

**Assessing children’s and young people’s wishes and feelings guidance**

**This guidance has been produced together with members of the Family Justice Young People’s Board.**

Meeting with children and young people, listening to them and understanding their experience is at the heart of all that we do in Cafcass. The Children Action 1989 Section 1 requires us to take account of children’s wishes and feelings. However, the emotional and psychological complexity of many of the children’s lives in cases before the family court means that in practice, this is not a simple matter.

This guidance summarises some key aspects of good practice in working together with young people as active participants in their case, rather than as ‘subjects’ of the assessment, and how reports can be used to bring their experiences to life. Further information on this subject is available in the core training programme on contemporary direct work [here.](https://intranet.cafcass.net/departments/Documents/Forms/AllItems.aspx?RootFolder=%2Fdepartments%2FDocuments%2FPolicy%2FPrivate%20law%2FChild%20Impact%20Assessment%20Framework%2FContemporary%20Techniques%20in%20Direct%20Work%20with%20Children)

In this context, it also explores the tensions which are sometimes inherent in respect of the difference between wishes and feelings and best interests.

It provides practical guidance in specific scenarios, such as when alienating behaviour is impacting the child and when the child is attending for supervised sessions with a parent.

Each section of the Child Impact Assessment Framework contains a link to the [direct work tools and resources](https://www.cafcass.gov.uk/grown-ups/professionals/resources-for-professionals/) to support children and young people to provide their wishes and feelings. This is important as it signifies that this is central to our practice whether the case factors involve domestic abuse, harmful conflict, a child’s resistance or refusal to spending time with a parent or any other form of harm.

The [Top Tips](https://www.cafcass.gov.uk/family-justice-young-peoples-board/) produced by the Family Justice Young People’s Board are further key resources.

**Summary of good practice in working with children as active participants**

* Wherever possible keep children informed at all stages of their case about what is happening and, for example, what timescales to expect.

Contact children in advance of the meeting to explain who you are, and the purpose of the meeting (consider sending a photograph of the office’s children’s room or of yourself), example letters can be accessed [here.](https://intranet.cafcass.net/departments/Documents/Forms/AllItems.aspx?RootFolder=%2Fdepartments%2FDocuments%2FPolicy%2FPrivate%20law%2FChild%20Impact%20Assessment%20Framework%2FLetters%20to%20the%20child)

* Consider the venue for the meeting in respect of how well it offers a neutral and supportive environment and if possible ensure the child is comfortable with this.
* Plan the direct work tools you will use in advance and be prepared to change these if the child prefers another way to conduct the session.
* At the start of the meeting, explain its purpose, your role and who you will share the discussion with. Consider using [myCourtroom](https://www.cafcass.gov.uk/grown-ups/parents-and-carers/resources-parents-carers/mycourtroom/) as an interactive way to explain what a court looks like and the people involved.
* If possible, let the child know at the end of the meeting if you are forming a view that your recommendations differ from their wishes and feelings. Give them an opportunity to think about this and comment on it.
* Make use of interactive games such as This Much, Back Drop and the new Voice of the Child app (due for launch in 2018) and include the pictures and diagrams that the child produces directly into your report.
* Offer the child the opportunity of writing directly to the judge or consider ways to facilitate a meeting with the judge if this is appropriate.
* For children who find it hard to express or explain their experiences for whatever reason, work directly with them to make this as easy as possible. For example, it may be helpful to include a teaching assistant or other professional if this will help the child’s communication with you.
* Children’s wishes and feelings should be accurately described in the report. Good practice is for the content of this section of the report to be checked with the child or young person before it is reported, such as at the end of the meeting with them.
* The child’s own words and views should be respected and can be powerfully represented by being quoted directly within the text of the report.
* Children and young people may choose not to explain their choices or rationale for their wishes. This should be respected as it may be too difficult for them when it is about their relationship with their parents or carers.
* Explain that their views will be reported to court, but that the report will also include recommendations about their best interests and what the difference between these two things may be.
* Discuss options with the child for sharing the information with their parents and other options for supporting the child or enabling them to support themselves, after the end of the case in court.
* Consider a request to the judge to write a child friendly judgement, an example of a child friendly judgment is available [here.](http://www.bailii.org/ew/cases/EWFC/HCJ/2017/48.html)
* [Parents or carers](https://www.cafcass.gov.uk/download/9535/) can help their child to understand this before a meeting with the Family Court Adviser (FCA).
* At the end of your contact with the family consider writing to the child or young person to thank them for talking with you, explain your recommendations and what you took form the meeting or the outcome, example letters can be accessed [here.](https://intranet.cafcass.net/departments/Documents/Forms/AllItems.aspx?RootFolder=%2Fdepartments%2FDocuments%2FPolicy%2FPrivate%20law%2FChild%20Impact%20Assessment%20Framework%2FLetters%20to%20the%20child)

**Wishes and feelings and best interests**

* Children and young people are often able to understand that there may be a difference between their *ascertainable* wishes and feelings, and their best interests. This difference, in the context of still respecting their wishes and feelings, is illustrated by the extract from the judgement below:

**Baroness Hale in Re D (a child) [2006] UKHL 51 said at [§57]:**

*“As any parent who has ever asked a child what he wants for tea knows, there is a large difference between taking account of a child’s views and doing what he wants. But there is now a growing understanding of the importance of listening to the children involved in children’s cases. It is the child, more than anyone else, who will have to live with what the court decides. Those who do listen to children understand that they often have a point of view which is quite distinct from that of the person looking after them. They are quite capable of being moral actors in their own right. Just as the adults may have to do what the court decides whether they like it or not, so may the child. But that is no more a reason for failing to hear what the child has to say than it is for refusing to hear the parent’s views*.”

* However, as Schofield (1998) points out “the child who says, I am fine thank you, nevertheless may need help.” Its familiar territory in public law proceedings for children to express strong emotional ties to parents who have abused them. What such cases demonstrate is the need for a careful assessment of children's development and relationships to be considered alongside the consultation with children themselves, to gain an accurate picture of the child's world and their wishes and feelings about it.
* There are specific family dynamics such as harmful conflict or alienating behaviour which alert us to pay attention to the impact of these on the child’s ascertainable wishes and feelings.
  + Where there is **harmful conflict**, the child may experience loyalty conflicts or other conscious or unconscious pressures. The impact of continuing to walk a tightrope between their parents or carers may be very stressful and may result in them being confused about their feelings or changing their stance dependent on who they are talking to. In this scenario, it will be vital to give due weight to the wishes and feelings by working to ensure that the parents reduce the level of conflict, to free the child from this burden.
  + Similarly, when a child has been subject to **alienating behaviours** whereby one or both parents may have distorted the child’s beliefs, this is likely to influence their thoughts and wishes and feelings. This can amount to emotional abuse. Care should be taken in ascertaining and analysing these views. A child believes something because it happened, they have been coerced into saying it happened or because they have come to believe it has happened – whatever the basis for their views, they provide vital insight into their experiences and needs.
* As discussed in the child resistance or refusal guide, some children and young people are making what is for them an informed, rational choice about not wanting to see the other parent and they may have made their own mind up. They will often have strong feelings about this, which cannot be easily set aside because a degree of alienation is also present. In this sense, ‘unjustifiable rejection’ has its own rationale and needs to be balanced with a full understanding of their developmental needs and best interests.
* The information relating to the attachment strategies of children subject to alienating behaviours included within the Child resistance and refusal guide is also relevant to consider.

**Working actively with children beyond the wishes and feelings session**

* If it is concluded that on balance a child should spend time with a parent against their stated wishes, the use of [child contact interventions](https://www.cafcass.gov.uk/grown-ups/parents-and-carers/child-contact-interventions/) through Cafcass commissioned services in a careful, planned manner can help. This could be, for example, when there is a possibility of a beneficial long-term relationship with the parent the child does not live with. It is important to remember that where children’s wishes and feelings are being departed from, this can be a very anxious time for them. Remember:
* The child or young person may feel a loss of control if arrangements are progressing against their wishes.
* Work to ensure the favoured parent can support the child or young person in this situation.
* Where alienating behaviour has taken place, the parent who has been responsible for this is likely to still be living with the child. The child therefore may feel as though they are disappointing that parent who they love, perceive meets all their needs and keeps them safe.
* Consider how the child can be provided with a sense of having some control back, such as whether they can have a choice on the length of the first visit or on the activities to ensure they are relaxed and not too tense.
* Arrange for a way for the child to have a break from the session if this is necessary.
* Consider whether a neutral support worker, relative or friend can support the child or young person.
* If the contact goes well, the child may feel guilt for enjoying time with the other parent. This can be very difficult and distressing for a child.

**If a FCA is considering departing from a child or young person’s verbally expressed wishes and feelings, this will trigger the need for reflective supervision** so that the above factors can be discussed and analysed.

**References:**

*If you would like to see any of the items listed, send the 5 or 6-digit item numbers (in* ***bold****) to* [*library@cafcass.gov.uk*](mailto:library@cafcass.gov.uk) *(for internal use only)*

**197125.** Schofield, G. (1998). Making sense of the ascertainable wishes and feelings of insecurely attached children. *Child and Family Law Quarterly, 10(4),* 363-375.