

## **Interim Report of the Children and Vulnerable Witnesses Working Group**

**31<sup>st</sup> July 2014**

1. **Introduction and aims:** The Working Group (WG) (headed by Hayden J and Russell J<sup>1</sup>) was set up by Sir James Munby, President of the Family Division with the following aims which were set out in the 12<sup>th</sup> “View from the President’s Chambers” published on 4<sup>th</sup> June 2014:

“First, it is time to review the Family Justice Council’s April 2010 *Guidelines for Judges Meeting Children who are Subject to Family Proceedings* [2010] 2 FLR 1872, particularly in the light of the Court of Appeal’s recent decision in *Re KP* [2014] EWCA Civ 554.

Secondly, it is time to review the Family Justice Council’s Working Party’s December 2011 *Guidelines on Children Giving Evidence in Family Proceedings* [2012] Fam Law 79. Those *Guidelines* were prepared following the decision of the Supreme Court in *In re W (Children) (Family Proceedings: Evidence)* [2010] UKSC 12, [2010] 1 WLR 701. Since then we have had the decision of the Supreme Court in *In re LC (Children) (Reunite International Child Abduction Centre intervening)* [2014] UKSC 1, [2014] 2 WLR 124.

Thirdly, there is a pressing need for us to address the wider issue of vulnerable people giving evidence in family proceedings, something in which the family justice system lags woefully behind the criminal justice system. This includes the inadequacy of our procedures for taking evidence from alleged victims, a matter to which Roderic Wood J drew attention as long ago as 2006: *H v L and R* [2006] EWHC 3099 (Fam), [2007] 2 FLR 162. As HHJ Wildblood QC observed in *Re B (A*

---

<sup>1</sup> See Appendix one for full list of membership of the Children and Vulnerable Witnesses Working Group.

*Child*) (*Private law fact finding – unrepresented father*), *D v K* [2014] EWHC 700 (Fam), para 6(ii), processes which we still tolerate in the Family Court are prohibited by statute in the Crown Court. We must be cautious before we rush forward to reinvent the wheel. A vast amount of thought has gone into crafting the arrangements now in place in the criminal courts: see for example, in addition to the Criminal Procedure Rules, the Criminal Practice Directions [2013] EWCA Crim 1631, CPD 3D-3G, the Judicial College’s Equal Treatment Bench Book, Lord Judge’s Bar Council Annual Law Reform Lecture 2013, *The Evidence of Child Victims: the Next Stage*, the Criminal Bar Association’s DVD, *A Question of Practice*, and the relevant ‘toolkits’ on ‘The Advocate’s Gateway’, funded and promoted by the Advocacy Training Council: [www.theadvocatesgateway.org/toolkits](http://www.theadvocatesgateway.org/toolkits). We need to consider the extent to which this excellent work can be adapted for use in the Family Division and the Family Court.”

2. In respect of the first aim the President proposed that there should be reform and further guidance of the procedure for judges communicating with children, which will provide the framework to allow a recognition of the place of children and for the “Voice of the Child” to be heard in all family court proceedings in which children are involved; and it anticipated a ministerial announcement on the subject.<sup>2</sup>

---

<sup>2</sup> The Minister of State for Justice and Civil Liberties’ announcement made 24<sup>th</sup> July 2014 at the FJYP conference on The Voice of the Child regarding the **National Charter for Child Inclusive Family Justice** in which he said that the Government agreed with that “*Children and young people should be given the opportunity to meet and communicate with the professionals involved with their case including workers from the Children and Family Court Advisory and Support Service ( CAFCASS), social workers, the judges and legal representatives; every child of sufficient age and ability should have the opportunity of meeting with the judge overseeing their case; every child should have the opportunity through Cafcass of submitting their views directly to the judge in writing; all children should be able to communicate their wishes and feelings to the judge; children and young people should be kept informed about the court proceedings in an age appropriate manner, kept informed of the stage their case has reached, and contacted prior to the first hearing, and have the opportunity of giving feedback through email, text, telephone or written form.*”

3. The second and third tasks are intertwined. As can be seen from the guidance already available for criminal cases in the *Advocate's Gateway* toolkits - children are self-evidently "vulnerable witnesses".<sup>3</sup>
  
4. **Preliminary observations** As observed by the President the family courts and the advocates who appear in those courts lag behind the criminal justice system both in their approach to, and provision for, vulnerable witnesses. To reproduce or to duplicate the comprehensive and outstanding work done by the Advocates Training Council (ATC) and others contained in their report published in 2011, would simply lead to further delay when the intention is to build on the work that has already been done. The working group set up by the ATC in 2009, which produced the report in 2011, met over 20 months and heard from diverse bodies, individuals and experts in various disciplines connected with the subject of vulnerable witnesses, including intermediaries, child/adolescent psychiatrists, members of the judiciary, officials from the Ministry of Justice and the Crown Prosecution Service, police officers and social workers. Their evidence-based and consultative approach ensured that their Report and its recommendations have a sound factual and expert basis, and which broadly apply to the family justice system and on which we should build.
  
5. The application of the principles contained in the report has proved to be successful in the criminal justice system, and it is that practical application which this working group will adapt to use in the family justice system. In particular, the provision of training for advocates and support for witnesses who are in need of support to give their evidence. These two have substantial benefits; the optimisation of conditions in which the best evidence can be given and the more effective and efficient use of court

---

<sup>3</sup> For more see the article by Professor Penny Cooper in the *Child and Family Law Quarterly* 2014 (at page 132 et seq) "Speaking when they are spoken to hearing vulnerable witnesses in care proceedings."

time. Both of those benefits coincide with, and militate for, a greater likelihood of a fair and just hearing and outcome for all the parties in each case.<sup>4</sup>

6. The practical application of the work of the ATC to the family justice system is already underway in the form of general guidance for family lawyers and advocates being prepared by the *Advocates' Gateway* as a toolkit for use in family proceedings. The guidance is in draft form and is due to be published this autumn (October 2014). Should the reforms suggested below be put in place the membership of Penny Cooper and Joyce Plotnikoff on this WG will assist in any modification or amendment to the family advocates toolkit as they are both instrumental in producing the guidance for the ATC.
  
7. In addition some judges have already taken steps to use assist vulnerable witnesses of their own initiative<sup>5</sup>; the use of intermediaries and of the pre-recorded oral evidence have been examples of provision of support that has been brought to the working groups attention. This further illustrates the need for the introduction of procedure and practice across the family justice system to provide for a fair hearing, allowing those who are parties, both children and adults to be able to participate in the hearing in a

---

<sup>4</sup> The recommendations of the ATC Report of 2011 are comprehensive and while produced as recommendations for the criminal justice system have lessons for the family justice system; specifically, the accumulated knowledge behind the recommendations in respect of children as witnesses is directly applicable in the family courts; and the outcome of the pilot scheme applying s 28 of the Youth Justice and Criminal Evidence Act 1999 will be of particular use in the future. Her Honour Judge Sally Cahill QC who is leading the pilot is a member of this working group.

<sup>5</sup> We are indebted to His Honour Judge Clive Heaton QC who has outlined 4 examples of action he has taken in his court to allow fair participation. Two involved children as witnesses aged 9 and 14. The former was interviewed on video by a Child and Adolescent Psychiatrist using ABE guidelines; the latter gave evidence by video link. The other two cases illustrated the difficulties when the parents (and parties to the proceedings) are themselves vulnerable; a mother in a private law domestic abuse case and a father with learning difficulties/serious mental health problems in a care case. In the latter case HHJ Heaton QC arranged for an intermediary to train and assist counsel in preparing a video recording of F's oral evidence.

manner that best meets their needs by ensuring that the evidence they give is the best evidence achievable.

8. **Work so far undertaken** The working group held its first meeting on 8<sup>th</sup> July 2014. The WG discussed the terms of reference and the time-table for taking the work of reform forward. The consultative process will not be as wide as that undertaken by the ATC working party as there is no need to duplicate their work. Once the framework for reform has been identified and provisional documents have been prepared they will be sent out for consultation by as wide a constituency as possible (see below). The proposed rule change/s will go to the Family Procedure Rule Committee (FPRC) in late October, as the aim is to have changes in place by the beginning of 2015 (see below -time table).
  
9. **“Vulnerable witnesses”: discussion.** There was discussion regarding the use of the term “vulnerable witnesses” and whether another description should be used. There was concern that the term brought with it implications of physical or medical vulnerability to the exclusion of other disadvantages or need for support for witnesses.
  
10. The WG considered whether it may be necessary to focus on reform in public law and on private law cases involving domestic abuse where the difficulties maybe most acute; for it is evident that the respondent parents in care cases are often vulnerable<sup>6</sup> (many with mental health or learning difficulties and the rising number of parents who need translators/interpreters to participate in proceedings) or the potential unfairness in cases where the victims of abuse are being cross-examined

---

<sup>6</sup> *Care profiling study: Masson et al 2008* for the MoJ and DfE found that 72% of mothers in their sample experienced one or more difficulties associated with mental illness, learning difficulties, substance abuse and domestic abuse.

by their abuser where public funding is no longer available for respondents<sup>7</sup>.

**11.** The review of the guidance for judges seeing children will take place alongside the preparation of reforms and guidance for vulnerable witnesses (and others) and children as witnesses.<sup>8</sup> The review will include the Family Justice Council (FJC) guidance in respect of children giving evidence.<sup>9</sup>

**12.** On 22<sup>nd</sup> July 2014 Russell J had a very constructive meeting with Haddon-Cave J (who had chaired the working group which prepared the 2011 report on vulnerable witnesses referred to at 4 above) and Green J (who Chairs the ATC). The ATC is open to providing such guidance/toolkits and training for advocates in the family courts as is identified by the WG going forward. There will be a further meeting in respect of this in late September or early October 2014.

**13. Proposals & Initial recommendations** Following this initial work the following recommendations as to the progress of reform are made; these reforms are contiguously aimed at equipping judges to indentify and handle vulnerable parties and witnesses and equipping advocates to handle and question such parties and witnesses;

- i. That the reforms should apply to all family court cases from the outset.

---

<sup>7</sup> There is a judgement on this and related issues which is due to be handed down by the President.

<sup>8</sup> Members of the FJYPB on the WP drew attention to the pilot scheme in York for any child over 10 (subject to an s7 report) to be offered the opportunity to see the judge; they will keep the WP up-dated.

<sup>9</sup> Including the decision of the Court of Appeal in Re B (Child Evidence) [2014] EWCA Civ 1015

- ii. There should be a new mandatory rule in respect of Children and Vulnerable Witnesses and Parties supplemented by practice directions (PD) and guidance approved by the President.
- iii. The term vulnerable witness should remain in use as it is not desirable for the family court procedure to become distanced or uncoupled from the practice and procedure as it has developed in the criminal justice system. The term needs to be extended to cover the parties as well as witnesses.<sup>10</sup>
- iv. The rule/s should be inserted in the Family Procedure Rules 2010 (FPR) (as amended) at the earliest point of the rules to emphasise the importance of the role of the child and the need to identify the necessary support /special measures for vulnerable witnesses and/or parties from the start of any proceedings, or at the earliest opportunity.
- v. There should be a new Part 4 to the FPR.
- vi. The rule should require that court/judge will recognise the role of the children and/or needs of children at the outset of proceedings either as participants in proceedings who should be given the opportunity of communicating with the judge; and/or as witnesses and consider the how best to provide for their participation and support.
- vii. The rule should require that the court/judge will identify whether a party or witness is vulnerable at the outset of the proceedings or their involvement in proceeding (which ever is the sooner) and make provision for such support, special measures or other

---

<sup>10</sup>The provision of special measures in criminal proceedings has been applied to defendants although not originally provided for in the 1999 Act; equality of arms required that the defendant was given the assistance needed to give best evidence *R. (D.) v Camberwell Green Youth Court*; *R. (DPP) v Same*. [2005] 2 Cr.App.R. 1, HL

assistance they may need to properly and fully participate in the proceedings and to give best evidence;

- viii.** The rule should require that all the advocates and representatives of the parties must identify and consider how best the role of the child is to be recognised and/or provide for such assistance and support they need to give best evidence.
- ix.** The rule should require that all advocates and representatives of the parties must identify if a party or witness is vulnerable and consider how best he or she can be supported and assisted to give best evidence.
- x.** There should be a requirement in the same terms for Litigants in Person.
- xi.** There should be a practice direction (4) based on the FJC guidance for judges seeing children, which reflects the Court of Appeal's decision *Re KP* [2014] EWCA Civ 554, gives consideration to the provisions of the Charter and the experience of the judiciary.
- xii.** In addition there should be consideration of the status and nature the contents of the communication between judge and child.
- xiii.** The procedure, practice and guidance for provision of special measures, support and/or assistance for vulnerable parties or witnesses; including children to give their best evidence should from part of the existing PDs where possible; such as by amendment of the Public Law Outline or Child Arrangements Programme.
- xiv.** The rule and practice direction should be drafted with reference to the existing Special Measures Directions In the Case of Vulnerable and Intimidated Witnesses, and the procedure and practice that have developed in the criminal courts pursuant to the 1999 Act and the work of the ATC.
- xv.** Particular consideration should be given to the provisions for parties and witnesses in cases of forced marriage (FM) and female

genital mutilation (FGM). In FM cases nullity hearings are in open court when the protected person is a vulnerable witness who is likely to have to give evidence of a most intimate and sensitive nature. In FGM cases the child and/or other witness are most likely to need support and special measures for the same or similar reasons and such support and assistance should be provided by the judge, court and advocates.

- xvi. The new rule and PD and amendments to the existing PDs should be drafted by the WG in consultation with the FJC (with its interdisciplinary membership), FJYPB, the judiciary and the drafts sent for wider consultation to MoJ and HMCTS.
- xvii. The rule change should be implemented by way of training for the judiciary and advocates.
- xviii. Training for the judiciary should be in the form of an additional module during Judicial College training for Public and Private Law and online material both in respect of judges seeing children and regarding vulnerable witnesses.
- xix. Advocates should be expected to attend for additional training (as criminal advocates did); the ATC will provide additional and specific guidance for advocates in family cases as part of the toolkit.
- xx. The WG should identify the training and guidance needed in order that the ATC provide it. The WG should seek the assistance of practitioners' groups in developing the areas of training and guidance.

**14. Timetable** It is the aim of the WG that the rule change will be in place by January 2015. Proposed rules will have to go the FPRC by the end of October 2014 to adhere to the proposed timetable. The WG is due to meet in early October when the draft rules can be discussed.

**15. Consultation** In his view the President said;

“The Working Party will need to build on the experiences of judges in the Family Division and the Family Court who have had to deal with these issues, particularly in the more recent past. But it is also vital that the Working Party taps into and incorporates in its thinking both the highly relevant and thought-provoking views of the Family Justice Young People’s Board and the inter-disciplinary expertise of the Family Justice Council.”

**16. Judicial Liaison** Hayden J will liaise with Family Division Judges and consult with them on both aspects of work being undertaken, children and communication with the judges hearing their cases and making the decisions about them; and vulnerable parties and witnesses.

**17.** Preliminary consultation as set out above will take place through the FJC (including with expert members of the Council) on the drafts after that meeting with wider consultation taking place afterwards when more refinement of the drafts has taken place. Russell J to liaise with FJC and arrange consultation with FJC experts.

**AH & AHR**

**July 2014**

## **Appendix I**

### **Membership of the Working Group**

The Hon Mr Justice Hayden

The Hon Ms Justice Russell

Luke Berry (FJYPB)

Her Honour Judge Sally Cahill QC

Melanie Carew (Cafcass Legal)

Alex Clark (Office of PFD/Secretary FJC)

Professor Penny Cooper (Advocates Gateway)

Rhian Davies (Cafcass Cymru)

Marie Gittins (FJYPB)

His Honour Judge Clive Heaton QC

Caroline Little (FJC solicitor)

Joe Murphy (MoJ)

Rebecca Musgrove (FJYPB)

Joyce Plotnikoff (Advocates Gateway)

Greg Watkins (HMCTS)

Malek Wan Daud (FJC barrister)

Jo Wilkinson (Office of PFD)

### **Acknowledgements**

**In addition to the members of the working group the authors would like to thank the following for the time and assistance they have given:**

Mr Justice Haddon-Cave

Mr Justice Green

Professor Penny Cooper

Melissa Elsworth

## Appendix II

### Bibliography of some suggested source material

#### Legislation/Guidance

Children (Admissibility of Hearsay Evidence) Order 1993

Children Act 1989

Children Act 2004 (Part 2)

Coroners and Justice Act 2009

Equality Act (Disability) Regulations 2010

Equality Act 2010

Family Law Act 1996

Protection from Harassment Act 1997

Criminal Justice and Court Services Act 2000 (CAFCASS)

Family Justice Council (2011) 'Guidelines in Relation to Children Giving Evidence in Family Proceedings' <http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/FJC/Publications/Children+Giving+Evidence+Guidelines+-+Final+Version.pdf>

Matrimonial and Family Proceedings Act 1984

Family Procedure Rules 2010

Human Rights Act 1998

Youth Justice and Criminal Evidence Act 1999

#### International Instruments/Guidance

Council of Europe (2010) 'Guidelines on Child Friendly Justice' [http://www.coe.int/t/dghl/standardsetting/childjustice/default\\_en.asp](http://www.coe.int/t/dghl/standardsetting/childjustice/default_en.asp)

EU Directive on Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime 2012/29/EU

EU Regulation on the Mutual Recognition of Protection Measures in Civil Matters

EU Treaty on the Functioning of the European Union

European Convention on Human Rights

European Convention on the Exercise of Children's Rights

UN Committee on the Rights of the Child (2009) 'General Comment No.12: The Right of the Child to be Heard'

<http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CCIQFjAA&url=http%3A%2F%2Fwww2.ohchr.org%2Fenglish%2Fbody%2Fcr%2Fdocs%2FAdvanceVersions%2FCRC-C-GC-12.doc&ei=DFG4U5yiHsOM7AaNiYGABw&usg=AFQjCNG80YpDDLSVQQURygjPX1TLz8lAsA&bvm=bv.70138588,d.ZGU>

UN Convention on the Rights of Persons with Disabilities

UN Convention on the Rights of the Child

### Codes of Conduct

Bar Standards Board (2014) 'Code of Conduct'  
[https://www.barstandardsboard.org.uk/media/1553795/bsb\\_handbook\\_jan\\_2014.pdf](https://www.barstandardsboard.org.uk/media/1553795/bsb_handbook_jan_2014.pdf)

Bar Standards Board (2014) 'Handbook Equality Rules'  
[https://www.barstandardsboard.org.uk/media/1562168/bsb\\_equality\\_rules\\_handbook\\_corrected.pdf](https://www.barstandardsboard.org.uk/media/1562168/bsb_equality_rules_handbook_corrected.pdf)

CILEX (2010) 'Professional Standards Code of Conduct'  
<http://www.cilex.org.uk/pdf/CodeofConduct.pdf>

Judicial College (2012) 'Bench Checklist: Young Witness Cases'  
<http://www.judiciary.gov.uk/publications/jc-bench-checklist-young-wit-cases/>

Judicial College (2012) 'Fairness in Courts and Tribunals'  
<http://www.judiciary.gov.uk/publications/fairness-in-courts-and-tribunals/>

Judicial College (2013) 'Equal Treatment Bench Book'  
[http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/judicial-college/ETBB\\_all\\_chapters\\_final.pdf](http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/judicial-college/ETBB_all_chapters_final.pdf)

Solicitors Regulation Authority (2010) 'Statement of Standards for Solicitor Higher Court Advocates'  
<http://www.sra.org.uk/solicitors/accreditation/higher-rights/competence-standards.page>

Solicitors Regulation Authority (2011) 'Code of Conduct'  
<http://www.sra.org.uk/solicitors/handbook/code/content.page>

### Articles/Reports

Advocacy Training Council (2011) 'Raising the Bar'  
<http://advocacytrainingcouncil.org/images/word/raisingthebar.pdf>

Allain, J., (2009) 'Treaty Interpretation and the UN Convention on the Rights of Persons with Disabilities'  
<http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CCIQFjAA&url=http%3A%2F%2Fwww.disabilityaction.org%2Ffs%2Fdoc%2Fpublications%2Flegal-report-2-treaty-interpretation-and-the-un-convention-on-the-rights-of-persons-with-disabilities-2.doc&ei=9U60U5HkGYHJPLCfgdAJ&usg=AFQjCNErk427kwEINBxG1WOwG2fIEkNxxw&bvm=bv.70138588,d.ZWU>

Bala, N., Evans, A., Bala, E., (2010) 'Hearing the voices of children in Canada's criminal justice system: recognising capacity and facilitating testimony' 22(1) Child and Family Law Quarterly 21

Ball, R., (2010) 'The investigative interviewing of children and other vulnerable witnesses: Psychological research and working/professional practice' 15 Legal and Criminological Psychology 5

- Bercow, J., (2013) 'The Bercow Report: A Review of Services for Children and Young People (0-19) with Speech, Language and Communication Needs' <http://webarchive.nationalarchives.gov.uk/20130401151715/http://www.education.gov.uk/publications/eOrderingDownload/Bercow-Report.pdf>
- Brammer, A. Cooper, P., (2011) 'Still waiting for a meeting of minds: child witnesses in the criminal and family justice systems' 12 Criminal Law Review 925
- Bull, R., (2011) 'The investigative interviewing of children and other vulnerable witnesses' 15(1) Legal and Criminological Psychology 5
- Cashmore, J., and De Haas, N., (1992) 'The Use of Closed Circuit Television: Child witnesses in the ACT' Research Paper (Sydney: Australian Law Reform Commission)
- Cooper, P., (2011) "ABE interviews, children's testimony and hearing the voice of the child in family cases: are we barking up the right tree?" <http://openaccess.city.ac.uk/613/2/Penny%20Cooper%20FJC%20paper%20Oct%202011.pdf>
- Cooper, P., (2011) 'Child witnesses in family proceedings: should intermediaries be showing us the way?' April Family Law Journal 397
- Cooper, P., (2012) 'Witness familiarisation and special measures come of age' <http://www.solicitorsjournal.com/comment/witness-familiarisation-and-special-measures-come-age>
- Cooper, P., (2013) 'The Family Advocate's Gateway to Best Practice for Vulnerable Witnesses' Family Law Journal 43
- Cooper, P., (2014) 'Speaking when they are spoken to: hearing vulnerable witnesses in care proceedings' 26(2) Child and Family Law Quarterly 132
- Cooper, P., Wurtzel, D., (2013) 'A day late and a dollar short: in search of an intermediary scheme for vulnerable defendants in England and Wales' 1 Criminal Law Review 4
- Cooper, P., Wurtzel, D., (2014) 'Better second time around? Department of Justice Registered Intermediaries Schemes and Lessons from England and Wales' 65(1) Northern Ireland Legal Quarterly 39
- Council of Europe (2012) 'Protecting the right to a fair trial under the European Convention on Human Rights' [http://www.coe.int/t/dghl/cooperation/capacitybuilding/Source/documntation/hb12\\_fairtrial\\_en.pdf](http://www.coe.int/t/dghl/cooperation/capacitybuilding/Source/documntation/hb12_fairtrial_en.pdf)
- Cox, R., Evans, R., Stenfert Kroese, B., (2014) 'Solicitors' experiences of representing parents with learning disabilities in care proceedings: altering practice and coping with stress' July Family Law Journal 1017
- Davies, E., Hanna, K., Henderson, E., Hand, L., (2011) 'Questioning child witnesses: Exploring the benefits and risks of intermediary models' [http://www.ipp.aut.ac.nz/\\_data/assets/pdf\\_file/0006/237993/Questioning-child-witnesses\\_exploring-intermediary-models.pdf](http://www.ipp.aut.ac.nz/_data/assets/pdf_file/0006/237993/Questioning-child-witnesses_exploring-intermediary-models.pdf)
- Davis, M., (2014) 'Marginalised voices in the changing public and private law landscape- public law issues: first principles and how to incorporate them into practice' May Family Law Journal 629

- Department of Justice Northern Ireland (2013) 'Special Measures for Vulnerable Witnesses in Northern Ireland' <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-criminal-justice/special-measures-for-vulnerable-witnesses-in-ni-2013.pdf>
- Donnelly, M., Kilkelly, U., (2011) 'Child-friendly healthcare: delivering on the right to be heard' 19(1) Medical Law Review 27
- Driscoll, J., (2012) 'Children's rights and participation in social research: balancing young people's autonomy rights and their protection' 24(4) Child and Family Law Quarterly 452
- Ellison, L., Wheatcroft, J., (2010) "Could you ask me that in a different way please?' Exploring the impact of courtroom questioning and witness familiarisation on adult witness accuracy' Criminal Law Review 823
- Equality and Human Rights Commission (2010) 'Article 13: Access to Justice' <http://www.equalityhumanrights.com/private-and-public-sector-guidance/public-sector-providers/human-rights-guidance/a-guide-to-the-un-disability-convention/part-2-know-your-rights/article-13-access-to-justice>
- Equality and Human Rights Commission (2011) 'Your rights to equality from the civil and criminal justice systems and national security' [http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&ved=0CCcQFjAB&url=http%3A%2F%2Fwww.equalityhumanrights.com%2Fsites%2Fdefault%2Ffiles%2Fuploads%2Fdocuments%2FOld\\_Guidance%2FWord\\_Docs%2FService\\_User%2F4\\_service\\_users\\_criminal\\_and\\_civil\\_justice%2520%281%29.doc&ei=TMiuU6vPGsvY7AbRgIG4CQ&usg=AFQjCNFaJ5IGCSwf6\\_r7nppBFkDuEPSyNw&bvm=bv.69837884,d.ZGU](http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&ved=0CCcQFjAB&url=http%3A%2F%2Fwww.equalityhumanrights.com%2Fsites%2Fdefault%2Ffiles%2Fuploads%2Fdocuments%2FOld_Guidance%2FWord_Docs%2FService_User%2F4_service_users_criminal_and_civil_justice%2520%281%29.doc&ei=TMiuU6vPGsvY7AbRgIG4CQ&usg=AFQjCNFaJ5IGCSwf6_r7nppBFkDuEPSyNw&bvm=bv.69837884,d.ZGU)
- Equality and Human Rights Commission (2012) 'Article 3: Freedom from torture and inhumane and degrading treatment or punishment' [http://www.equalityhumanrights.com/sites/default/files/documents/humanrights/hrr\\_article\\_3.pdf](http://www.equalityhumanrights.com/sites/default/files/documents/humanrights/hrr_article_3.pdf)
- Equality and Human Rights Commission (2012) 'Article 6: The right to a fair trial' [http://www.equalityhumanrights.com/sites/default/files/documents/humanrights/hrr\\_article\\_6.pdf](http://www.equalityhumanrights.com/sites/default/files/documents/humanrights/hrr_article_6.pdf)
- Family Justice Council (2012) '6<sup>th</sup> Annual Debate: 'Women who have children removed to care, year after year, are being failed by a system unable to respond to them as vulnerable adults in their own right' <http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/FJC/Podcast/fjc-transcript-6th-annual-debate.pdf>
- Fenwick, H., (2009) 'Civil Liberties and Human Rights' (London: Routledge-Cavendish)
- Fortin, J., Hunt, J., Scanlan, L., (2012) 'Taking a Longer View of Contact' <https://www.sussex.ac.uk/webteam/gateway/file.php?name=nuffield-foundation-final-report-16nov2012.pdf&site=28>
- Gerry, F., (2012) 'Vulnerable defendants and the courts' <http://thejusticegap.com/2012/04/vulnerable-defendants-and-the-courts/>

Gibson, F., (2010) 'Article 13 of the Convention on Rights of Persons with Disabilities- A Right to Legal Aid?'  
[https://www.academia.edu/207906/Article\\_13\\_of\\_the\\_Convention\\_on\\_Rights\\_of\\_Persons\\_with\\_Disabilities\\_-\\_A\\_Right\\_to\\_Legal\\_Aid](https://www.academia.edu/207906/Article_13_of_the_Convention_on_Rights_of_Persons_with_Disabilities_-_A_Right_to_Legal_Aid)

Gregory, J., Bryan, K., (2011) 'Speech and language therapy intervention with a group of persistent and prolific young offenders in a non-custodial setting with previously un-diagnosed SLCD'  
[http://epubs.surrey.ac.uk/7415/50/Gregory\\_ijlcd\\_final.pdf](http://epubs.surrey.ac.uk/7415/50/Gregory_ijlcd_final.pdf)

Grieve, D., (2011) 'Speech by the Attorney General: justice or ordeal: supporting and treating children fairly through the trial process'  
<https://www.gov.uk/government/speeches/the-barnardos-lecture>

Hall, M., (2009) 'Giving evidence at age 4: just means to just ends?' July Family Law Journal 608

Hall, M., (2009) 'Children giving evidence through special measures in the criminal courts: progress and problems' 21(1) Child and Family Law Quarterly 65

Handa, R., Tyler, S., (2014) 'Let's see how we get on' or the need for regulated provision of registered witness intermediaries in family proceedings' January Family Law Journal 75

Henderson, E., (2014) 'All the proper protections- the Court of Appeal rewrites the rules for the cross-examination of vulnerable witnesses' Criminal Law Review 93

HM CPS Inspectorate and HM Inspectorate of the Constabulary (2012) 'Joint inspection report on the experience of young victims and witnesses in the CJS'  
[http://www.hmcpso.gov.uk/documents/reports/CJJI\\_THM/VWEX/CJJI\\_Y\\_VW\\_Jan12\\_rpt.pdf](http://www.hmcpso.gov.uk/documents/reports/CJJI_THM/VWEX/CJJI_Y_VW_Jan12_rpt.pdf)

Hoyano, L., (2014) 'Straining the quality of justice for children and their families in public law cases' May Family Law Journal 598

Hoyano, L., (2014) 'What is balanced on the scales of justice? In search of the essence of the right to a fair trial' 1 Criminal Law Review 4

Hughes, A., (Lord Justice) (2008) 'The Children Act 1989: A Different Sort of Litigation?' Family Law Journal 1008

Jacobson, J., Hunter, G., Kirby, A., (2014) 'Supporting fair and respectful treatment of witnesses: A research-based briefing from the Institute for Criminal Policy Research'  
[http://www.icpr.org.uk/media/37469/icpr\\_witnesses.pdf](http://www.icpr.org.uk/media/37469/icpr_witnesses.pdf)

Kilkelly, U., (2010) 'Listening to Children about Justice'  
<http://www.coe.int/t/dghl/standardsetting/childjustice/CJ-S-CH%202010%20rev.%20E%205%20oct.%202010.pdf>

King's Student Law Review (2012) 'Inhumane and Degrading Treatment to No Extent: The Undefined Application Limits of Article 3 ECHR'  
<http://www.kslr.org.uk/blogs/humanrights/2012/03/04/inhuman-and-degrading-treatment-to-no-extent-the-undefined-application-limits-of-article-3-echr/>

- Langdale, R., Robottom, J., (2012) 'The participation and involvement of children in family proceedings'  
<http://www.familylawweek.co.uk/site.aspx?i=ed96057>
- Lansdown, G., (2005) 'Can you hear me? The right of young people to participate in decisions affecting them'  
[http://webcache.googleusercontent.com/search?q=cache:RSd5-ar3pJEJ:www.bernardvanleer.org/Can\\_you\\_hear\\_me\\_The\\_right\\_of\\_young\\_children\\_to\\_participate\\_in\\_decisions\\_affecting\\_them%3Fpubnr%3D598%26download%3D1+&cd=1&hl=en&ct=clnk&gl=uk](http://webcache.googleusercontent.com/search?q=cache:RSd5-ar3pJEJ:www.bernardvanleer.org/Can_you_hear_me_The_right_of_young_children_to_participate_in_decisions_affecting_them%3Fpubnr%3D598%26download%3D1+&cd=1&hl=en&ct=clnk&gl=uk)
- Macdonald, A., (2012) 'The Rights of the Child: Law and Practice' (London: Jordan Publishing)
- Masson, J., et al (2008) 'Care Profiling Study'  
<http://www.bristol.ac.uk/law/research/researchpublications/2008/care-profiling-study-report.pdf>
- McCormick, L., (2013) 'A civil question...' 163 New Law Journal 13
- McEwan, J., (2013) 'Vulnerable defendants and the fairness of trials' Criminal Law Review 100
- McLeod, R., et al (2010) 'Court Experiences of Adults with Mental Health Conditions or Learning Disabilities- Report 3'  
<http://www.justice.gov.uk/downloads/publications/research-and-analysis/moj-research/court-experience-adults-3.pdf>
- Miles, J., Balmer, N.J., Smith, M., (2012) 'When exceptional is the rule: mental health, family problems and the reform of legal aid in England and Wales' 24(3) Child and Family Law Quarterly 320
- MIND (undated) 'Toolkit: Achieving justice for victims and witnesses with mental distress: A mental health toolkit for prosecutors and advocates'  
[http://www.cps.gov.uk/publications/docs/mind\\_toolkit\\_for\\_prosecutors\\_and\\_advocates.pdf](http://www.cps.gov.uk/publications/docs/mind_toolkit_for_prosecutors_and_advocates.pdf)
- Ministry of Justice (2014) 'Report on review of ways to reduce distress of victims in trials of sexual violence'  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/299341/report-on-review-of-ways-to-reduce-distress-of-victims-in-trials-of-sexual-violence.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/299341/report-on-review-of-ways-to-reduce-distress-of-victims-in-trials-of-sexual-violence.pdf)
- Mitchell, J., (2011) 'Children giving evidence: the practical implications of Re W' August Family Law Journal 817
- Mitchell, J., (2011) 'Do you ever tell fibs? Cross-examining children' September Family Law Journal 962
- Norgrove, D., (2011) 'Family Justice Review: The Final Report'  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/217343/family-justice-review-final-report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/217343/family-justice-review-final-report.pdf)
- Office for Disability Issues (2012) 'Disability: Equality Act 2010- Guidance on matters to be taken into account in determining questions relating to the definition of disability'  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/85010/disability-definition.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/85010/disability-definition.pdf)

- O'Mahony, B.M., (2009) 'The emerging role of the Registered Intermediary with the vulnerable witness and offender: facilitating communication with the police and members of the judiciary' 38 British Journal of Learning Disabilities 232
- Parkinson, P., Cashmore, J., (2008) 'The voice of the child in family law disputes' (Oxford: OUP)
- Pearce, N., (2014) 'Making the impossible possible: use of technology in the family courts' 44 Family Law Journal 219
- Pemberton, J., (2009) 'Vulnerable and intimidated witnesses' 39 Family Law Journal 244
- Pettit, B., et al (2013) 'At risk, yet dismissed: The criminal victimisation of people with mental health problems: Summary' <https://www.victimsupport.org.uk/sites/default/files/At%20risk%20summary.pdf>
- Plotnikoff, J., (2014) 'A more flexible approach to vulnerable witnesses and defendants' [http://www.theadvocatesgateway.org/images/articles/more\\_flexible\\_approach.pdf](http://www.theadvocatesgateway.org/images/articles/more_flexible_approach.pdf)
- Plotnikoff, J., Woolfson, R., (2007) 'The 'Go-Between': evaluation of intermediary pathfinder projects' [http://lexiconlimited.co.uk/wp-content/uploads/2013/01/Intermediaries\\_study\\_report.pdf](http://lexiconlimited.co.uk/wp-content/uploads/2013/01/Intermediaries_study_report.pdf)
- Plotnikoff, J., Woolfson, R., (2009) 'Measuring up? Evaluating implementation of Government commitments to young witnesses in criminal proceedings' [http://www.nuffieldfoundation.org/sites/default/files/measuring\\_up\\_report\\_wdf66579\(1\).pdf](http://www.nuffieldfoundation.org/sites/default/files/measuring_up_report_wdf66579(1).pdf)
- Plotnikoff, J., Woolfson, R., (2011) 'Registered Intermediaries in Action: Messages for the CJS from the Witness Intermediary Scheme SmartSite' <http://lexiconlimited.co.uk/wp-content/uploads/2013/01/Registered-Intermediaries-in-Action.pdf>
- Quas, J.A., Sumaroka, M., 'Consequences of Legal Involvement on Child Victims of Maltreatment' in Lamb, M.E., et al (2011) 'Children's Testimony- A Handbook of Psychological Research and Forensic Practice' (Chichester: John Wiley & Sons)
- Ryder, E.N., (Mr Justice) (2012) 'Judicial proposals for the modernisation of family justice' [http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Reports/ryderj\\_recommendations\\_final.pdf](http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Reports/ryderj_recommendations_final.pdf)
- Scottish Executive (2002) 'Vital Voices: Helping Vulnerable Witnesses Give Evidence' <http://www.scotland.gov.uk/Publications/2002/05/14621/3802>
- Scottish Government (2012) 'Scottish Victims and Witnesses Bill- Making Justice Work for Victims and Witnesses- A Consultation Paper' <http://www.scotland.gov.uk/Resource/0039/00393452.pdf>
- Simor (2008) 'Procedural Aspects of Convention Rights' 4 Judicial Review 13
- Sinclair, R., (2004) 'Participation in practice: making it meaningful, effective and sustainable' 18(2) Children and Society 106

- Smith, A.B., Taylor, N.J., Tapp, P., (2003) 'Rethinking children's involvement in decision-making after parental separation' 10(2) *Childhood* 201
- Swift, P., et al (2013) 'What happens when people with learning disabilities need advice about the law?'  
<http://www.legalservicesconsumerpanel.org.uk/ourwork/vulnerableconsumers/Legal%20Advice%20Learning%20Disabilities%20Final%20Report.pdf>
- Talbot, J., (2010) 'Seen and heard: supporting vulnerable children in the youth justice system'  
<http://www.prisonreformtrust.org.uk/Portals/0/Documents/SeenandHearFinal%20.pdf>
- Tomlinson E., (2013) 'Child sexual exploitation: the criminal courts, vulnerable witnesses and threshold in case cases' *December Family Law Journal* 1563
- Wadham, J., et al (2012) 'Blackstone's Guide to the Equality Act 2010' (Oxford: OUP)
- Zajac, R., Hayne, H., (2003) 'Asked and Answered: Questioning Children in the Courtroom'  
[http://www.judcom.nsw.gov.au/publications/benchbks/sexual\\_assault/articles/Zajac-Questioning\\_children\\_in\\_the\\_courtroom.pdf](http://www.judcom.nsw.gov.au/publications/benchbks/sexual_assault/articles/Zajac-Questioning_children_in_the_courtroom.pdf)
- Zajac, R., Hayne, H., (2003) 'I Don't Think That's What Really Happened: The Effect of Cross-Examination on the Accuracy of Children's Reports' 9(3) *Journal of Experimental Psychology: Applied* 187