WHITE PAPER CONFERENCES

PUBLIC CHILDREN LAW : SHAPING NEW LAW INTO SOLUTION FOCUSED ANSWERS FOR CLIENTS

14TH NOVEMBER 2017

When (and with what safeguards) should the right of a child to be heard in court? Why is there a difference in approach between higher and lower courts and what does this difference mean for practice?

Introduction

I am going to assume given the audience I am addressing that you are all familiar with the legal mechanisms by which children play a role in court proceedings, either as parties or as witnesses. I will consider the current framework briefly in this talk but will focus as the title suggests on some of the challenges that face us as we consider what it means for a child to be heard, and how we can address them. As I was preparing for this talk, it seemed to me the most logical way of doing this would be consider public and private law proceedings as well as look at abduction proceedings as the experience in each of these appears to be to be different. Of course many of the ways in which children come to be heard in all proceedings have similarities but in my view the challenges in addressing this issue in private and in public law proceedings are very different

Before turning to these challenges and how we might overcome them, I thought I would spend a few minutes "setting the scene"

Setting the scene

You have all heard the proverb "*children should be seen and not heard"* and certainly over the centuries the courts were no exception to applying that approach to children. The authority of the father (and only more recently the mother and the father) was seen as the only relevant factor. The child's wishes, or indeed their welfare, were not important.

Children gradually acquired more status. The Family Law Reform Act 1969 reduced the age of majority from 21 to 18, and importantly provided for a child of 16 or over to consent to medical treatment without the consent of a parent.

The decision in 1985 in **Gillick v West Norfolk and Wisbech Area Health Authority and Another [1985] UKHL 7** will be well known to you all, the case where a mother challenged the ability of doctors to treat children without parental consent. She was not successful in the House of Lords. The case introduced the concept of Gillick competence and Lord Fraser in his judgment set out guidelines which are now referred to as the Fraser guidelines when considering children's competence

Lord Scarman said this

"parental right yields to the child's right to make his own decisions when he reaches a sufficient understanding and intelligence to be capable of making up his own mind on the matter requiring decision."

The Children Act 1989 (effective of course in 1991) set the scene for a big sea change in the way in which children were to be part of court proceedings concerning their family life. They became automatic parties to many applications, able to be joined on application to others and importantly the concept of representation through a solicitor and/or Guardian became part of the landscape for many cases concerning children

The welfare checklist in section 1(3) says the court will have regard in particular to a list of factors, the first of which, of course, is this :-

(a) The ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding

And goes on to list the other factors to take into account

At about the same time, the UK became a signatory to the United Nations Convention on the Rights of the Child (UNCRC) 1990,

Article 12 says

> *1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.*
> *2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.*

And finally, Article 11(2) of Council Regulations (EC) No 2201.2003 Brussels IIA says this

> 2. When applying Articles 12 and 13 of the 1980 Hague Convention, it shall be ensured that the child is given the opportunity to be heard during the proceedings unless this appears inappropriate having regard to his or her age or degree of maturity.

Article 12 and Article 11(2) are guiding principles for cases where the court is concerned with children being heard issue of children being heard

Where are we now?

So that's the early 1990s, some 25 years ago. How is it going with hearing those children in court?

But first of all, let's take a moment to think about what we mean by "being heard"? It's obvious to say it but it means many things to us as lawyers.

Being a party? Children giving evidence? Being in the court to tell the judge what a child wants to tell the judge? Meeting the Judge in chambers? Sending letters or even videos for viewing? Reading the child's evidence? Seeing a recording of an interview? These are all direct ways of communicating.

But in our current system being heard also means telling others what the child wants and that being communicated to the court. Is that "being heard"? Many children – and many adults - may not say so. But it happens as you know in very many cases.

A child would probably say – and does say when spoken to in my experience - that being heard means actually being present to speak in court or to the judge – many might agree with that but others see the concept of being heard in a broader sense. Many children will perhaps be suspicious that if someone else is reporting what they say, that person might not do what they say or say it correctly or that it might hold more weight if they say it themselves

The other factor challenge for us when we meet children is that often they consider that unless the judge has done what they wanted, they don't consider they have been heard or listened to. It's a concept we all probably struggle with at times….being listened to does not mean the person we are talking to agrees or is going to do what we want! But children do struggle with it too in my experience. In my view part of my professional anxiety – which may be shared by others - about children seeing judges is sometimes if we are setting them up with an expectation that it might lead to them achieving what they want. I will return to this theme when thinking about safeguards later

My experience of many children when asked is they don't want to come near a court room or the court process. But perhaps that is the way I am asking them and I think in part we all have our own views whether we like the idea or not. We may be asking them loaded with phrases saying you don't have to…or there's lots of waiting around…or perhaps asking them too late when we know we haven't really got time to set it up.

Family Justice Young People's Board

I divert briefly to refer to the work of the **Family Justice Young People's Board, a sub committee of the Family Justice Council** which is providing young people with a voice in family justice and is providing valuable information

From their website, I take this

> "*We are a group of over 50 children and young people aged between 7 and 25 years old who live across England and Wales. All of our members have either had direct experience of the family justice system or have an interest in children's rights and the family courts"*
>
> *They have a national charter, two points are produced here:*
>
> *1. Children and young people should be at the centre of all proceedings.*
>
> - *The child or young person should feel that their needs, wishes and feelings have been considered in the court process.*
> - *Each decision should be assessed on its impact on the child.*

5. *Children and young people should be given the opportunity to meet and communicate with the professionals involved with their case including Cafcass workers, social workers, judiciary and legal representatives.*
    - *Every child over the age of sufficient age and ability should have the opportunity of meeting with a member of the judiciary overseeing their case.*
    - *Every child should have sufficient time to build a relationship with their Cafcass worker.*
    - *Every child should have clear contact details for their social worker/Cafcass worker including office address, telephone number, email address.*
    - *Every child should have the opportunity through the Cafcass worker/social worker of submitting their views directly to the judge in writing.*
    - *All children should be able to communicate their wishes and feelings with a judge.*
    - *Every child (age dependant) should have the opportunity of viewing or being informed about the social worker/Cafcass worker's report.*
    - *The child or young person should be consulted about the timing and venue for meetings*

Their annual conferences have become centre stage for many who want to hear directly from young people involved in court proceedings.

Current law and procedure and what's to change?

The rules for children being joined to proceedings are those set out in the 2010 Family Procedure Rules, amplified and built on of course by case law since then. Recent cases of note include an important case which provided guidance for the assessment of competence which has not been the subject of case law in recent times – *Re W (a child) [2016] EWCA Civ 1051*. Black LJ gave the lead judgment.

The case was particularly helpful in relation to separating out the complexity for us in assessing the child's own views as distinct from the parent's or carer's views

A brief summary of the provision shows that the guidelines concerning children giving evidence and meeting judges are now some years old and there have been many calls in recent years for their review. The relevant guidelines are:-

Guidelines for Judges Meeting Children who are subject to Family Proceedings April 2010

These Guidelines are produced by the Family Justice Council and approved by the President of the Family Division.

Guidelines in relation to children giving evidence in family proceedings 2011
https://www.judiciary.gov.uk/related-offices-and-bodies/advisory-bodies/fjc/guidance/guidelines-in-relation-to-children-giving-evidence-in-family-proceedings/

I will come back to these shortly

In 2014, the President in his 12th View, indicated that the 2010 guidelines on judges seeing children and the 2011 guidelines on children giving evidence needed review. In the former case, this he considered was needed in the light of the case of KP *(Re KP (A Child) [2014] EWCA 554)* and the 2011 guidelines on giving evidence, drawn up following the case of the Supreme Court case of Re W, needed review in light of the case of Re LC, an abduction case in the Supreme Court in 2014 [UKSC 1]

The third aspect to this View was the pressing need in the President's view to address the needs of vulnerable witnesses and parties in family proceedings

A working party headed up by Hayden J and Russell J was set up leading to an interim and final report, the latter in February 2015 [**Report of the Vulnerable Witnesses & Children Working Group February 2015].** Progress has been slow since then…and we have just had publication of some new provisions, despite the hope in the report that draft rules would be published in the spring of 2015

The review was clear that change was needed. They consulted with young people and reported their concern that children were simply not being heard enough in court proceedings. Interestingly the children were keen to stress it wasn't about getting what they wanted (compare to my own professional anxiety) but they just wanted to have their say.

They recommended new rules and practice directions for vulnerable parties and witnesses, for children giving evidence and children seeing judges.

New Part 3A

On 27th November, 2017, the new Part 3 A will come into force with the new practice direction PD 3AA. The title is "Vulnerable persons: participation in proceedings and giving evidence. Although they don't specifically address the position on children, they are going to be very important in our practice

These Rules amend the Family Procedure Rules 2010 (S.I. 2010/2955) ("FPR 2010"). The following is taken from the notes to the new Rule

- *Rule 3 inserts a new Part 3A into the FPR 2010 making special provision about the participation of vulnerable persons in family proceedings and about vulnerable persons giving evidence in such proceedings.*
- *New rule 3A.4 FPR 2010, which does not apply to a party who is a child, requires the court to consider whether a party's participation in proceedings may be diminished as a result of vulnerability and whether it is necessary to make participation directions, as defined in new rule 3A.1 FPR 2010.*
- *New rule 3A.5 FPR 2010 requires the court to consider if a party's or witness's quality of evidence may be diminished as a result of vulnerability and whether it is necessary to make participation directions.*
- *New rule 3A.6 FPR 2010 makes specific provision in relation to protected parties.*
- *New rule 3A.7 FPR 2010 sets out the matters the court must have regard to when deciding whether to make participation directions, including any matters which are set out in Practice Direction 3AA.*

- *New rule 3A.8 FPR 2010 sets out the measures which the court may direct be put in place to assist a party or witness and provides that the FPR 2010 do not give the court power to direct that public funding must be available to provide such a measure.*

***3A.8.**—(1) The measures referred to in this Part are those which—*

(a) prevent a party or witness from seeing another party or witness;

(b) allow a party or witness to participate in hearings and give evidence by live link;

(c) provide for a party or witness to use a device to help communicate;

(d) provide for a party or witness to participate in proceedings with the assistance of an intermediary;

(e) provide for a party or witness to be questioned in court with the assistance of an intermediary; or

(f) do anything else which is set out in Practice Direction 3AA.

- *New rules 3A.9 to 3A.11 FPR 2010 deal with procedural matters related to new rules 3A.3 to 3A.8.*
- *New rule 3A.12 FPR 2010 provides that the new Part 3A FPR 2010 does not give the court power to impose new functions on officers of the Service or on Welsh family proceedings officers.*

No impact assessment has been produced for this instrument because no, or no significant, impact on the private, voluntary or public sectors is foreseen.

The new practice direction 3AA supplements the rule, sets out guidance about vulnerability, the practice and procedure about participation directions and ground rules hearings. The PD specifically states that when considering whether a child is to give evidence, case law and the guidance from the Family Justice Council is to be applied

Thus we have a rather narrow new rule and PD and no revision to the guidance relating to children giving evidence and meeting judges….yet.

And all this leaves us without any guidance or assistance on the provision of resources and how this will be paid for…except that it's not to add any additional burdens on CAFCASS

Advocates'' Gateway

The PD refers all practitioners to the Advocates' Training Council and the use of the tool kits. It's useful to pause here and look at this material which has grown up from the criminal proceedings, where we know children more routinely give evidence than in family court proceedings

http://www.theadvocatesgateway.org/toolkits

These toolkits provide advocates with general **good practice guidance** when preparing for trial in cases involving a witness or a defendant with communication needs.

1 Ground rules hearings and the fair treatment of vulnerable people in court

Ground rules hearing checklist

1a Case management when a witness or defendant is vulnerable

Essential questions checklist)

2 General principles from research, policy and guidance: planning to question a vulnerable person or someone with communication needs

3 Planning to question someone with an autism spectrum disorder including Asperger syndrome

4 Planning to question someone with a learning disability

5 Planning to question someone with 'hidden' disabilities: specific language impairment, dyslexia, dyslexia, dyspraxia, dyscalculia and AD(H)D

6 Planning to question a child or young person

7 Additional factors concerning children under 7 (or functioning at a very young age)

8 Effective participation of young defendants

9 Planning to question someone using a remote link

10 Identifying vulnerability in witnesses and parties and making adjustments

11 Planning to question someone who is deaf

12 General principles when questioning witnesses and defendants with mental disorder

13 Vulnerable witnesses and parties in the family courts

14 Using communication aids in the criminal justice system

15 Witnesses and defendants with autism: memory and sensory issues

16 Intermediaries: step by step

17 Vulnerable witnesses and parties in the civil courts

18 Working with traumatised witnesses, defendants and parties

NB: *This last toolkit is currently under review, a revised version will be published in due course*

When a child might be "heard" other than as a party

Children meeting judges - guidelines

Purpose

The purpose of these Guidelines is to encourage Judges to enable children to feel more involved and connected with proceedings in which important decisions are made in their lives and to give them an opportunity to satisfy themselves that the Judge has understood their wishes and feelings and to understand the nature of the Judge's task.

Preamble

In England and Wales in most cases a child's needs, wishes and feelings are brought to the court in written form by a Cafcass officer. Nothing in this guidance document is intended to replace or undermine that responsibility.

It is Cafcass practice to discuss with a child in a manner appropriate to their developmental understanding whether their participation in the process includes a wish to meet the Judge. If the child does not wish to meet the Judge discussions can centre on other ways of enabling the child to feel a part of the process. If the child wishes to meet the Judge, that wish should be conveyed to the Judge where appropriate.

The primary purpose of the meeting is to benefit the child. However, it may also benefit the Judge and other family members.

Guidelines

1. *The Judge is entitled to expect the lawyer for the child and/or the Cafcass officer:*
   (i) to advise whether the child wishes to meet the Judge;
   (ii) if so, to explain from the child's perspective, the purpose of the meeting;
   (iii) to advise whether it accords with the welfare interests of the child for such a meeting take place; and
   (iv) to identify the purpose of the proposed meeting as perceived by the child's professional representative/s.

2. *The other parties shall be entitled to make representations as to any proposed meeting with the Judge before the Judge decides whether or not it shall take place.*

3 *In deciding whether or not a meeting shall take place and, if so, in what circumstances, the child's chronological age is relevant but not determinative.*

Some children of 7 or even younger have a clear understanding of their circumstances and very clear views which they may wish to express.

4 *If the child wishes to meet the Judge but the Judge decides that a meeting would be inappropriate, the Judge should consider providing a brief explanation in writing for the child.*

5. *If a Judge decides to meet a child, it is a matter for the discretion of the Judge, having considered representations from the parties -*

(i) the purpose and proposed content of the meeting;
(ii) at what stage during the proceedings, or after they have concluded, the meeting should take place;
(iii) where the meeting will take place;
(iv) who will bring the child to the meeting;
(v) who will prepare the child for the meeting (this should usually be the Cafcass officer);
(vi) who shall attend during the meeting – although a Judge should never see a child alone;
(vii) by whom a minute of the meeting shall be taken, how that minute is to be approved by the Judge, and how it is to be communicated to the other parties.

It cannot be stressed too often that the child's meeting with the judge is not for the purpose of gathering evidence. That is the responsibility of the Cafcass officer. The purpose is to enable the child to gain some understanding of what is going on, and to be reassured that the judge has understood him/her.

6. *If the meeting takes place prior to the conclusion of the proceedings –*

(i) The Judge should explain to the child at an early stage that a Judge cannot hold secrets. What is said by the child will, other than in exceptional circumstances, be communicated to his/her parents and other parties.
(ii) The Judge should also explain that decisions in the case are the responsibility of the Judge, who will have to weigh a number of factors, and that the outcome is never the responsibility of the child.
(iii) The Judge should discuss with the child how his or her decisions will be communicated to the child.
(iv) The parties or their representatives shall have the opportunity to respond to the content of the meeting, whether by way of oral evidence or submissions.

I mentioned earlier the case of KP which is an example of how not to do this….amongst other things, the Judge asked 87 questions of the child. Re KP was helpful in setting out additional guidance for meetings with judges, particularly in the context of abduction cases and should be on your reading list alongside these guidelines

Children giving evidence as witnesses, whether they are parties or not

All will be familiar with the Supreme Court decision in Re W – there is no longer a presumption or even a starting point against a child giving evidence and "*the court's principal objective should be achieving a fair trial"*

I have taken some parts of the Guidelines to reproduce here:-

9 *With that objective the court should carry out a balancing exercise between the following primary considerations:*
i) the possible advantages that the child being called will bring to the determination of truth balanced against;
ii) the possible damage to the child's welfare from giving evidence i.e. the risk of harm to the child from giving evidence;

[having regard to a list of factors…].

10 *The Court must always take into account the risk of harm which giving evidence may do to children and how to minimise that harm, although that may vary from case to case but the Court does not necessarily need expert evidence in order to assess the risk.*

12. The Court needs to consider seriously the possibility of further questions being put to the child on an occasion distinct from the substantive hearing so as to avoid oral examination. This option would have significant advantages to the child and should be considered at the earliest opportunity and in any event before that substantive hearing .Such further questioning should be carried out as soon as possible after the incident in question.

14 At the earliest opportunity and in any event before the hearing at which child's evidence is taken, the following matters need to be considered:
a. if 'live' cross examination is appropriate, the need for and use of a registered intermediary [insert details of register of intermediaries] [subject to their availability] or other communication specialist to facilitate the communication of others with the child or relay questions directly, if indicated by the needs of the child ;
b. the use of other 'special measures' in particular live video link and screens;
c. the full range of special measures in light of the child's wishes and needs;
d. advance judicial approval of any questions proposed to be put to the child;
e. the need for ground rules to be discussed ahead of time by the judge, lawyers (and intermediary, if applicable) about the examination;
f. information about the child's communication skills, length of concentration span and level of understanding e.g. from an expert or an intermediary or other communication specialist;
g. the need for breaks;

h. the involvement and identity of a supporter for the child;
i. the timetable for children's evidence to minimise time at court and give them a fresh clear start in the morning;
j. the child's dates to avoid attending court;
k. the length of any ABE recording, the best time for the child and the Court to view it (the best time for the child may not be when the recording is viewed by the court);
l. admissions of as much of the child's evidence as possible in advance; including locations, times, and lay-outs;
m. save in exceptional circumstances, agreement as to i) the proper form and limit of questioning and ii) the identity of the questioner.

15. If a child is to give oral evidence at the hearing the following should occur:
a. a familiarisation visit by the child to the court before the hearing with a demonstration of special measures, so that the child can make an informed view about their use;
b. the child should be accompanied and have a known neutral supporter, not directly involved in the case, present during their evidence;
c. the child should see their ABE interview and/or their existing evidence before giving evidence for the purpose of memory refreshing;
d. consideration of the child's secure access to the building and suitability of waiting/eating areas so as to ensure there is no possibility of any confrontation with anyone which might cause distress to the child (where facilities are inadequate, use of a remote link from another court or non-court location);
e. identification of where the child will be located at court and the need for privacy.

16. Where possible the children's solicitor/Cafcass should be deputed to organise these matters.

17. A child should never be questioned directly by a litigant in person who is an alleged perpetrator.

18. If the decision has been made that the child should give oral evidence at the hearing the following should occur:
a. advocates should introduce themselves to the child;
b. judges and magistrates should ask if the child would like to meet them, to help to establish rapport and reinforce advice;
c. children should be encouraged to let the court know if they have a problem or want a break but cannot be relied upon to do so;
d. professionals should be vigilant to identify potential miscommunication;
e. the child should be told how the live video link works and who can see who;
f. a check should be made (before the child is seated in the TV link room) to ensure that the equipment is working, recordings can be played and that camera angles will not permit the witness to see the Respondents
g. the parties should agree which documents the child will be referred to and ensure they are in the room where the child is situated for ease of access

It is important of course to consider the importance of the ABE interview whenever a child is going to give evidence and the need to evaluate that interview

MacFarlane LJ in the case of *Re E (A Child: Evidence)[2016] EWCA Civ 473* commented in strong terms about the fact that the Supreme Court decision of Re W had not led to a significantly different approach to children giving evidence in court and he hoped the case would serve as a "*reminder to the profession of the need to engage fully with all that is required by Re W and the Guidelines*"

Practical and professional challenges and views – the real world

I have spent a bit of time looking at the legal and procedural framework for children to be heard.

In public law, it seems to me a child has a greater chance of being heard through one of the various routes.

A child has a solicitor and guardian who should be raising a child's wish to see the judge and reporting to the court in any event on their wishes. All parties will – or should - be focused on the need for a child to give evidence

There are professionals who can carry out a Re W assessment

Everyone usually has legal aid

There are people who can support the child at court

We are still struggling with the provision of intermediary services and who will pay but there is my experience a much greater chance of getting what we need in this forum

I raise the question of settlement conferences and how children will be heard in these and whether where there is a competent child, s/he should be present. Indeed if the child is represented, can the settlement go ahead in the absence of the child?

Another point to consider is that if children are increasingly to attend court to see the judge and/or give evidence, the greater push to transparency will need very careful thought given that the research undertaken with children on the whole shows they do not want greater transparency with its risks to their privacy

In private law however we face serious challenges.

To name a few – lack of representation, lack of funding, who is raising the issue of a child's evidence being heard if parents are not represented? Who is going to do a Re W assessment? Who is checking with the child if they want to see the judge?

In abduction work, children are perhaps more often going to be joined as parties and/or meet the judge and/or give evidence. Some of the risks are mitigated as parents more often have legal representation and funding so these issues are raised but that's not always the case. The Court of Appeal has made it clear it will not look

very favourably on children being joined at appeal stage so we have to get this right and consider the joinder issue early on

However the significant issue for private law cases which in my view is the most challenging is that the lack of resources means that fewer children are even seen for their views to be taken and informed to the court by CAFCASS. It's hard to get a section 7 report these days. The lack of resources and the reduced ability of CAFCASS to write reports for courts, means that at a time when there appears to be greater judicial emphasis on eliciting the views of the child and the child being heard, there is less chance of it happening. The child is therefore only heard through the parents' comments to the court about what the child wants.

This can be remedied by the joining of the child which provides a guardian and a solicitor but this happens in only a small number of cases.

My experience of judges/courts

It is my experience that more and more judges actually raise the issue of seeing children themselves and ask us to convey to the child that s/he would be very happy to see the child if the child would wish to see them. This I suspect would not have happened 10 years ago.

We all know some judges who are brilliant at meeting children and some who are not so good. My own experience has been positive and I particularly recall the value of two children in a difficult section 8 case seeing a judge at the final hearing. The importance of this meeting was for the judge to tell the children that the reason he was ending the case was not because he thought their dad's case to see them, had no merit, but because the children were adamant they didn't want to see him without good reason. The judge carefully explained to them that their dad was a good man, there was nothing wrong with him and he hoped they would reflect on the value of seeing him in later life. I wonder if this resonated with them – if it did – they didn't show that it did

A case I was involved with in the summer was reported recently. It was a decision before Macdonald J. This was an example where arrangements were not put in hand in good time to arrange a meeting with a Judge , although on the day he said he would be willing to see the child who had turned up at court.

However meeting a judge is a stressful business for the child, the lawyer and the judge. Sometimes the meetings can be awkward, and as the child's solicitor you may have to take the lead as you know the child. The interview may stray into areas it should not – who is to pull it back? Who is taking a note? How do you comfort the child who is crying?

Our own fears as professionals may steer us away from raising the issue of the child meeting the judge, as may our own views about whether we think it is a good idea. However, the tide continues to turn towards more and more children seeing judges, so we cannot ignore the duty we have as lawyers to raise this and manage it well.

Difference between higher and lower courts?

The difference as I see it is that the judges who have asked me and my colleagues about this issue tend to be at the level of circuit judge and above – on the whole, it's when cases have more judicial continuity and the issue is raised early. It's absolutely essential if you have a child who wants to meet a judge that this is managed with continuity and certainty. This is not for example often possible with a bench of magistrates or a circulating district judge or a case listed for a judge outside the court you are practicing in e.g. an overflow hearing arrangement.

I think it's also the case that as cases in the higher courts are more complex cases, then the issue comes up more often at those levels.

However I don't think the level of court alters the approach for practitioners save that I think the practical arrangements are obviously much harder to make when you don't know who your judge is

Safeguards

In addition to all that I have covered about the safeguards, these are my key suggestions for lawyers:-

- Be fully aware of and familiar with the guidance and case law
- Read the advocates' toolkit
- Undergo specialist training for working with vulnerable witnesses – although many of the training courses are designed for the criminal law, the training could nonetheless be useful
- Careful and early preparation. Whether it's a question of a child giving evidence, wanting to attend court as they have party status or meeting the Judge, you need to be thinking about this from the start and keep returning to the issue and you need to prepare carefully and thoroughly for any visit
- Obtaining police disclosure and access to the ABE interview and transcripts early on
- The Re W assessment – needs to be done properly and by the right professional(s)
- Early consideration of what special measures including intermediaries are needed
- Following the guidance set out in the case law and guidelines
- Managing the expectations of the child if they want to meet the judge – from the start telling them who can make the decisions about whether they attend and crucially explaining what the meeting is about what it is not about and explaining it is not confidential. This last point needs to be repeated time and time again.
- Considering all other options for the child to be heard – letters, videos (?)
- Considering a letter from the Judge to the child to explain the decision

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