

## EXECUTIVE SUMMARY

FNF Both Parents Matter Cymru is a shared parenting charity working to support those who are being excluded from the lives of the children they care about. This survey was created to inform a Working Group of the Family Justice Council whose purpose is to examine the effectiveness of existing support for Litigants in Person (LiPs) and to consider how this may be enhanced or supported further. The aim of this survey was to consider what sources LiPs access when seeking information and advice about the family justice system, what are the strengths and limitations of these sources, what factors bring LiPs to family courts, and what could the courts do differently to become more accessible to LiPs.

This Survey was available through Survey Monkey. A total of **260 individual responses** were received on an anonymous basis during the period 30<sup>th</sup> November to 20<sup>th</sup> December 2016; 95% of the respondents attended Court in England and Wales. The responses have enabled a more informed understanding of the experiences of those who engage in legal proceedings in the Family Court in England and Wales.

## KEY FINDINGS

- More than 88% of respondents are of the firm opinion that reform of the current Private Family Law system is needed. Key areas for reform include:
  - A recognition that children benefit from substantial direct involvement of both parents in their lives, translated into child arrangements which are based on shared care.
  - Organisations, processes and procedures which ensure transparency and accountability, including a requirement for competent, fit to practice personnel, robust monitoring and effective complaints procedures.
  - A greater understanding of parental alienation by all personnel to enable children to be protected from harm, and perpetrators of domestic abuse and child psychological abuse to be appropriately dealt with.
- Engagement with mediation is minimal, ineffective and a negative experience.
- Engagement with Cafcass and Cafcass Cymru is largely a negative experience. Only 6 respondents, a little over 2%, indicated a positive experience with a satisfactory outcome.
- More than 40% of respondents indicated that they feared intimidation prior to their Court appearance.
- More than 70% of respondents accessed advice from a solicitor prior to attending Court.
- More than 55% of respondents indicated that they would have liked more specific advice on the law as it applied to their own case.
- More than 53% indicated that advice on legal procedure and Court process would have been beneficial.
- Almost 50% of respondents would have liked advice and tips on how to represent themselves in Court.
- Assistance by a solicitor was reported by 47% of respondents and 34% had assistance from a barrister.
- McKenzie Friends or support workers provided assistance for 26% of the respondents.
- More than 40% of litigants represented themselves, attending Court alone at some stage of Proceedings.

## INTRODUCTION

### WHO WE ARE AND WHAT WE DO

FNF Both Parents Matter Cymru is a shared parenting charity working to support those who are being excluded from the lives of the children they care about. Most of our service users (currently c 75%) are fathers facing contact difficulties. We provide information, support and advice to parents and grandparents with child contact difficulties. We also support all men in their role as a father (or father figure) to make a positive contribution to the upbringing and development of the children they care about. We have been recognised by the Welsh Government as a 'representative body' for men as a group with protected characteristics under the Equality Act 2010.

### BACKGROUND

This survey was created to inform a Working Group of the Family Justice Council that met on the 5th December at the Royal Courts of Justice in London. The purpose of the Working Group was to examine the effectiveness of existing support for Litigants in Person (LiPs) and to consider ways that may be enhanced or supported further. This study involved a consideration of what sources LiPs tend to refer to when seeking information and advice about the family justice system, what are the strengths and limitations of these sources, what are the factors that bring LiPs to family courts, and what could the courts do differently to become more accessible to LiPs.

The initial results of this survey were shared in outline with the attendees at the Working Group that included members of the full Family Justice Council, a representative from HMCTS and a significant number of representatives from advice and support agencies including the Personal Support Unit, Women's Aid, Rights of Women and FNF Both Parents Matter Cymru.

The interim findings were referred to extensively in the Minutes of the Working Group meeting and an Action Point raised to follow up when the final report had been produced.

The charity hopes that this piece of work will stimulate the debate around the importance of listening to the voice and experience of service users of the Family Court – particularly in the field of Private Law and Child Arrangements which many have acknowledged has been particularly absent from the debate.

The research was undertaken by the charity without funding by any interested party.

### METHODOLOGY

The research has been undertaken by FNF Both Parents Matter Cymru using an online survey tool – Survey Monkey – commencing on 30<sup>th</sup> November 2016 and concluding on the 20<sup>th</sup> December 2016. The survey was distributed to service users of FNF Both Parents Matter Cymru, Families Need Fathers (in England) and was promoted by a variety of Facebook groups who support and reflect the views of many service users of the Family Court.

## SURVEY RESPONSE

A total of 260 responses to the survey were received in the period 30<sup>th</sup> November 2016 to 20<sup>th</sup> December 2016. The survey consisted of thirteen questions designed to collect demographic data and the experiences of LiPs, largely in private Family Proceedings. It was evident in the responses that some of those who contributed to the survey had experience of Public Law Proceedings, though it was not possible to determine if this was their sole experience of Family Proceedings or whether they had been involved in both Private and Family Law cases. It is not possible to categorically determine how many respondents had engaged in Public Law or Private Law Proceedings.

### 1. What is your gender/sex ?

Gender / Sex		
<i>Female</i>	79	30.38%
<i>Male</i>	181	69.72%
<i>Transgender / non-binary</i>	0	0.00%
<b>TOTAL</b>	<b>260</b>	

TABLE 1 GENDER / SEX

### 2. In what part of the country was your case heard ?

Of the 260 participants, 257 responded to this question. Respondents were offered a choice of 11 geographical regions throughout England and Wales. The twelfth option was ***prefer not to say / other***. On analysis of the responses, the 23 initially recorded as ***prefer not to say / other*** were allocated accordingly to one of the specified regions or one of three options: ***other –Scotland; other –Northern Ireland; other – non UK or prefer not to say***.

Responses (Table 2) indicated that 95% of the cases had been heard in England and Wales.

### 3. What is / was your greatest concern about going to court?

While respondents were asked to consider their greatest concern about going to court, they were at liberty to select more than one of the four specific options and /or to indicate other significant concerns which they held. All but four respondents chose to indicate their concerns and the results are reported in Table 3. More than 40% of the respondents indicated that they felt intimidated by the Court process and / or the other parties in the case. Fifty six of the respondents highlighted their concerns about understanding the law and 97 were concerned about the legal process.

Some of these specific concerns were re-iterated in the comments posted in the ***other*** category:

*Believing that I would be placed on equal footing but rather the opposition used every dirty tactic, including provable perjury, to bully and control the outcome.*

*Fear of facing my abuser for custody.*

*Filling in the paperwork correctly, format and wording.*

*Feeling intimidated by Judge and CAFCASS.*

*I was LIP and the way I was spoken to was very intimidating and stressful.*

*Feeling intimidated by judges who had obvious personal bias.*

*A judge that abused and bullied me and was known to do this to women.*

*Feeling like I'm intimidated and when I have concerns they are brushed under the carpet so to speak.*

<b>Court Location</b>		
North East England	7	2.72%
North West England	29	11.28%
Yorkshire & Humberside	20	7.78%
East Midlands	14	5.45%
West Midlands	17	6.61%
East of England	17	6.61%
London	30	11.67%
South East England	40	15.56%
South West England	22	8.59%
South Wales	41	15.95%
North Wales	6	2.33%
Other - Scotland	3	1.17%
Other – Northern Ireland	5	1.95%
Other – non UK	2	0.78%
Prefer not to say	4	1.56%
<b>TOTAL</b>	<b>257</b>	

**TABLE 2 LOCATION OF PROCEEDINGS**

### Greatest concerns

	<i>Not understanding the law</i>	56	21.88%
	<i>Not understanding the legal process eg what information / evidence you need to give and when? etc</i>	97	37.89%
	<i>Feeling intimidated by the Court process</i>	107	41.8%
	<i>Feeling intimidated by the other side</i>	109	42.58%
<i>Other</i>		123	48.05%
	<i>Gender bias</i>	37	
	<i>Discrimination / lack of impartiality</i>	35	
	<i>Consideration of evidence / judgement process</i>	38	
	<i>False allegations</i>	16	
	<b>Total Number of Respondents</b>	<b>256</b>	

TABLE 3 CONCERNS ABOUT COURT

An analysis of the posted comments in the **other** sections was undertaken, to identify and classify some themes. The most significant themes, in terms of the number of comments, are include in Table 3. There was a substantial reporting of concerns around bias (including gender bias), discrimination and a lack of impartiality – 72 comments in total.

*I find the courts especially the magistrates one sided when it comes to the fathers who seek contact with their child/children.*

*The court believing everything the other partner said as truth because they had legal representative.*

*Concerned that preference would be given to the mother and that her statements would hold more weight.*

*Being ignored/sidelined by the judge. My experience has consistently been that legal professionals only want to talk to other legal professionals. As a litigant in person I have found it close to impossible to have my views and concerns heard.*

*Court continues to be biased about contact towards abusive fathers.*

*The intolerance of the Judiciary for LIPs.*

*Feminist bias over the top outdated views on parenting.*

*Previous experiences in family court made me feel inferior to the mother (on the basis I was the father).*

There were 38 comments related to concerns around consideration of evidence and the judgement process.

*Even when facts and documentary evidence contradicted their recommendations, Judges ignored that evidence.*

*Not having opportunity to present evidence, not having evidence presented taken into account at judgment, being judged on supposition and opinion.*

*The inability to have forensic testing of accusations.*

*Lies in reports by social workers, accepted by the Court, who then refused permission to question those witnesses as I could evidence they lied.*

*Not being given the chance to call own witnesses and the court believing all that Social Services say with no evidence.*

*Not being allowed any of my witnesses as Judge feels they bring nothing new to the case, despite them being able to back up my account and confirm the other party has lied. Feeling like I am guilty and having to prove my innocence.*

*The Judge, Social Services and Cafcass listening to and believing her lies.*

*Evidence ignored. Fabrications made by Cafcass without evidence and accepted, although evidence was given to prove otherwise.*

*The court not understanding or having an accurate picture of our family life prior to the proceedings.*

The issue of facing false allegations and lies was raised by 16 respondents in their response to this question, though this featured much more prominently in responses to Question 13.

*No deterrent or accountability for false allegations. Used over and over again to achieve complete parentectomy.*

*Allegations are made freely without evidence or threat of perjury, any allegations should be enforced with factual evidence and pure hearsay should not be admissible as evidence.*

*False & malicious accusations of Child Sexual Assault being used against me. Fact Finding hearing did not find CSA. How do you prove a negative?*

*Perjury committed in court and nothing done about it, false allegations, false statements.*

*False accusations of emotional/violence/sexual abuse. Whilst no charges are made against the man the courts see fit to deny access to the dad.*

*Fighting false allegations trying desperately to raise child protection concerns.*

#### 4. Are / were you the Applicant or the Respondent?

Of those that indicated **other**, 10 have been both applicant and respondent. Thirteen indicated that they were other relatives, mainly grandparents. There was one McKenzie Friend, a new partner and one who identified as a joint applicant.

Applicant or Respondent		
<i>Applicant</i>	154	59.69%
<i>Respondent</i>	78	30.23%
<i>Other</i>	26	10.08%
<b>TOTAL</b>	<b>258</b>	

TABLE 4 APPLICANT OR RESPONDENT

#### 5. Did any services tell you that you needed to resolve your dispute through the Family Court? If so, which ones?

Of the 260 participants, 246 responded to this question. Respondents were offered a choice of 7 categorical responses, and an eighth – **other**. Respondents were at liberty to select more than one category. On analysis of the responses, the 41 initially recorded as **other** were allocated accordingly to one of the seven categories or one of three newly identified categories: **other – none/self**; **other – mediator**; **other – McKenzie friend**. One respondent indicated that they were summoned to court.

##### Who advised Family Court?

<i>Solicitors YOU consulted</i>	119	48.37%
<i>Advice agencies - eg CAB / PSU/ Women's Aid / FNF etc</i>	64	26.02%
<i>The other parent / their solicitor etc</i>	68	27.64%
<i>Social Services / Parenting support / Health Visitor etc</i>	75	30.49%
<i>Police</i>	42	17.07%
<i>Social media forum eg Netmums / Facebook groups etc</i>	15	6.10%
<i>Family / Friends / Work colleagues etc</i>	43	17.48%
<i>Other - none /self</i>	14	5.69%
<i>Other - mediator</i>	3	1.22%
<i>Other - McKenzie friend</i>	3	1.22%
<i>Summoned to Court</i>	1	0.41%
<b>Total Number of Respondents</b>	<b>246</b>	

TABLE 5 WHO ADVISED FAMILY COURT

6. Did you seek help BEFORE going to Court? eg from an advice agency / solicitor consultation etc If so please tell us which one/s.

Two hundred and forty nine respondents sought advice prior to beginning the legal process. Some sought advice or support from more than one source. The main source of advice was a solicitor, being consulted by 70.68% of respondents. Nearly one third, 81 of 249, accessed advice or support from a charity whose main focus was separation, relationship breakdown, parental rights, parenting or domestic violence. General advice charity the Citizens' Advice Bureau was consulted by 22.09% of the respondents and internet based support was accessed by 24.5%.

<b>Pre-Court Advice and Support</b>		
<i>Citizens Advice Bureaux</i>	55	22.09%
<i>Solicitor</i>	176	70.68%
<i>Support charity eg Women's Aid / Families Need Fathers / Rights of Women etc</i>	81	32.53%
<i>Online information / social media group eg Facebook support group / Netmums etc</i>	61	24.50%
<i>Advice Now</i>	2	0.80%
<i>PSU (Personal Support Unit)</i>	11	4.42%
<i>Family Law Panel / OnlyDads / OnlyMums</i>	8	3.21%
<i>A friend or relative who has some knowledge / thoughts / experience etc</i>	44	17.67%
<i>Other</i>	29	11.65%
<b>Total Number of Respondents</b>	<b>249</b>	

TABLE 6 Q6 PRE PROCEEDINGS SOURCE OF SUPPORT

7. What help did you have in Court? Many people use several different types eg they may go to Court alone and then choose to use a solicitor / barrister at a later stage. Please indicate ALL of the forms of In Court help you used?

Respondents to the survey were asked to indicate all of the types of support they accessed in Court. The responses indicate that a number of the 259 respondents had support from a number of sources. 43.6% indicated that they had represented themselves in Court with 26.25% having support from a McKenzie friend



or Support worker. Support from a legal professional was indicated with 47.49% using a solicitor and 33.98% a barrister.

Help in Court		
<i>None – I represented myself</i>	113	43.63%
<i>McKenzie friend / Support worker</i>	68	26.25%
<i>Solicitor</i>	123	47.49%
<i>Barrister</i>	88	33.98%
<i>Other</i>	8	3.09%
<b>Total Number of Respondents</b>	<b>259</b>	

TABLE 7 HELP IN COURT

## 8. What help would you have liked?

More than half of the respondents (Table 8) indicated that they would have liked some assistance with the law as it related to their case and the legal procedure. Some respondents highlighted this in their responses to **other** help they would have welcomed

*Someone to explain what level of contact is possible before the court date to stop constant disappointment.*

*A framework or roadmap of what to expect.*

*As a LIP I needed advice on the court process, eg understanding the bundle and it's referencing.*

*Access to the red book that others were referring to and quoting from.*

*The ability to present evidence to halt accusations.*

*Truth about what happens when the mother does not comply with orders*

*Explanations why I am not allowed to appeal decisions.*

*To learn how to produce evidence without it even being looked at. To have information on the laws the judges must follow. To learn the proper complaints process when blatant lying has taken place.*

*More on family case law and courts.*

Similarly, respondents also elaborated on their desire for assistance in obtaining legal advice and representing themselves in court.

**What help would you have liked**

<i>Guidance on the law in the context of your case</i>	139	55.82%
<i>Guidance on Court / legal procedure</i>	134	53.82%
<i>Help getting legal advice</i>	47	38.96%
<i>Tips on representing yourself in court</i>	121	48.59%
<i>Other</i>	98	39.36%
<b>Total Number of Respondents</b>	<b>249</b>	

**TABLE 8 Q8 WHAT HELP WOULD YOU HAVE LIKED?**

*Being allowed to speak would help, I asked for permission to speak and was rudely told to shut up by the judge.*

*Knowledge on what and how to challenge.*

*To learn what to do when the other party's solicitor is shouting at me and how to get the judge to stop it.*

*To be able to be listened to and heard and to have help getting legal advice and help informing me of mine and my children's rights.*

*Although I had lots of support I had actively sought this out myself. I don't think support available is promoted.*

*How to be heard not ignored like you don't matter.*

*Assistance from court legal adviser in Magistrate's court and given equal time and weight of putting our case over.*

Among the **other** support that respondents identified, access to low cost, equitable representation was repeatedly mentioned.

*Equal representation - mother got legal aid due to accusations (unfounded) - I had to represent myself - disadvantaged as a result.*

*A realistic price for professional help. I was charged £800 for a less than 10 minute hearing.*

*I would have liked to have known about the pro bono barrister.*

*Children's rights and how to get them an advocate/solicitor despite wishes of other parent.*

*Legal aid so I could be represented. I was bullied by my ex partner.*

*Legal aid to be represented fairly by a qualified lawyer in a country that is supposed to promote equality before the law.*

*Free legal support to enable people to fight false allegations*

*I'd have liked my legal aid reinstated as I have the right to be fairly represented against the opposition*

In analysing the responses to this question, the additional help that respondents identified included emotional support, addressing perceived injustice and bias, system failures and poor practice.

*More tolerance from the Court officers, Judiciary and Clerk*

*Complete reform of the current system so children are no longer abused by this corrupt biased system.*

*Advice from expert eg psychologist*

*Not to have to sit near Social Services with them smirking at me even after being told to stop it by my barrister*

*My child needs a tribunal free from bias who can apply the law*

*Social worker to do an independent assessment of our family and a parental assessment of each parent, instead of a he said/she said system.*

*Support for the emotional trauma of losing your children in order to reduce male suicides associated with Cafcass*

*I would have liked Cafcass and the court to actually uphold the Children's Act, welfare checks, basic family law, and to put the best interests of the child first.*

*Actual judge with competency to hear the case.*

*To understand why we have to fight to see our children, why do others see they have the right to stop the other parent seeing the children?*

*An end to discrimination of men*

*Help for women who have suffered domestic abuse.*

*Told not to bother, bend over and brace myself! The system is biased!*

*That allegations of abuse if unfounded should be punished.*

*Safeguarding against abuser regardless of whether it's current or historical*

*To be viewed as an equal parent by the agencies involved which is rarely the case because they want fathers to roll over and not create a fuss.*

*A more sympathetic understanding by the judge. Not using my inexperience to an advantage.*

*Transparency honesty and truth.*

*CAFCASS is not fit for purpose and judges do not have the appropriate training. Barristers and solicitors sadly fall in to this category too.*

*Forms that are clearer and easily completed on-line - some you can't save as you go along. Also need to simplify the legal jargon.*

*Something to prevent parental alienation.*

*Separate rooms not having to face my abuser.*

*Help from spousal abuse agencies. They all laughed at me when I told them my ex wife was abusing myself and my kids.*

*I had 3 hearings prior to the final one and each time there was a different judge on the case so there was no consistency and no proper case management/notes for the following judge to rely on.*

*No point in getting any help. Even when there is a court order in place they rarely enforce them. There is no need for family courts. They should be scrapped. All that money wasted on "professionals" but their decisions are typed onto what might as well be toilet paper.*

*A greater understanding by the Judge as to the effects of domestic abuse on myself as the resident parent and my son.*

Two respondents identified good practice and one recommended the removal of the adversarial system currently in place in Family Proceedings.

*I think one solicitor should represent both parties to advise on the legal aspects, and take the adversarial nature away from the process.*

*MF helped understand the failings of the courts and provided information to make the first hearing the last hearing. The Courts document - 'What the family courts expect of parents' was extremely useful as it clearly defined 'continued parent responsibilities'.*

*I got all the help I needed with my McKenzie friend who was brilliant.*

## 9. Thinking about the help / guidance you received how useful was it for your needs?

In responding to how useful the advice received was for the specific needs of the litigant, 26.07% identified it to be helpful, 20.23% to be satisfactory and 28.80% unhelpful. Thirty respondents did not receive any help.

Those that elected the other option, had a range of experiences, which included mixed, good and poor experiences with some making comments about the cost of litigation.

<i>Very helpful</i>	30	11.67%
<i>Quite helpful</i>	37	14.40%
<i>OK</i>	52	20.23%
<i>Not very helpful</i>	50	19.46%
<i>Unhelpful</i>	24	9.34%
<i>I didn't have any help</i>	30	11.67%
<i>other</i>	34	13.23%
<b>Total Number of Respondents</b>	<b>257</b>	

TABLE 9 HOW USEFUL WAS THE HELP /GUIDANCE

*Solicitor was very helpful but expensive. Fathers 4 Justice and social media groups were also very helpful. Internet was useful to read up on the law but a lot of the time it felt like I was banging my head against a brick wall.*

*The fathers4justice, families-need-fathers and independent agencies provided best support but the family courts are stacked against fathers.*

*I had more help from my McKenzie friend than any legal service I got in contact with.*

*Vital. I consider it a duty to take a McKenzie Friend if you cannot afford professional solicitors, etc. It is simply not possible to present a case and follow the procedures as a non-lawyers without help.*

*We were fortunate to have the support of an excellent McKenzie Friend but the whole system is still confusing and frustrating, if we had had to rely on information from the Court we could well have given up.*

*Had I not had a solicitor I feel I wouldn't have my son home with me now.*

*My solicitor was no help and had no experience in family law around child contact. His barrister did not act in my best interests or proactively support me. My McKenzie representative understood that my case was Parental Alienation but my judge did not acknowledge it as real or the issue which was mind numbing!*

*Lawyers and barristers earn a lot of money from family law disputes. Rarely resolves quickly*

*Solicitors are in business.... I have sent over £120k.....on them and barristers....it's a money making machine and I represent myself now*

*Solicitor is just in for the money. I got further forward learning from the internet and representing myself.*

*Very helpful - I have paid over 25,000 GBP for it.*

*Expensive and useless. I was not advised how much weight would be attached to my oral testimony*

*Barrister was ok but nobody did anything about the lies, missing evidence & the fact they were using out of date info & lying school. They automatically believed. Needed someone to sort that.*

*I did not need to pay £200 for a McKenzie Friend. I spoke for myself and simply having someone sat next to me in court was of no help. I needed a lawyer.*

*Repeated lying by solicitors attempting to block an amicable resolution. Nugatory legal work aimed at driving up legal fees.*

*My help was useless as I had false allegations made against me without supporting evidence which led to a complete downfall of my case.*

*I had lots of support from PSU. Even their hands were tied as could only support and help with the actual process. There is no one it seems, that can give concrete advice as there are so many variables, such as the area you live in, the judges, Cafcass officers, solicitors.*

*The help I received essentially prepared me to accept the fact that I was a second class citizen in the eyes of the law, and not to expect any kind of definite outcomes as a father.*

## 10. What experience did you have of mediation / arbitration before going to Court?

Two hundred and thirty four respondents indicated their engagement with, or lack of, mediation prior to going to Court. Of these, 228 (97.4%) stated that they did not attend mediation. However, in considering the narrative comments and responses made by 72 of the respondents, it is evident that mediation was attempted

in some of these cases. The comments provided indicate that engagement with mediation was limited, was deemed unsuitable or was a negative experience in the majority of cases.

*Ex refused to pay for a second session of mediation*

*Repeatedly refused. Spent a lot on MIAM meetings; waste of time*

*It was attempted, but the other part was unwilling to negotiate and it had to be stopped after the second meeting.*

*Mediation only works if both parties are supportive. My ex-partner did not want anything to do with it. I found it frustrating that each time there is an application to court you have to do a MIAM again - parties should only have to do this once, it's a waste of money otherwise.*

#### Experience of mediation / arbitration before Court

<i>None – it wasn't considered</i>	59	25.21%
<i>Mediation was proposed but was rejected by the other side</i>	112	47.86%
<i>Mediation was proposed but I rejected it</i>	9	3.85%
<i>There were allegations of abuse that meant mediation was bypassed</i>	48	20.51%
<i>I didn't really understand what mediation was</i>	6	2.56%
<b>Total Number of Respondents</b>	<b>234</b>	

TABLE 10 EXPERIENCE OF MEDIATION / ARBITRATION

*Respondent walked out of 2 mediation sessions. They didn't have any financial investment in mediation but I had full costs.*

*My ex-partner refused mediation on 4 occasions. A problematic partner means it doesn't work*

*My ex refused to mediate on anything. She used it as an hour to slag me off and I had to pay*

*My case wasn't considered suitable for mediation due to the particularly hostile nature of the relationship with my former partner. Decision made by mediator.*

*I couldn't mediate as there was too many lies and trust was a big issue.*

*We were scheduled for mediation and she showed up with a lawyer and started with the false accusations I assume were put in her head by her*

*lawyer in order to extend the case so the lawyer could get paid more for the divorce.*

*Mediation was rejected by myself as the applicant (the non-resident father) lied about the situation and expected me to do all the traveling! Mediation is NOT appropriate in domestic abuse cases*

*There were many extreme allegations but I was advised to suggest it and it was rejected and that was sufficient enough for the court.*

*Mediation is just another layer of bureaucracy that extends the whole process. I do not know of one person who has had success taking this route.*

*I was asked by the judge at initial emergency hearing to go to mediation with my ex who had stabbed me. I reluctantly agreed based on the fact that I understood that a favorable outcome would not be possible without attendance. My ex then reneged on many of the points she'd agreed to at the second hearing.*

*I just turned up to get the FM1 form; all parties knew it was pointless and just more time wasting.*

*Mediation could have been very useful but no-one wanted to talk about parent responsibilities. This was at the core of the courts resolution document 'What the courts expect of parents'. Had this been the focus at mediation we would probably have achieved agreement over arrangements for our child.*

*Went to full blown mediation - which was just an artificial exercise.*

*Mediation one sided and waste of time.*

*Mediation means nothing. It's not fit for purpose...simply going through the motions in order to progress.*

*It was used by the other party to drag the case out.*

*Mediation was tried previously but ultimately abandoned (on the advice of the mediator) as it was not possible to make any progress. My experience is that mediation is pointless and simply another opportunity for lawyers to make money.*

*Mediation made no attempt to open up entrenched positions.*

*Mediation was undertaken but other side allowed to bully and shout and scream at me.*



## 11. What was your experience of In Court Conciliation - normally through Cafcass / Cafcass Cymru at the First Hearing?

Two hundred and thirty three respondents indicated their experience of In Court Conciliation, with just six stating that it assisted in reaching a final agreement.

One hundred and twenty nine of the respondents made comments.

However, it is evident that many of the comments

referred to the respondents' wider experience of Cafcass / Cafcass Cymru, in addition to comments around the conciliation process.

The comments present a range of negative experiences which included bias and discrimination, a lack of focus on the child and pressure and intimidation.

**What was your experience of Court Conciliation ?**

<i>Positive – it helped us reach agreement at the first hearing</i>	6	2.58%
<i>OK – but it didn't resolve our dispute</i>	63	27.04%
<i>Unhelpful. It didn't resolve anything / I felt it was pushing me in a direction I didn't want to go</i>	164	70.39%
<b>Total Number of Respondents</b>	<b>233</b>	

**TABLE 11 EXPERIENCE OF CAFCASS CONCILIATION**

*Initial Cafcass involvement was at best appalling later they got better but only because I read my rights and told them I would find them accountable for their failings to my child.. ..*

*Negative for most of it. Children were not the most important factor*

*At initial application, CAFCASS worked well to try to bring about conciliation and were clearly acting in the best interest of the children. At subsequent conciliation meetings CAFCASS had spoken to other party first, taken everything they'd been told as fact, gave me little opportunity to disprove and then refused to consider or even hear the list of concerns of negative behaviours I'd prepared in advance.*

*At every point they tried getting me to give up and go away Cafcass were not as aggressive with this as social services.*

*Very biased and one sided. Pro fathers, put my ex before the children. [...]. They were rude and committed maladministration.*

*Cafcass advised me that my daughter had been so badly mentally abused by her mother against me, my daughter would be better off if I stopped trying for contact even though in a findings hearing the judge had explained that the mother was a liar.*

*Cafcass didn't seem to grasp that parents continue to parent their children beyond separation. It seemed all about the level of time my ex-partner was prepared to allow. Having explained that arrangements based on 'continued parent responsibilities' I was told "That's not the way it's done". Well, with the greatest respect, perhaps it should be for the child's sake.*

*I found it intimidating and very judgmental at varying times.*

*Cafcass were very one sided with father.*

*I felt Cafcass was almost instantly against me as the father.*

*Cafcass did not meet with me but still wrote a report full of inaccuracies which the inferior court accepted.*

*Horrific. The CAFCASS officer was biased, a liar, a bully, devious, manipulative and so utterly lacking in basic human empathy; I think she's mentally ill.*

*Cafcass listened to his hearsay: NO evidence supplied and based the whole case on that.*

*Can't stand them. They have lied, lost evidence, then blamed me for it. Biased against the father; ridiculed me. Lied in the reports [...] Can't complain as they cover up the allegation. I am treated like a criminal.*

*The word conciliation not mentioned. Reports were incorrect and misrepresented the children. No understanding of domestic abuse at all.*

*CAFCASS are absolutely shocking in their incompetence, they have fueled conflict every time I have had them involved.*

*There was no conciliation with Cafcass.*

*Cafcass were a major cause of the whole situation escalating. [...] There was no parity of experience between the Applicant Father and Respondent Mother who was again empowered by Cafcass to take unilateral decisions to withdraw contact.*

*Cafcass are not fit for purpose. They do not understand the needs of problem cases. Children are growing up without a parent due to Cafcass.*

*Had to use ISW for majority of the case. However, Cafcass were helpful initially in helping to ensure ongoing contact with children as mother tried to withhold all contact.*

*CAFCASS were actually helpful for a change. We had a senior CAFCASS 'Guardian' involved this time. My previous experience is that CAFCASS are hopeless. I don't mean to be rude, but before the Guardian I found the CAFCASS officers to be not only useless, but they contributed to the case becoming further entrenched.*

*Uneducated Cafcass workers - not aware of psychological effects at play by other side - promised much and delivered less than nothing.*

*CAFCASS were sympathetic. They managed to get interim contact to happen in their presence. They then spent several years watching the children be alienated without intervening, without identifying what was going on, without reporting this clearly to the court or making clear recommendations. Above all, they did not tell the mother what she was doing wrong or what she needed to do to ensure the long-term health of our children.*

*I felt as though I was being set up and everything I mentioned to Cafcass was used against me, surely a 30/40 min conversation over the phone isn't enough to build a true character reference of father trying to see his kids, when my world has been turned upside down?*

*I felt the Cafcass person didn't take the full situation properly to heart and wasn't suitable for our case, i.e. Inadequate.*

*Totally sided with the other party and didn't take any middle ground what so ever.*

*They never once visited me at home when in the care of my daughter, this would have spoken volumes as to the loving father I am. But Cafcass visited my ex at home.*

*Absolutely terrible bullying experience. The officer did not take into account the child's wishes and feelings at all.*

*Cafcass at first seemed to have me judged already as someone that is just trying to give the mother a hard time but after a little talk they seemed more understanding.*

*CAFCASS didn't seem to care; felt like it was either their way or no way.*

*Cafcass are inadequate, incompetent and unfit for purpose. They lie and don't like criticism and therefore do everything they can to alienate the father from his children... With the mothers assistance.*

*Cafcass biased to parent with whom child lived.*

*This has not been helpful and I didn't feel listened to.*

*Cafcass intimidated me, belittled me and were unqualified to be advising on anything relating to my child's wishes and feelings.*

*I found Cafcass helpful to a degree, but as there was no safeguarding issues they didn't interfere.*

*Cafcass officer was immature, patronising and 'living in the 1950s'.*

*They were very supportive and listened to me and what I had to say.*

*They did not read the documents properly, were unprepared, consulted the mother more than me, provided documentation to me late too change or question [...]. Their complaints procedure is a joke.*

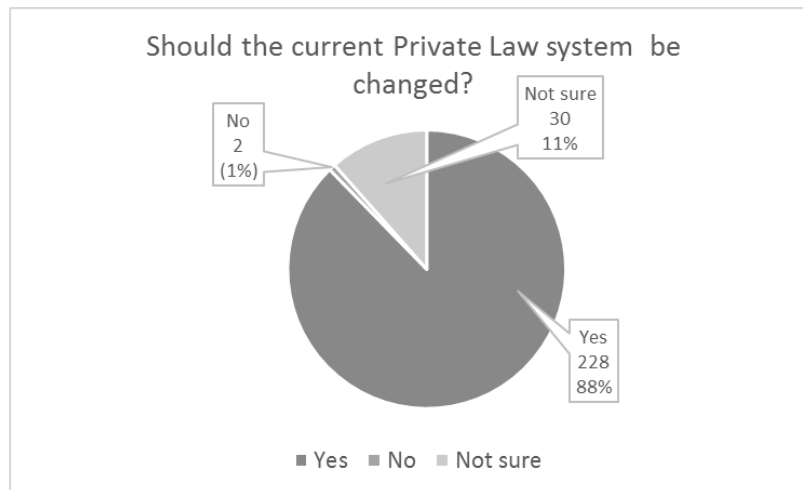
*The last Cafcass officer who represented my children in court was great.*

*I found the Cafcass officer in our case to have a good understanding of the issues surrounding our family and her recommendations were good. However as I live some distance away from my child all my interviews were by phone whereas mum and child were interviewed in person and this is unfair.*

*Cafcass are useless no help at all sided with a violent rapist and his perverted father. And placed my daughter with these.*

CAFCASS is a sham, a complete farce, with no accountability, where the gender bias is rife.

## 12. Do you think the current Private Law system should be changed?



## 13. Tell us what changes to Private Law you'd like to see - and why you think they would be better for children and families.

Respondents were asked to consider how to improve the Private Law process to benefit children and families. Two hundred and eighteen of the 260 respondents provided a wide range of narrative responses. These responses were analysed and a number of major themes were evident.

### i. Parental alienation

There were three major themes extracted from the narrative responses. The first of these highlighted issues of parental alienation, false allegations, breaches and enforcement of court orders. There were some 114 comments which contributed to this theme, and a sample of these is given here.

*There needs to be consequence for failing to comply with court orders. [...] There were no consequences for the other parent.*

*I think alienation and manipulation should be investigated by a private trained psychologist. If proven it should be a criminal offence and imprisonment.*

*Initiate a level of competency in parental alienation training for staff dealing with children such as Cafcass. Be prepared to enforce the court order in the event of a breach.*

*I would like to see harsher punishments for parents who lie in court and stop loving parents seeing their children. Should allegations be disproved, the one making the false allegations should be harshly punished.*

*Courts to take false statements serious as they do in all other areas of law as this behaviour is seen as the norm and used constantly in court.*

*That ALL court orders with penal notices are followed up on with punitive measures if broken [...]*

*The financial reimbursement to the applicant if the respondent is found to be at fault through false representations.*

*Cafcass, police or another organisation should oversee and enforce court decisions without fail, punishment should not be used, just enforced contact, children need both parents if possible and its child abuse if they are denied contact from a loving parent.*

*Punishment for breaking court orders. Punishment for false allegations and perjury.*

*Legal aid for unfounded violence allegations be immediately withdrawn. Court orders for contact be rigorously enforced. Recognise child emotional abuse as serious child abuse and investigate where a child has been brainwashed against the other parent.*

*Judges must be obliged to attend courses on Parental Alienation and child psychology. Again my experience is that judges are simply ignorant of these matters and they simply fall back on 'what they did last time'. Well, with respect, what they usually do has left hundreds of thousands of children with no father and behavioural problems; it is not good enough. Education is key for those involved with this and is currently lacking.*

*Court orders must be enforced. Nobody should be left with the impression that they can get one over the other by using the system to their advantage - usually to the detriment of their children and ex partners.*

*All agencies should be fully versed on parental alienation. It is happening and it is very real and some unscrupulous legal professionals are exploiting this by advising their clients as such.*

*Place an onus on the police to deal with court order enforcement, instead of referring it as a civil matter.*

*Parental alienation need more recognition and should count a criminal act. Parental alienation is crime which is not recognised and punished in UK. No cure or help available for alienating children who suffer in silence.*

*Women are making a complete mockery of the Courts. They do not have to obey Order by the Court, and the Courts do nothing about enforcing their Orders or punishing mothers who are blatantly making false allegations.*

*ii. Gender bias and presumption of direct child relationships*

The second significant theme identified relates to addressing a perceived gender bias in the Family Court process and presumptions around both parents' direct involvement with their child. There were 100 hundred comments around these areas, 65 who suggested a need for shared care and shared residence, many of which proposed 50/50 or equal care.

*Contact rights should be automatic. Parents should NEVER need to apply for contact except where contact has previously been found to be detrimental to the child. ('Found' not being because one parent says so) Parents should have to apply to the court to STOP contact. Parents should have to apply to the Court if they wish to suspend/reduce/stop COURT ORDERED contact.*

*Shared parenting should not be an issue if both parents are good ones.*

*Presumption of equal parenting unless proven police convictions of harm to the other partner or child.*

*Equal parenting. Gender neutral attitude to child care.*

*50/50 shared parenting as its proven it's best for children and the other parent can't use the children as weapons.*

*Emphasise that parents still continue to share responsibility for parenting their child - even after the adult relationship ends.*

*Whilst the courts claim not to be sexist, when you remove all the labels and look at the outcomes, the reality becomes very clear very quickly. It's a shameful situation.*

*Equality in assumption of parenting and best needs for the child/ren.*

*Relief from obvious gender bias favoring females in the family court system.*

*Needs to be less biased towards fathers' rights; the children need to come first.*

*Child maintenance not dependent on contact.*

*Revision of tender years' doctrine to include modern research from non gender-biased organisations.*

*That women are not automatically assumed to be the victim.*

*There is a clear presumption that mother is telling the truth and that father in the light of allegations is the bad one, the empowerment of mothers by social services, Cafcass, judges is so strong that it leads to the situation that the children are really overlooked in the whole process.*

*There should not be a concept of parent with care and non-resident - parents are parents and should be treated equally.*

*A change from 1950 mindset to equality of opportunity for both parents. The entire system demonises dads automatically, then the courts just process what comes before them after the result already decided.*

*Should be 50/50.... unless PROVEN serious reason why not.....the absent parent should not have to fight, spend loads of money....to end up with just 1 day every 2 weeks !! It should be the child's right to have EQUAL and AUTOMATIC access to both parents*

*Remove gender bias in Police SS / CAFCASS & Courts - it is alive & well.*

*Private law is still very biased towards the mother even though equality is fought for in every other aspect of life. Sex of the parent should not be considered*

*Children would have both parents and extended families in their lives, reduces hostility/conflict between parents. The law currently was devised during the women's movement demanding equal rights, society has changed... Fathers now also stay at home, mothers have careers.*

*Unbiased reporting from agencies and CAFCASS, support for male victim domestic abuse sufferers.*

*The law seems to protect mothers more than it does fathers, and sometimes it's the fathers and their relationship with their children who need protection.*

*There must be an end to custody cases having a "winner" children suffer if they don't have equal parenting time.*

*The law seems to be heavily biased to the parent the children reside with and do not appear to want to understand why an applicant has made the application, which in most cases is a last resort due to the unreasonable behaviour of one of the parties.*

*Sadly too many genuine fathers / grandparents loses out because of current system, for too long the innocent party is a lost the child.*

*The status quo regarding keeping children with mother needs to be contested*

*If you have been living with your children for all of their lives, but have then had to resort to a Court to see them, then shared residence should be granted by default at the first hearing.*

### iii. Process and procedure

The third key theme that was identified related to procedure and process in the Family Law arena. This also incorporated issues of timeliness, transparency and ensuring that practitioners and professionals are competent and fit to practice.

*There needs to be accountability and regulation of all within the family court process. [...] There needs to be a route for complaints, outside of the appeals process and away from the court - particularly in respect of the work done by CAFCASS/CAFCASS Cymru. [...] The family court and CAFCASS Cymru have been complicit in my children suffering emotional abuse.*

*Delays in court cases are not good for the children as they can then be convinced that the absent parent/grandparent doesn't want to see them*

*Speed it up! To stop child alienation.*

*If Cafcass need to be involved, then they should do it before the first hearing.*

*Abolish the secretive family court in its current guise. [...] Ensure continuity i.e. same person hearing each stage of dispute. Put specialist family judges at the head and each disputing parent given a set amount of time with a court advisor who work together in the same government funded dept.*

*Cafcass is not fit for purpose.*

*... professionals should read case notes properly before attending instead of having to go over and over the same historical issues which causes delays with the current issues that are ongoing. There should be better communication between the various services.*

*They need to be made public so if needed the press can get involved.*

*It's taken 2 years to get to this point, even if there was an order for me to have contact with our girls then surely the longer the time spent away from the absent parent the harder it is to re-build a relationship, the process should be done a lot quicker.*

*Open courts so the truth can be shown and no hiding and the people can be charged for the lies that commit.*

*A point of contact directly to the court to highlight broken orders, and speed up the process of reestablishing contact.*

*No more extended over many months/years... This delay just lines the pockets of solicitors etc. and is clearly not in the best interests of the children being abused by the current system.*

*Pay barristers and solicitors a wage, not per case. Currently it's about winning a case, not protecting children. [...] Cafcass has been found not fit for purpose, so children need to become a priority and money spent to improve the service, or disband and change it completely. Stringent control on expert witnesses. They are hired guns in many cases.*

*Transparency from social services and CAFCASS.*

*Also the whole Cafcass service should be overhauled so that again there are clear guidelines to ensure that only proven facts are included in reports, both parties see the reports and have an opportunity to discuss and challenge any incorrect information before they are submitted to the court, and again*



*Cafcass should help both parties to come to an agreement to ensure the child has contact with both parents not assist one to have "power" over the other party.*

*Cafcass has to be scrapped and replaced with an agency that is appropriately trained to recognise serious problems such as PA from an early stage.*

*It also needs the process accelerated as it's far too slow and allows the alienation to continue.*

*Decisions at the first hearing. If you have been involved in your children's lives, then you should be given an immediate order to see them.*

*They should stop the current closed court system.*

*Greater transparency within strategic processes to further be developed with CAF/CASS, Social Services and Courts with media involvement subject to data protection and confidentiality constraints to give greater accountability and prevent secrecy on-goings.*

*Most importantly we need to be able to trust the legal profession and currently we most certainly cannot. To this end I would propose independent oversight rather than what is effectively in house 'peer review'. The SRA, BSB and JCIO need to be replaced with an independent body who will investigate properly and hold lawyers to account when they are dishonest. The current system in that regard is simply a sham and I have to say I have been utterly staggered by the simple and often petty dishonesty of the lawyers involved.*

*There should be more than one judge in a family court.*

*To actually apply the law against all in the court including the judge and social services, it is a totally corrupt system and everyone knows it. It is legalised child kidnapping!*

*Make Cafcass independent from the courts. Make it compulsory that the Cafcass officers and SS can only produce facts. [...] Stop Cafcass being self regulated.*

*A complaint procedure to make judges accountable who at times make ludicrous judgements.*

*All meetings should be recorded with Cafcass and others so there would be no dispute as to what was said.*

*Judges, not magistrates. Identities of magistrates should be public information to identify conflicts of interest.*

*At best the judge will have slanted biased information to go on. It is not a legal issue, but rather a social issue. Social workers should do independent investigations into the family and make recommendations to reflect as closely as possible the situation as it was when the family was functioning reasonably well.*

*Children should be allowed to come to court accompanied by third party who would be neutral.*

*Social services and the family courts are corrupt normal people need a say it needs to be more open to criticism*

*Cafcass were out of their depth in a simple case, biased, unprofessional and incompetent.*

*Cafcass and/or Social Services should be held responsible for their reports and prosecuted if reports are not fact.*

*When Cafcass are appointed they should be unbiased and have the time & resource to fully investigate what is going on behind the scenes. All agencies should be fully versed on parental alienation. It is happening and it is very real and some unscrupulous legal professionals are exploiting this by advising their clients as such.*

*More openness, less secrecy and complete transparency.*

*It should be open to the public so that the courts are answerable rather than hiding behind closed doors.*

#### iv. Secondary themes

In addition to the three main themes emerging from respondents' comments, there were several minor themes of note.

##### a. Finances

There were a number of comments about the excessive cost of the legal process and the inequitable access to legal aid funding.

*Remove all people who make financial gain from the process.*

*That the cost is either spilt or the other parent pays the cost when it's due to that person you're in court. Very expensive especially when you have to go back several times to have it enforced when breached with no consequence.*

*I would like to see more measures to stop spouses who have a clear plan to rack up costs should a party have to go to court if, as in my case they have to do so in order to progress a legal settlement.*

*There should be better access to legal help and it should be cheaper to apply to court as it prices people out of fighting for contact.*

*Legal aid should be removed for anybody but children as parties to the case (and that should be very rare). [...] It was simply a waste of money and encouraged the case to go on longer.*

*The absent parent should not have to fight, spend loads of money....to end up with just 1 day every 2 weeks !!*

*If one parent is wealthier than the other justice doesn't prevail.*

*The money making racket needs to stop. Mediation between parents is the only way forward but this needs to be free.*

*Too slow & too costly with solicitors & barristers.*

*A cap placed on legal fees is essential.*

*I had legal aid and I didn't feel I got the same level of representation as the other side who were paying privately.*

*First it is cost, outrageous prices charged by solicitors. [...] When you are fighting to see your precious children I strongly think that legal aid should be available.*

*No legal aid (or legal aid for everyone!)*

#### b. Child and evidence focused process

*Hard evidence not hearsay. [...] Listen to what children want; not what Cafcass / social service say they want.*

*Investigate thoroughly - don't he said, she said.*

*That they listen to both side of the story. And the voices of the children.*

*Forensic examination of ALL the facts when accusations are made. Particularly when the accused had been subjected to years of coercive and controlling behaviour.*

*Ask the children what they want and have the judge hear it first hand without influence from anyone else.*

*Allegations should require evidence to go to court.*

*Less believing of mother and a true fact finding needed.*

*Looking at parents evidence instead of dismissing it all [...] I had letters from school doctors friends and family and it all got dismissed.*

*If Cafcass and courts listened to both sides of the story and had actual photographic evidence rather than just hearsay in writing.*

*Older children should be allowed to voice their feelings.*

*My 2 children were quite capable of speaking to a judge at the ages of 5 and 8 [...] The voice of the child is not heard, the system is not child friendly and require funding to improve the system totally.*

*Evidentiary hearings should be introduced to scrutinise more serious allegations for voracity.*

*Family court and Cafcass should only be able to judge a case based on evidence, not professional opinion, as opinion is not truth. Cafcass should have to show evidence for all they say in their reports.*

*When parents have proven evidence they should be allowed into court to show it to judge.*

#### c. Domestic violence

There were a number of comments around the theme of domestic violence, including the need for better training, better court facilities and processes,

*I think abused victims should be listened to and where a mother raises concern about her child, she should be allowed to stop contact until a resolution is completed and the rights of a mum to protect her child instead of fathers 4 justice getting everything they demand which puts mum and child at risk.*

*Support for male victim domestic abuse sufferers.*

*Far better understanding by the judicial system of domestic abuse on the victim and the children. Abusers should not be able to cross examine their victims in court, even if they are litigant in person. Children who have witnessed abuse and are continuing to be exposed to domestic abuse should not be forced to have contact where violence/abuse etc have been proven. [...] Complete and utter enforcement of court orders/non molestation orders etc by the courts for the perpetrators' non compliance. Ending the courts saying a protective mother who is ensuring her child's safety is 'parental alienation'.*

*Judges and social workers having more experience and training in parental alienation, coercive control, domestic violence and the effects on families*

*Education in domestic abuse and its effects for all court professionals. Use of PAS (parental alienation syndrome) as per Richard Garner to be outlawed. It is a catch 22 trap for mothers and children. Do not allow the sudden removal of children from mothers and so causing irreparable trauma and distress.*

*I had to face my ex in court and every time I faced abuse and threats..they then awarded him access to my children knowing he was the perpetrator of domestic violence.*

#### d. Significant reform and better mediation

*More emphasis should be placed on mediation and more weight given to agreements reached/mediator's findings.*

*Contact rights should be automatic. Parents should NEVER need to apply for contact except where contact has previously been found to be detrimental to the child. ('Found' not being because one parent says so). Parents should have to apply to the court to STOP contact.*

*Parents should have to apply to the Court if they wish to suspend/reduce/stop COURT ORDERED contact.*

*Remove all people who make financial gain from the process. Ensure continuity i.e. same person hearing each stage of dispute. Put specialist family judges at the head and each disputing parent given a same amount of time with a court advisor who work together in the same government funded dept.*

*Introduce a child-centred framework based on the norms of post separation parenting in the median case - outlining continued parent responsibilities and the sort of time-based arrangements that parents will agree without going to court. .*

*Take time over making decisions, get to know both sides of the family. Understand it is a difficult time for families, there may be many reasons for strong emotions, this is a time of change. If you offered support, then you would end up with the right outcomes for the children.*

*Mediation should be meaningful. Currently people can offer mediation, go there and sit with their arms folded refusing to negotiate anything. That needs to change. The mediator should write a report on the attitude/approach/or some-such of the various parties for the court. In short, you should be obliged to actually negotiate honestly at mediation or it is worthless.*

*Decisions passing judgment against one party should be abolished in favour of maximising a child's involvement with both parent. [...] The approach reflects outdated, outmoded thinking about the needs of a child and should be completely overhauled.*

*The last place a high conflict family should end up is in a court. At best the judge will have slanted biased information to go on. It is not a legal issue, but rather a social issue. Social workers should do independent investigations into the family and make recommendations to reflect as closely as possible the situation as it was when the family was functioning reasonably well.*

*"Fighting" for custody must end. The whole system is a shambles,*

*One solicitor to represent both parties and advise on legal aspects of agreeing an order. A statement of fact, perhaps in the form of a questionnaire, addressing issues of parental fitness, schedules concerns etc. To be completed at the outset by both parties, to avoid any false allegations throughout the process. Proper redress to court orders that are broken. A point of contact directly to the court to highlight broken orders, and speed up the process of reestablishing contact. Place an onus on the police to deal with court order enforcement, instead of referring it as a civil matter. The majority of contact takes place at weekends holidays etc, times when it is not possible to contact a solicitor/court/mediator to resolve any issue.*

*Ensure psychological representation for children.*

*Mandatory appointment of child psychologist when PA is alleged. Panel of accredited child psychologists experts with expertise in PA. [...] Less weight to be given to social workers, CAFCASS and Guardians and more to Expert reports.*

*The court system should fund therapeutic intervention and psychological assessment of parents at an early stage. In facing contact problems the court focuses on the child. This is wrong and potentially abusive. The court should assess the parents first.*

*Family therapy and child psychologist to be involved in the process. [...] A therapeutic approach instead of adversarial.*

*Court hearing, with mediation being available, for the parents to sort out arrangements that can be agreed.*

*Mediation between parents is the only way forward but this needs to be free.*

*I think mediation should be enforced not voluntarily rejected and only proceed to court after enforced mediation has been tried*

*I think there needs to be a mediation service "with teeth". [...] The mediation needs to be properly recorded and both parties under a clear obligation to work together in the best interest of the child. Before the mediation meeting both parties should be required to draw up a simple parenting plan of how the child can have contact with both parents so that there is a basis for a clear and constructive discussion. If one party is not prepared to do this then they should be some sanction if the other party then has to seek the assistance of the court*

## SUMMARY

The response to this survey of 260 Family Proceedings litigants has enabled a more informed understanding of the experiences of those who engage in legal proceedings in the Family Court in England and Wales. Based on their experiences, respondents overwhelmingly believe that change is needed in the Private Family law system, and there were some clear shared ideas of the reforms which would be beneficial in a fit-for-purpose process to ensure better outcomes for children and families

The responses suggest that litigants feel unprepared and intimidated before engaging with the Court process. They resort to Legal Proceedings on the advice of solicitors and the police, family support services and the local authority, general and specialist advice organisations as well as family and friends. Prior to proceedings, more than 70% of respondents sought advice from a solicitor. Other sources of advice included Citizens Advice Bureau, domestic violence and parenting or family support organisations, fathers' or womens' rights groups, social media, friends and family. At some stage during Proceedings, 47.49% of respondents were assisted by a solicitor and 33.98% had the assistance of a barrister. McKenzie Friends or support workers provided assistance for 26.25% of the respondents. More than 40% of litigants represented themselves, attending Court alone at some stage of Proceedings. Of the advice and support received, there was a fairly even split in terms of whether this was helpful, satisfactory or unhelpful.

Some gaps in the advice which litigants accessed are evident. More than 55% indicated that they would have liked more specific advice on the law as it applied to their own case, with more than 53% indicating that advice on legal procedure and the Court process would have been beneficial. Almost 50% of the respondents would have liked advice and tips on how to represent themselves in Court.

The vast majority indicated that they had not engaged with mediation, that mediation had been minimal and where this had been attempted the experience was poor and the process ineffective. Similarly with In Court

Conciliation. It was evident in the narrative responses that there was some misunderstanding or misinterpretation of the question. Many respondents took the opportunity to report on their largely negative experiences of engagement with Cafcass or Cafcass Cymru at all stages of the process. Only 6 respondents, a little over 2%, indicated a positive experience with a satisfactory outcome.

There were only two respondents who felt that the current Private Law System did not need changing. An overwhelming 228 (88%) respondents indicated that change is needed and suggestions on the focus of these changes was offered by 218 respondents. An analysis of these responses suggested three major areas of proposed reform, with several minor themes also apparent. The major themes identified:

- A need for a greater understanding of parental alienation by all practitioners and front-line staff to enable children to be protected from harm, and perpetrators of domestic abuse and child psychological abuse to be appropriately dealt with.
- A need for action to address an outdated view of parenting and acknowledgement that children benefit, on the whole, from substantial direct involvement of both parents in their lives. Responses indicated a significant perception of gender bias and there was much call for a presumption of direct contact and shared parenting.
- A need for reform of organisations, processes and procedures which ensures transparency and accountability. This included a requirement for competent, fit to practice personnel and robust monitoring and complaints procedures.

Minor themes for reform included:

- The costs of litigation
- The need for an evidence based, child focused process
- A better understanding of domestic violence, including appropriate safeguards
- A non-adversarial process and effective mediation

Report by Dr Sue Whitcombe, Chartered Psychologist, AFBPsS on behalf of FNF Both Parents Matter Cymru

Dr Sue Whitcombe analysed the Survey data and wrote this report on a pro bono basis, as a volunteer for FNF Both Parents Matter Cymru.

March 2017

