processes.
- c. Make available training packs about family separation for all first-responders, including schools, GPs, social prescribers, youth workers, mental health practitioners.
  - d. Where Family Hubs are funded, extend the remit to support children and young people directly following parental separation.
3. Incorporate the United Nations Convention on the Rights of the Child (UNCRC) into domestic legislation as a matter of urgency, in accordance with the UK's commitments as a signatory.
  4. Pending incorporation of the UNCRC, amend the Children Act 1989 to extend the s1(1) welfare principle and the s1(3) welfare checklist to beyond court proceedings, so they reach all children.

### **Recommendations for Department for Education and Schools:**

5. DfE to provide accessible information and resource packs for children and young people when experiencing family separation, including where to go for direct consultation when decisions are being made which affect them.
6. Schools to provide a first-responder listening ear to children and young people, as the first place they will look to for support following parental separation.
7. Develop a PSHE module on parental separation and navigating family transitions.
8. School staff training to include modules on support for children during family separation. Schools to provide opportunities for young people's forums to talk about family transitions.

### **Recommendations for Family Hubs:**

9. Recognise children whose parents separate as a discrete target group in need of support and direct services through the national Family Hub programmes.

## **CONCLUSION**

The children of separating parents are affected by separation, just as their parents are.

Their needs and rights must not be overlooked, either by government, by family justice professionals or by schools. It is not enough for government to focus on earlier resolution methods for parents, without acknowledging the gap in provision for children. Some simple measures are needed to provide information, resources and a listening ear. There is also a need to establish mechanisms for children over 10 to be consulted as the expected norm following parental separation.

These measures will, over time, lead to savings across multiple government departments. More importantly, they will build resilience and improve childhood experiences for the many thousands of children whose families separate each year.