

# Experiences of Public Law Care Proceedings:

## A briefing on interviews with parents and special guardians

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The Court of Protection

## Acknowledgments

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revolving  
doors



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## Summary of findings

- Findings are based on 21 in-depth interviews with parents (16 women and 5 men) involved in public law care proceedings between late 2019 and 2023. Three were involved in proceedings to become a special guardian.
- Collectively, parents had experiences of various aspects of public law, including in relation to care, placement, special guardianship and emergency protection orders.
- They described wider circumstances associated with the family court proceedings, including experiences of domestic violence, substance misuse and mental health. Over a third reported contact with social services and the care system as a child.
- Unsurprisingly, contact with social services prior to court proceedings was generally fractious. Parents reported complying with requests for reports, assessments and tests but distrusted and often disputed how findings were subsequently presented by the local authority to the court.
- Parents perceived themselves to be outsiders or by-standers at court proceedings. They sat at the back of the courtroom when attending in person and were muted in virtual hearings. They had few opportunities to speak unless providing formal evidence to the court and they understood little of what was being discussed by the judge and legal professionals.
- Experiences of legal representation were mixed and while a minority reported being well-supported by their lawyer, with regular updates or post-hearing explanations of proceedings, most felt their lawyer did not adequately represent their lives or views, or challenge aspects of evidence that they considered to be wrong or unfair.
- The judge's conduct played a significant part in shaping parents' reported family court experiences. Judicial kindness or a lack of attention, and informal and more formal comments made by the judge – both positive and negative – were remembered well after the hearing was over. For example, judicial 'instruction' about what parents needed to do to have children returned to their care was described as giving hope for the future.
- Time was a recurring theme in interviews, with some aspects of the process felt to move too slowly and others too fast. This includes perceptions of the process moving too quickly towards court proceedings and the 'backwards and forwards' of court hearings. Participants also talked about being rushed into making what were essentially life-changing decisions about both temporary and permanent care arrangements of their children.
- The harmful impact of processes of racialisation, institutional racism and cultural stigma was also raised by Black and Black Mixed Race parents, as well as caregivers to children racialised as Black Mixed Race. However, participants were sometimes hesitant to raise such concerns out of fear of being seen to be pulling 'the race card'.
- Voluntary sector services were the main providers of assistance, including counselling, especially after children had been removed and parents felt largely abandoned by the statutory system. Parents reported initial feelings of anger, shock, confusion and long-term grief at the removal of their children. Six parents referred to feeling suicidal and self-harming either during or following the conclusion of their proceedings. The importance of peer-based support through community groups and social media was also noted as important for coping with the aftermath of the family court.

## 1. Background

The family justice system is under considerable strain. The Public Law Working Group (PLWG) was convened in 2018 to address the steep rise in public law cases and develop recommendations for how the child protection and family court systems could better respond to the needs of children and families<sup>1</sup>. These recommendations include strengthening – and making more timely – support that is provided to families by social services to reduce the use of and need for public law orders. In the event of formal proceedings, the group has also made proposals to assist parents' involvement, such as making them aware early on of their entitlement to free, independent legal representation; communicating clearly and without jargon about legal processes; and identifying sources of support for parents involved in court proceedings among their wider family and friends. Reference is also made to the need for a cultural shift in the family justice system, away from often adversarial to more cooperative ways of working among social work managers, lawyers and the judiciary.

The primacy of the welfare of the child in family justice has arguably relegated interest in parents' experiences of public law proceedings<sup>2</sup>. However, research has documented some common problems encountered by parents – also emphasised through advocacy by charities supporting families. These include the dearth of pre-proceedings support; difficult relationships with social services; poor communication and information about court processes; a perceived lack of understanding or empathy about parental circumstances regarding

substance misuse, domestic abuse and mental health; the impact on parents' mental health of being involved in care proceedings; lack of cultural sensitivity; and the grief and long-term emotional distress that involvement in repeat care proceedings and having a child removed can cause parents.<sup>3</sup>

**The Institute for Crime and Justice Policy Research** (ICPR), Birkbeck and **Revolving Doors** (RD) are working in partnership on a research and policy project – Lived Experience of the Law. The project is funded by the **Nuffield Foundation** and explores people's experiences of the family and criminal courts in the context of their wider encounters with the law and justice system<sup>4</sup>. It examines how 'effective participation' and 'access to justice' are understood from a lived experience perspective and through 'policy workshops' it creates opportunities to discuss the kinds of policy and practice reforms needed to improve people's experiences of the courts.

Here we present findings from 21 in-depth interviews, conducted in the pilot stage of the project, with parents and special guardians involved in public law care proceedings (hereafter referred to as participants). And we highlight the outcome of discussions about these findings at the pilot policy workshop.

We also observed hearings in one family court centre to enhance our understanding of day-to-day practice and provide some context to the issues being discussed in the interviews.

Our aims were to:

- examine parents' and family members' experiences of public law proceedings, including court hearings and the period before and after hearings;

1 Public Law Working Group. (2021) *Recommendations to achieve best practice in the child protection and family justice systems*. [https://www.judiciary.uk/wp-content/uploads/2021/03/March-2021-report-final\\_clickable.pdf](https://www.judiciary.uk/wp-content/uploads/2021/03/March-2021-report-final_clickable.pdf)

2 Hunt (2010) Parental perspectives on the family justice system in England and Wales: A review of research. Oxford Centre for Family Law and Policy, Dept of Social Policy and Social Work, University of Oxford; Broadhurst et al. (2015) Connecting events in time to identify a hidden population: Birth mothers and their children in recurrent care proceedings in England, *The British Journal of Social Work*, 45 (8), 2241–2260.

3 Eg. Broadhurst and Mason (2020) Child removal as the gateway to further adversity: Birth mother accounts of the immediate and enduring collateral consequences of child removal, *Qualitative Social Work*, 19 (1), 15–37; Harwin and Golding (2022) *Supporting families after care proceedings, supervision orders and beyond*. London: Department for Education; Philip et al. (2023) 'When they were taken it is like grieving'. Understanding and responding to the emotional impact of repeat care proceedings on fathers, *Journal of Child, Family Social Work*, 29, 185–194; Birth Companions et al. (2023) *Understanding women's lived Experience of children's social care proceedings during pregnancy and in early motherhood: An insight*.

4 *Lived Experience of the Law* examines how perceptions and expectations of legal rights, justice and judicial process are shaped by individuals' formal and informal encounters with the law over time; explores concepts of 'effective participation' and 'access to justice' from a lived experience perspective; and identifies the policy and practice reforms needed to address existing barriers to participation and access.

- present findings to the PLWG sub-group to inform work to reform the conduct of care proceedings and the court experience for family members;
- bring together justice professionals and people with lived experience in a policy workshop to discuss findings and ideas for reform.

## Study protocol<sup>5</sup> and interview sample

Interviews took place between March and November 2023. A topic guide provided a loose structure, but the interview was designed to be an opportunity for participants to talk in their own terms, and at their own pace, about their experiences of the family justice system and to focus on what was significant to them. Participants included:

- 16 women and five men, all of whom had been involved in public law hearings between late 2019 and 2023;
- 18 were parents and three were family members involved in proceedings to become a special guardian of the child.
- At time of interview, six participants were in their 20s; seven were aged between 30 and 40 and eight were over 40 years.
- Three participants identified as Black, one participant identified as Black Mixed Race and 17 participants identified as White.
- Five disclosed being neurodivergent and two noted literacy difficulties during the interview;
- Eight participants revealed having had experiences of social services and the care system as a child.

Collectively, participants had experiences of various aspects of public law, including in relation to care, placement, special guardianship and emergency protection orders. Three participants had their babies removed shortly after birth. In one case, the hearing concerned the revoking of an interim care order. Another participant had begun his contact with the family court as a party in a private law case that moved to public law proceedings following a Section 37 report.

Our sample is small, and we make no claims that these findings are representative of all parties' experiences of public law court proceedings. Nor are we seeking to 'verify' participants' responses with reference to case outcomes or decision-making processes. Our aim is to identify common themes in these direct, unmediated accounts of lived experience which indicate whether and how participants felt able to engage with the family justice system and the factors supporting or undermining their sense of engagement. Our presentation of these initial findings is structured as follows:

- 'Before' the court hearing includes what led to proceedings, relationships with social services, and the support that was available to prepare for court, including in-person and virtual hearings.
- 'The hearing' includes understanding and engaging with proceedings, views about the quality of legal representation, perceptions of the judge and of treatment by the court.
- 'After' the hearing focuses on the extent and nature of support available to parents after court proceedings are complete, their understanding about future arrangements and opportunities to challenge court decisions.

<sup>5</sup> The study was approved by Birkbeck Law School Ethics Committee and safeguarding procedures and post interview support for the participants was overseen by Revolving Doors (RD). Participants were recruited through voluntary services, social media and via RD's Lived experience membership. The interviews were variously conducted in person and using MS-teams. All were audio-recorded, with the participants' consent, and transcribed in full. During court observations we took notes of the reactions and interactions of lay participants with the judge and legal representatives.

- Participants' stories sets out a more detailed telling of four participants' narrative journeys through the family courts. These were selected to illustrate different kinds of experience: as a special guardian; as a young mother who had significant voluntary sector support throughout the proceedings; as a mother who has 'turned her life around' since the final hearing but said she is too traumatised by her experience to go back to court to seek a reversal of a special guardianship order; and as a father who reflected on navigating care proceedings whilst racialised as Black and sought to become 'an expert' and contest the court's decisions.
- The final section highlights the ideas for family court reform arising from the pilot policy workshop discussions.

All the names used in this report are pseudonyms.

This pilot study, and the wider project of which it is part of, is co-produced with people with lived experience of the courts. Peer researchers with lived experience of the family courts were therefore a central part of the research team in the pilot phase and were involved in the development of the interview guide, the co-analysis of pilot interviews and facilitation and analysis of the pilot policy workshop.

## 2. Before

We asked participants about the circumstances that had brought them to the family court. Mothers' accounts often included experiences of domestic violence from (ex-) partners (8 cases). Substance misuse (6) and mental health issues (11) were regularly disclosed and sometimes said to be exacerbated by the stress and anxiety of being involved in proceedings and their outcome<sup>6</sup>. In one case, a family bereavement and its impact had been the initial impetus for state intervention.

Attendance at court was often preceded by significant contact with social services, including through a child in need plan (CIN). Three participants had pro-actively approached social services for support. In some cases, contact was initiated by another family member or neighbour. One mother was referred by the hospital following a drug overdose; and for several participants, referral had followed an arrest, with criminal proceedings also in train. In most cases, individuals who had children subject to past proceedings were monitored by social services in subsequent pregnancies. Four mothers had been subject to pre-birth intervention and three had their babies removed at under 12 weeks old.

### Relationships with social services

Unsurprisingly, for most parent participants, relationships with social services were fractious and described in largely negative terms. Participants' accounts tended to stress their initial compliance with social service requests to undertake risk, parenting, psychiatric assessments, and drug testing. However, the outcome of assessments, and other threshold criteria prepared by the local authority as part of proceedings, were often rejected by participants as overly negative, 'unfair' and involving 'errors' and 'lies'. Reflecting on this finding, one peer researcher noted the ongoing stress of contact with the family justice system, describing a first contact as 'a wound' and every interaction with social services and the courts thereafter 'like the stitches being pulled out'.

<sup>6</sup> Six participants referred to feeling suicidal and self-harming either during or following the conclusion of their proceedings.

Participants talked about a lack of understanding or acknowledgment by social services of matters such as the impact of their mental health or the effects of domestic violence (see Nancy's account in Section 5) or a more general lack of support or negativity from services:

"There are things about myself and my situation that were written by the social workers, and some of them weren't true. So be prepared for people to do this write-up on you that may not look like you because they are just picking out all the negative bits." [Susan]

"They were saying things about me that I didn't even know about myself. Making me look like I was quite a bad mum, and I didn't really feel I was given the support. I think sometimes, social services, they lie to try and get away with what they think is right. What they put me through, it really takes a strong person to deal with what I had to deal with. And thankfully, I'm still here to tell the story." [Emma]

Several participants said that social services had used their past, including their own childhood circumstances, as evidence that they were 'unfit' to parent (see also Mia's account in Section 5):

They said that, because I was abused, that I was going to go on, and then, because that's the only life I've known for myself, that I was going to then inflict that life on my children. [Erin]

[I grew up in care] So me trusting social services, I don't really trust them because they have a narrative... But when you're trying to twist something, when you're trying to use someone's history against them, you're not going to have a cooperative participant. Now everyone knows, and I know myself, that I'm not a perfect human, I know everybody has a history. But when you start using people's history against them, you start to cause resentment. [David]

Participants also highlighted what they saw as inconsistencies and unfairness in the practice and decision-making of social services. For example, Hattie talked about becoming 'hypervigilant' about what she said to her children for fear of how it would be misused or misrepresented by social services. Mike, who had several children under special guardianship orders (SGO), was permitted to spend unsupervised time with some but not with all his children and could not comprehend this logic:

"I don't know how they get away with it, I really don't. If I'm that much of a bad dad, I wouldn't be able to see [Name], I wouldn't be going to Spain with [them], would I? I wouldn't be able to see [Name], my eldest. I wouldn't be able to see [Name], who's coming up to five, this year, and take him on days out." [Mike]

Leona mentioned the high turnover of social workers involved in her children's care, in the context of her being told by social services that she was not able to provide the stability her children needed:

"Eight or nine different social workers... before they closed the case. They've had eight or nine different social workers. .... You lot [social services] dare telling me that this, that and the other is bad for them. You lot are there judging." [Leona]

There was also a perception amongst some participants that they were not given sufficient time or support on a CIN plan before matters were escalated. In Hattie's case, 'they were children in need for four days before they changed their minds and put them on a child protection plan.'

## Preparing for the hearing

Participants who had previous experience of the family court knew what to expect; one mother said she had become ‘a bit of an expert’. However, when you go to family court for the first time, ‘you don’t know what’s going to happen [and] no one is telling you anything’. Hattie told us that she had bought ‘a law book’ to try and understand proceedings. The lack of accessible information about family court pushed some participants to educate themselves about proceedings and legal rights but this was also described as an additional burden on parents (see Ade’s account in Section 5). This ‘burden’ was also highlighted by a peer researcher who reflected on ‘the trauma of having to learn how the system works’.

Communication with parents regarding the dates and times of court hearings was variable. One participant only found out that she was meant to be in court that day because she had rung her solicitor for an update: ‘she said to me, “Why are you not [on your way] to court?”. There were reports of missing letters – ‘they said that they’d written to me, and all the rest of it. They hadn’t written to me, I got nothing’ (also described in Nancy’s account). The considerable time spent waiting for a hearing to start, when they were actually present in the court building also increased participants nerves and anxiety:

“They kept changing the time of when we were going in. So, we got there at the time that we were told to be there for. And then, it didn’t happen until about four hours later, and it was just a lot of sitting around, a lot of waiting. Obviously, me getting stressed out, [I was] nervous enough as it was.” [Billie]

Lucy described her concerns about meeting her ex-partner in court. Her lawyer told her she had alerted the court about this, but neither Lucy nor her solicitor had received any confirmation that special measures would be in place for her hearing:

“I do think there’s definitely a lot of miscommunications going on. This thing about my safety, I had brought this up every single time that I’ve [had to go to court] and we’ve never had a reply, even by email.” [Lucy]

On one occasion, Lucy was told off by the judge for failing to attend in-person – she had, in this instance, requested to appear through video-link:

“So, I joined via video link, and he [Judge] tried to tell me off....He said, ‘There are things in place to keep you safe, blah, blah, blah.’ I said, ‘There are things to keep me safe whilst I’m in the building but there’s nothing to keep me safe when I leave?’ I’m just thinking about [making] sure I can get home without being seen or followed by him.” [Lucy]

We discuss experiences of virtual hearings and some of the limitations below, but one benefit for participants was not having to travel – and often cover the costs of travel – to the courts, sometimes for very short in-person hearings.



### 3. The hearing

We highlight some of the common themes drawn from participants' accounts of their most recent court hearing, although this was rarely discussed in isolation from their experiences of wider contact with the courts. Past contact with the family court, concerning other children and participants' own childhood experiences of care, were discussed and often coloured expectations about the likely outcome of these more recent proceedings.

We were told of regular delays and postponement to hearings: 'social services keep asking for more time'. Most participants had attended family court on multiple occasions. Leona, for example, had appeared both in-person and in virtual hearings over a period of over a year and described the process 'as a lot of backwards and forwards' and Erin reported being present at 'about 14 different hearings' spanning 'most of 2021 and 2022'.

#### Engaging in the hearing

Parents sat at the back of the courtroom, usually behind their legal representatives. Sometimes they were accompanied by a social worker or support worker. Most of each hearing involved discussion between lawyers (representing the different parties) and the judge. It was typical for participants to tell us they had struggled to understand much of the legal terminology, especially in the early encounters with the court: 'you're just thrown in the deep end':

"You have to explain things to me in layman's terms, because I'm not used to all those big words, and that is the biggest struggle when it's in court and you get all those letters and stuff through. I don't understand none of it. I did not understand what the words meant." [Hannah]

"I just thought when you're in court you've got to sit silent, just follow what everybody is saying. Which you don't really have a clue what they're saying...because they're using all these big terms and big words and stuff." [Amber]

"A lot of the terminology, it doesn't make sense if you're not part of the system already... You feel like you're constantly on catch up in terms of understanding all these terms that everybody who's working in the system knows exactly what they're talking about." [Claire]

Many of the mothers we interviewed also spoke about how nerve-wracking they had found the hearings:

"You sweat, you shake, you feel sick..." [Nancy]

"I would be physically shaking, like, you could see it. I would be terrified. And I'm not even scared to admit that I was. I was terrified. I had no idea what was going on...I didn't feel like I had a say. I just had to sit there, say my name, and listen to what they were saying. I wasn't allowed to talk." [Erin]

Parents were essentially observers or bystanders to the proceedings, with little opportunity to speak, except when formally providing evidence to the court. They described being 'talked about' by the professionals and remained mostly silent and 'in the background' throughout:

"I just felt like I was kind of in the background, ... I only felt that I could respond when the judge asked me a question, which was very rarely because he was more concerned about what the other agencies thought about me than my own outlook on things." [Susan]

"[The judge was] Pointing at my legal team, to ask, 'Does he understand?' [lawyer] turns around and asks me, 'Do you understand?' I'm like, 'Yeah, I understand,' I'm nodding my head. Because obviously we're not allowed to speak in family court unless we're obviously instructed by the judge to speak." [David]

During one court observation, we saw a young mother raising her hand repeatedly, seemingly in response to comments being made about her. The judge, who did not respond to her directly, alerted the woman's lawyer to the need to attend to her client.

In online hearings, the disengagement or disconnection was sometimes literal. We were told of computers freezing, resulting in participants' missing bits of dialogue and of participants being 'knocked off' Teams calls:

"There would be times where the computer would freeze, or I wouldn't be able to hear certain things. I guess I was kind of, I don't know, frightened to say anything because it is all a bit new, to be honest." [Susan]

Stephanie talked about having her dog and young child at home during one virtual hearing and was anxious that they might interrupt proceedings. This had made it difficult for her to focus – 'so, as well as dealing with the facts of the case and the opinions, you've got to deal with what else can go wrong'. Leona decided that she would opt out entirely and talk to her lawyer after the hearing:

They said, turn your camera off and leave yourself on mute unless you are getting spoken to. I've turned my camera off. I've turned my volume off. My phone is just there, listening to what is going on. ... I'm sitting there smoking. I was thinking, 'Do you know what? I'll speak to my solicitor right after'. [Leona]

## Legal representation

While parents received state-funded legal representation, two main issues were raised in interviews. The first was the perceived limits to the quantity or quality of this legal assistance due to the financial strictures of legal aid: 'I do feel that the level of help that you're going to get, if you're paying, and if you're not paying is massive'. The second was a view that legal representatives were working *with* the court rather than *for* the client: in a 'them (the authorities) versus us' (the parties) scenario, or, as one interviewee asserted, 'it's a done deal' before the hearing even starts:

"So only social services are listened to, and I made it very clear to my solicitor that there were a lot of lies within what social services were telling the courts. It was just ignored. I wasn't listened to at all, and I think that there needs to be a time that a parent is allowed their say as well as social services." [Stephanie]

"It just feels like – my solicitor – it's the bare minimum...and also, they have to continue to work with social services so why would they then try to stand up to them...She's [solicitor] almost neutral but sort of has to appease me. That's not working for me, that's not being my advocate." [Hattie]

"I won't ever use legal representation ever again, because they don't help. I mean, they normally side with the local authority, within my view... every time they failed." [Mike]

Participants talked of difficulties contacting lawyers for updates on proceedings or for help to understand court decisions. However, compounding the feeling of being on the outside of proceedings, information that participants considered to be vital for the judge to know about them and their circumstances, and their requests for counsel to challenge aspects of evidence being presented by the local authority, were sometimes ignored. Participants had been told by their legal representative to 'move on' and 'it is what it is'. Some said that their lawyers failed to challenge the way that social services exploited events from their past (as discussed above) or misrepresented or failed to understand the challenges or trauma of their current circumstances, thereby exaggerating their limitations as parents (also described in Mia's and Nancy's accounts in Section 5):

"There was a couple of times I wanted stuff to be brought up [by legal representative],.... and she tried shushing me. So, I'd just write little things down, and pass over little notes saying, 'You need to say this, you need to say this.' No, I wasn't really given an opportunity to talk." [Lucy]

“[My lawyer] said her tactic was to keep everything minimal and vague. Not vague but just keep things at a minimum and not delve into things because that could potentially open up a whole other plethora of issues or whatever, but in my head, I was thinking, ‘No, the more detail, the more background, the better’, so they can get a true understanding of who I am.” [Susan]

A minority of participants, however, spoke of lawyers who had done much more than the minimum. In one interview, a participant told us that her lawyer had given her an old mobile phone because she had broken hers – ‘so that I didn’t miss any appointments or anything’. And during a court observation, we saw a lawyer hugging a distressed mother whose children were being removed that day in an emergency care order. David described the ‘cracking’ service he received from his lawyer:

“She phones me regularly, emails regularly, sends over documents quite fast. Helps me break down all the legal paraphrases, as I don’t really understand some parts of the legal framework. Always makes sure that she’s half an hour, 45 minutes, early before court, so she can talk to me about X, Y and Z. And then we’re ready to go, we’re ready to fight together, fight my corner.” [David]

Leona described how two of her children had been adopted. She had asked her lawyer to represent to the court her wishes to have them placed together, despite initial reservations of social workers – which is what eventually happened. This ‘win’ was hugely important to Leona and something she talked about in our interview:

“I was telling my solicitor, ‘I don’t want them to be separated. Please, please can you help me fight that battle?’ It’s the least you lot can do for me. At least let me win something, even if it is what the social workers don’t want. But it’s what I want. I want them to remain together. Please let me win at least something. Let me gain something out of this.” [Leona]

## The judge

Beyond their reactions to judgements and the final outcomes of hearings (discussed below), participants recounted interactions with judges during court hearings. They remembered small acts of respect and kindness shown to them – for example, when judges asked if they were okay or needed a break – and, conversely, when they felt ignored by a judge. Stephanie, for example, said she ‘never once spoke to the judge [and] he spoke at me [rather than] to me’.

Participants recounted judicial remarks – both the positive and negative – which had had lasting impact. Amber’s contrasting experiences illustrates this. Her most recent hearing concerned the return of her child who had been subject to an interim care order:

“[in the original hearing] My solicitor stood up and was explaining to the judge that I wanted my kid back and the reasons why. And the judge just point blank looked at her and said, ‘I don’t want to hear none of this. Do you really think I’m ever going to consider giving this lady her children back?’ And I will never forget that.”

“This time [a different judge] said to me, ‘If we could bottle up what you’re made of, what you’ve been through and how far you’ve come now, if we could bottle that up and sell it,’ she said, ‘the world would be a much better place.’ I was crying, because obviously I was just over the moon, that actually someone as high up as a judge has actually acknowledged all my hard work and everything I’ve done. So, yeah, it was just amazing.”

Two participants, who had their children placed for adoption, had appreciated the acknowledgment from the judge of their personal difficulties and the sacrifices they were making for the welfare of their children:

“The judge was like I can tell you love your boys, and I can tell you didn’t want this to happen. That’s what I remember... It wasn’t registering what he was fully saying but I remember certain little bits.” [Leona]

Hannah felt the judge's comments showed he had taken time to review various reports and information about her personal circumstances and background:

"I feel like [judge] actually looked at my case ... So, I think, obviously, on all your reports, they ask questions about your childhood and stuff. Well, I didn't really have one. I know I've got PTSD, so I feel like – I don't know – it all stems from my childhood. Obviously, reading the reports and stuff, I just felt like [judge] actually did their job." [Hannah]

Hattie told us that the judge had been the first official to mention the grief she and her family were experiencing as a result of her partner's sudden death, something she felt social services had failed to acknowledge in their assessments of her parenting:

"He [Judge] was the first person to bring up grief – because in his summation he said we have to acknowledge the tragedy the family went through and how much [I'd] turned it around. He was the first person to acknowledge that." [Hattie]

The judge was described in some accounts as protective, both when holding the local authority or representative of another party to account for something that had not been done or for being late, or when questioning or challenging a request from that party:

"She [other party's solicitor] just kept going, 'um, um, your honour, um, yes.' And he said, 'I suggest you all need to go away, read through this. It's a clear- it's a cut-and-dried case. I Don't understand why you all want extra time for stuff'. And that just seemed really fair. Obviously, it was going in my favour but that's because it really should be." [Lucy]

## Time

Time was a recurring theme in interviews, with some aspects of the process felt to move too slowly and others too fast. We have discussed, in Section 2, the perception of CIN moving too quickly towards court proceedings; and here

the 'backwards and forwards' of court hearings. Participants also talked about being rushed into making what were essentially life-changing decisions about both temporary and permanent care arrangements of their children:

"[This decision that would have impact] for the rest of my life and the rest of my [child's] life. I didn't even make that decision [to place with special guardian] because I didn't really have time to process it. So, it was the solicitor again that made the decision for me, and I was really, 'why did I let her do that?'" [Susan]

"I felt like that I had no other option but adoption. I didn't get any other options pushed at me, like a SGO or short-term or long-term foster care. It just felt like they're choosing adoption. Everything was adoption, adoption, adoption." [Leona]

Amber relayed to us how an adoption placement was agreed by the court well in advance of the outcome of a criminal investigation into an injury to one of her children. She has now had a second child returned to her care, but for her adopted child, the evidence that exonerated her and her ex-partner as responsible for that injury came too late:

"When it actually came back that it was actually a child's bite mark...Then it was just really unfair, because the police took two years to come back with the evidence of that. And by that time, [name] was adopted. ...And they just said [name] was too young to stay in long-term foster care. And if [name] stayed in long-term foster care until the evidence came back, I would have both my children back now. Six months is not long enough at all. And they shouldn't just adopt children without having proof." [Amber]

## 'Race is part of it...'

It is important to spotlight the processes of racialisation and institutional racism that Black and Black Mixed-Race participants felt shaped their experiences of care proceedings. As described in Ade's account in Section 5, he felt social services and the family court had

positioned himself and his wife as inferior due to harmful perceptions of their racialised identities, and this in turn had led to them being treated as less deserving of social service support for their child and swifter court intervention:

“They have already looked at my wife. She is a Black nobody’. You understand?... Because the law says that they are supposed to support her, but they don’t want to support her. The only way they want to support her is if they have the child as their own... They want to collect the child from her, and then put the child somewhere else... So, they see that as a Black person, her family is in [another country], so let us quickly override her by changing the voluntary arrangement to another arrangement. You know?”

The experience had negated the trust that Ade had previously had in the justice system of England and Wales ‘I thought that oh, the United Kingdom, something like that cannot happen’.

Similarly to Ade, who spoke of being treated by the court as ‘one of those fathers that doesn’t care’, David – a Black British father – described the determined steps he took to mitigate against the threat of being perceived as a ‘deadbeat’ father:

“I’m really trying my hardest. Literally no attitude, just going in there with a free mind, arriving 15 minutes early before every single appointment, to prove a point that I’m not a deadbeat parent and there will be no concerns. And I’m always open about my answers.” (David)

David’s account can be understood as a direct attempt to challenge harmful racialised constructions of Black fatherhood that have, historically, resulted in Black fathers being stereotyped as ‘deadbeat, uninvolved’ and ‘largely absent from their children’s lives.’<sup>7</sup> This also reflects the pressure Black men often face to manage their self-expression in spaces where they may be wrongly perceived as evasive, threatening or disruptive.

Claire and Nancy were hesitant about discussing race and racism. For example, towards the beginning of the interview, Claire expressed concerns that institutional racism had influenced the early processes of decision-making regarding the care of her Black Mixed Race relative. However, she then went on to frame this reflection as a diversion from the key concerns relating to her and her family’s wider journey through proceedings:

“I wonder... what, kind of, institutional racism might have been at play when they were making those initial decisions? [It] makes me wonder about that. But that’s slightly an aside.” [Claire]

When asked as a ‘Black Mixed Race’ mother if she felt that processes of racialisation or racism had impacted the proceedings concerning her children, Nancy’s response downplayed the relevancy of her experiences out of a concern that she may have been perceived to be overreacting:

“I did, yes. Yes, I did. I thought that, and I thought, ‘Maybe am I just basically being a bit OTT.’”

This reluctance to speak out was recognised by a peer researcher who recalled court professionals ‘rolling their eyes’ when he had previously complained about racism in proceedings.

Additionally, the effect of cultural stigma was raised by Susan – a Black mother. She described the shame she felt ‘coming from a strong African background’ about being involved in care proceedings and how this made her feel isolated from her wider family network during and after court proceedings:

“If you have family members look after your child, they have this outlook on you... That is how I felt, like ‘You are shit’... Also coming from a strong African background there is a level of shame that is put on you. Like, ‘How could you allow this to happen?’. So, you have got all that cultural stuff going on in the background also. So, it is a lot to deal with... it is difficult, it is very, very difficult.”

<sup>7</sup> Rambert (2021) *The Absent Black Father: Race, the welfare-child support system, and the cyclical nature of fatherlessness*, *UCLA Law Review* 68, 324-364.

## 4. After

Most of the parents we spoke to had children permanently removed from their care following a final hearing. Their accounts reflected their feelings of anger, shock, grief and sometimes confusion as they often retained some parental responsibility or had supervised or unsupervised contact with another child or children (also discussed in Section 2). In some cases, this was a child who had been born after court proceedings had concluded.

We spoke to parents who told us of their physical reactions to the outcome of a case:

“I was angry. I literally slammed my chair underneath the desk. I threw the paperwork, the court paperwork, to the social services. I started effing and blinding at them. And then, when I finally left the room, I slammed the door. Obviously, this was after the judge had gone out the room... And then, obviously, once I got the anger out, I was then literally crying all the whole way home.” [Billie]

For Amber, the decision to place her child for adoption was unexpected and shocking because she felt she had ‘done nothing wrong’:

“You feel lonely anyway and so vulnerable. And you are alone... And there are all these people that are high up in the world doing these things... Like I said, if you’ve got, like me, dyslexia and stuff, you don’t really understand exactly what they’re saying and what’s going on. You’re just in this bubble. I just expected I would go all through that and get my children back, because I never done nothing wrong. So, obviously, at the end to say, ‘Oh, you’re not having your children back... it just ripped me apart.’ [Amber]

Grieving for the loss of children continued long after proceedings had concluded. As one Peer Researcher observed ‘court is never finished for the parents’. Parents who no longer had any physical contact described struggling to get out of bed; finding it difficult to leave the house; being reminded of their children through music, specific dates and activities; experiencing feelings of depression and in some cases, suicidal thoughts:

“I’ve missed their first steps, I’ve missed... I don’t even know if [second child] can talk... I don’t know if [they] can walk. I don’t even know if [they] can sit up. I’ve missed [first child’s] first steps, first... all sorts. [their] first word, [their] first day at school. [They’ve] just started reception, last week. I missed that.” [Erin]

“I’m never going to have a life again; I exist but I don’t have a life... I do productive things, I keep myself busy and help a lot of people, but I don’t enjoy anything... how can I when I leave the house and see families going swimming and playing football at the park and know that I will never have that. So, it’s worse than a life sentence.” [Hattie]

The Special Guardians noted difficulties in navigating new family dynamics in order to ‘manage’ the decisions made by the courts (see Claire’s story in Section 5) and to adjust to their new role as primary caregiver.

### Support, communication and practical guidance

Most participants described the absence of support or communication from the court, social services and/or their legal team after court proceedings concluded:

“You press ‘Leave’ and everyone shuts down ... And then they didn’t offer any support or any recommendations of where I could get some kind of support for myself, if I could get hold of a social worker. Basically, everyone just washed their hands of me and then just said, ‘Get on with the rest of your life’... All [my lawyer] said was, ‘Just keep clean for a year, ... and then you can come back to me, come back to the courts, and then file to get your son back’ I was like, ‘Okay.’” [Susan]

This is also highlighted in Mia’s and Claire’s accounts (see Section 5) who felt somewhat abandoned, following what had been a period of intensive supervision and contact with the local authority and court. The voluntary sector had the capacity to fill this gap and provided essential emotional and practical support, but only where referral criteria allowed:

“I rang up different [charities], and they were like, ‘No. We only deal with when you’ve lost a baby, or through birth, and stuff like that.’ It’s like, ‘okay but what about people that have lost children through the system?’” [Hannah]

As a result of a lack of access to formal support, some parents mentioned being part of WhatsApp, Facebook or community groups that offered ongoing peer support and advice. Participants also talked about wanting to put their experiences to some use by advising or supporting others going through the family courts. This type of peer support was often mentioned in interviews as something that would have made the court hearing less stressful and intimidating for them.

## Hope and the future

Participants talked about their hopes for future contact with their children. Emma, for example, mentioned ‘12 points’ the judge had said she needed to address (this included actions relating to mental health, substance use and relationships). The information had been relayed to her in an email from her lawyer:

“I can say that gave me that glimmer of hope, and not to give up. Because that gave me something to work towards. And I feel like if I didn’t have that thing to work towards, then I would have felt like giving up, and there would have been no sense of a future for me.”

Leona received emails (via letterbox contact) about how her children were settling in with their adoptive family that ‘keeps her going’. However, the future possibility – stated in ‘court paperwork’ – of in-person contact was very important to her:

“They are thriving. They are stars. I think that’s what keeps me going is the letters, and obviously knowing full well that the court paperwork does state on there about considering contact. I’ve got that as well. I have sort of looked at the bigger picture of say a year, three years as I said I could be seeing them.” [Leona]

We also had participants whose past experiences of family court had made them reticent to return, reflecting their lack of trust in the system (see also Nancy’s account in Section 5):

“I just agreed to everything and anything back then (contact arrangements, including with the children’s father). And even now this time, I’ve just agreed, because I just can’t be bothered with going through it. It’s like this time, I can’t be bothered to now go back to the solicitor and say I want him to go back to court (to challenge paternal contact), because it’s always me. It’s always me they look at. It’s not the other person. And I can’t personally go through that hurt.” [Hannah]



## 5. Participants' stories

These accounts illustrate the personal experiences of a participant who was successfully granted special guardianship; a young mother who received holistic support from a voluntary sector organisation during and after proceedings in the family court; a mother who was too traumatised by her experiences in the family court to return to seek a reversal of a SGO; and a father who reflected on navigating care proceedings whilst racialised as Black and sought to 'learn the law' and contest the removal of his parental rights. Taken together they provide some insight into the complex nature of people's experiences of public law care proceedings.

### Claire: A Special Guardian

Claire became involved in public law care proceedings as a potential Special Guardian (SG) for a child in her extended family. Like other people we interviewed, she found the jargon surrounding court processes difficult to interpret, and was unable to define exactly what proceedings she had been involved in:

"A lot of the terminology, it doesn't make sense if you're not part of the system already. So, it was the proceedings to basically remove a child from their parents and then allocate, to decide where the child was going to be allocated basically.... I can't remember what the technical term was..., you feel like you're constantly on catch up in terms of understanding all these terms that everybody who's working in the system knows exactly what they're talking about."

When describing her decision to put herself forward as an SG, Claire shared that she had been influenced by the past trauma of a child being removed from another relative's care:

"At that stage, I wasn't in a position where I could have put my name in the ring for that. And I think, you know, knowing that and learning from that, it makes you know what you can live with and what you can't. So, I knew that I couldn't not put my hat in the ring in terms of [child] this time, to lose [them] from

the family because you know what's involved in terms of losing that connection... There wasn't any other option. We just had to do the right thing, basically."

Her acceptance of there being 'no other option' was followed by a realisation of the impact this would have on her immediate family, including her own children, and the 'difficult adjustment[s]' they would need to make. Claire and her family had to engage in various assessments, which she described as 'intensive', 'gruelling', 'intrusive', and 'nerve-wracking':

"...It feels a little bit like you're being put on trial yourself, to be honest. Like, every bit of your life is picked apart and your parenting is really examined... It was, sort of, six weeks of really intensive conversations and discussions about, you know, you have to put all your finances out... and they wanted to talk to our friends, the school... It feels like you're just opening your life... So, it's quite nerve-wracking really, to be honest. But you, sort of, do it for the greater good."

Claire only attended court towards the end of proceedings when the decision had already been made that her relative would lose custody of their child. As a first experience of court, she reflected:

"They're weird places because you don't know where you're going, so the first thing is obviously you get is turnout your bag and everything else..., you'd already been travelling for ages, early appointment, had to work out what to do with the kids, turn up, you go through the scanners, and then you sit there, and you don't really know what's going on... There's not really anybody to sit there and brief you."

After waiting with a limited 'idea [of] what is going on', Claire was invited into the hearing:

“As you walk into the courtroom, it just suddenly feels like, ‘Oh my God, this is it’. You’ve got the judge... and then you get the four people that sit at the front and then in terms of the case, so the barristers or solicitors or whatever, and then I was right at the back of the room basically... And then, you know, at some point you’re called forward and have to speak, which is absolutely, I mean, it’s terrifying. I’ve had presentation training for work and all sorts of things... there’s nothing that really prepares you for that.”

She also recalled her experience of participating in the hearing as being particularly restrictive:

“You can only answer the question that you’ve been given rather than having an opportunity to say anything outside of that, really. So, you feel, it’s a bit like a grilling, isn’t it? You answer the question as best you can, and as honestly and truthfully as you can, and then they move on to the next question... There’s no other time to say anything else... I think I walked away saying, ‘Oh, you know, I wish I’d managed to say that,’ or, ‘I wish I’d said this,’ and in that situation, it’s just, you know, you’re, sort of, scared anyway, aren’t you?”

After court proceedings, Claire had to chase social services for a copy of the SGO. She also highlighted a lack of follow-up support from social services for managing special guardianship, and had struggled to obtain relevant documentation, such as a passport for the child:

“Obviously, it is better for the child not to have social work intervention... but I would have expected just a little bit of, you know, three months, six months, ‘How are you getting on? How’s everything? Do you need any help with anything?’. Even a phone call, you know?... It feels very process-driven all the way along and then it comes to a point and then it all [stops].”

Claire also mentioned that she received no guidance around managing contact with the child’s birth parents and felt as though she had just been left to ‘get on with it’. This responsibility had harmful consequences for what had previously been a positive family relationship:

“That’s the bit that’s heartbreaking, isn’t it? Because it automatically provides- puts that rift... where instead of being able to be there for my [relative], I’m there for [child] now, and I can’t, you’re the protection for [child] in terms of- so all of the decisions that I make around, you know, whether my [relative] can see [their child], how often, you know, I have to think about what’s right for [child] and what’s okay for [child] and manage that. So, it does automatically create that rift between [us], which is really difficult.”

## Mia: A Young Mother

“We went through it as children ourselves, and I think none of us really had much say. It was very much just something that happened... to us rather than with us or for us.”

Mia had been ‘in social services [her] whole life’ and was under a care order when she was arrested at the age of 19. Mia’s arrest followed from her being criminally exploited, and throughout her interview she stressed how social services had failed to ‘keep [her] safe from the people who had groomed’ her. Mia was supported by the charity Just for Kids Law (JfKL) who provided a solicitor to defend her in the criminal case. JfKL extended their support to ‘the social services side’ when Mia found out she was pregnant. This included financial, practical, legal, housing and emotional support, which ‘made a big difference’ to her experience of care proceedings after her child was born:

“They’ve got a counsellor if you need counselling, they’ve got a lawyer if you need a lawyer, they’ve got an advocate if you need an advocate.”

When she was six months pregnant, Mia's parental advocate attended a meeting about the future care of her child. Mia had not been invited to this meeting as social services thought it would be too distressing. Mia recalled being told later that the social worker did not think she was 'suitable to have [her] child' as she was considered a 'risk and a danger':

"I've been in social services most of my life so on their records it was just like, 'naughty child, smokes weed at parties, doesn't obey the law'... and their record of me just looked so terrible. So, they were like, 'We're taking the child at birth.' They really didn't want to let me have child."

After giving birth, proceedings were initiated in relation to the future care of her child. Based on her own childhood experiences, Mia felt the outcome of these proceedings was inevitable:

"When I was child when I got taken away from my mum. My mum used to come to contact centres to see me, so I knew what it was. I knew what they were about to do, I knew what the end goal was, I just thought that was it, I've lost my child now."

She suffered from 'really bad depression' as a result, making it difficult to engage with the care proceedings. However, JfKL became the 'middle person' between herself, social services and the courts. They attended meetings on her behalf and helped her manage court documents and paperwork:

"All of my paperwork just went to my solicitors... They would open my letters and just help me with everything because I'm not very good at reading, I'm not very good at remembering names... I didn't deal well with stress, any law letter could be a trigger and I might not even understand what I'm reading... so I gave my solicitor the right to open all of my paperwork... If I didn't have them, I would have been very daunted."

After several months, Mia received a text message informing her of the date of the first hearing. This made her feel 'sick to [her] stomach'. The hearing was conducted virtually, and Mia recalled not 'really understanding anything' and feeling as though she was 'just sitting there on a Teams link'. She also described having to mute the audio as she 'was crying too much' but being reassured by her lawyer that 'everything [was] going to be okay'. As the proceedings progressed, Mia described the local authority's barrister 'throwing up everything from [her] past'. This however was challenged by the character references presented by her own legal team:

"If you look at my past history, you'll just see me as someone that takes drugs, someone that's irresponsible... someone that doesn't have a home or a stable environment, doesn't stay in their hostel accommodation. And that's basically the grounds the solicitor was using to take away or to say they wanted to take my child away from me, but none of that was relevant on that day. On that day I had a stable home, well, somewhere I was living... That day I didn't speak to any bad influences, or I didn't have any bad social group. I was drug free; I was not committing any criminal activities; my home was clean... I was making all my hospital appointments. They were getting me mental health diagnosis and treatment that they failed to do, which social services failed to do my whole life."

It was eventually decided that Mia's child would remain in her care, although social services would continue to support her through a child in need plan. She largely credited this outcome to the holistic support she had received from JfKL:

"If you're a woman with no support and there aren't any professionals on your side and all of the professionals around you are there basically wanting to take away your child and there's no-one to just... step back. I'm not social services, I'm just an advocate here for you to help advise you and maybe help you. I'm not here to take away your child. [That] must be really horrible because I wouldn't know who to trust, I wouldn't know what to listen to."

Mia also found out that she was no longer facing any criminal charges. She described this as a 'relief... like, 'finally now I can just work on being a mum'. However, this change of status also resulted in a lack of access to necessary support:

"We've done self-referrals back to social services just because sometimes I feel like I need the support... they just come, they look at my house, they look at me [and just close the case]... when I didn't want support and when you were there threatening to take away my child for nothing but for my past history, you were okay then to – And that is sad, like why does it have to be crisis for you to offer the mums that need it support?"

## Nancy: A Mother

Nancy was involved in court proceedings relating to the care of her eldest two children. Prior to proceedings she was in an abusive relationship which had resulted in her using alcohol and drugs to 'mask the pain':

"When mothers go through domestic violence, and they've got an alcohol and a drug issue, they [social services] don't see the root of why that is, and why the mothers have taken drugs, and taken alcohol. It's to mask the pain you've been through, and what you're going through with your abuser... They don't see it from that perspective."

Nancy was very 'nervous' about going to court as 'no one tells you what it's going to be like':

"You sweat, you shake. You feel sick... because you're sitting there and you've got- obviously, the local authority is there. They know what they're doing. They go through it thousands of times, and you're sitting there, and you just don't know. It feels really surreal. How can I put it, you just want the floor to open up, and swallow you."

However, she described the judge as 'really compassionate' towards her when she was being questioned during the hearing:

"They [social services] tried to adopt my first [child]... and [the judge] wouldn't go for it. She actually fought for the SGO. And she let me have breaks through the process. She let me take my time when being questioned, and certain things I didn't understand – when the local authority was- because they go at you, and they shout at you. They make you nervous, and things."

The court decided that Nancy's eldest child would be placed on an SGO. Proceedings relating to the second child continued and she thought the [different] judge in that case was 'horrible'. She said she had to leave the courtroom because hearing the arguments being put forward by the different parties in the room was traumatic:

"The local authority's barrister would blame me for everything... It was horrible... And it brings back all the emotions and things, of what you've been through. And it's horrible. Yes, it was horrible. So, I was in court, and they were saying, 'Why didn't you leave your abuser?'... And I said, 'It's not that easy.'"

Despite having a good relationship with her lawyer, she did not feel that they challenged the evidence that was being presented about her:

"They don't respond how you want them to. To say, 'well, this is his issue, not the mother's. He should be taking accountability, not the mother'. They don't represent it like that. You want to say- how can I put it? You want them to fight your corner, and say, 'No. This is him. She went through abuse. You need to understand certain things, or what's been said, or what's happened'. But they don't represent like that."

Nancy found out about the final order from her legal team over the phone:

“They called me and said that he’s been adopted. Yes, the adoption was going to go through. Yes, and then, that’s it. And then, there was a date for actually the adoption hearing, for the adopters to go and obviously get him adopted. They would send you, I think, a letter to let you know the date [as you can attend]... But I never received anything from the court until months later. But I wouldn’t have gone there anyway.”

When dealing with the aftermath of proceedings, the only support she received was from her domestic violence worker, who put her in touch with a voluntary-sector charity supporting women who have had their children removed by the state:

“I ended up doing one-to-one counselling, and then group counselling. And the group counselling was absolutely brilliant. But to not having support, and going home, you feel empty. It’s like a death, but it’s not. Because you know the person’s not dead. So, it’s just the not knowing, and the emptiness, and loneliness. And still, to this day, I still have my children’s stuff in a bag, in the attic.”

Nancy moved away from the city in which she had been living, joined an alcohol programme, attended community rehabilitation and today has been sober for several years. She recently gave birth to her third child and is ‘just enjoying being a mum’. Nancy has also been granted unsupervised contact with her child who was subject to an SGO:

“You feel like you’re going to cry because it shows all the hard work has paid off... Because even though what you’ve been through, and people say to you, the courts, social services, ‘You won’t change, you won’t change, you won’t change... You have changed, and there’s been recognition from the family members of you changing.”

And although social services want to revoke the SGO, Nancy’s previous experiences have made her ‘hesitant’ about returning to the family court:

“I don’t want to go back. Because with the fear of the courts and getting involved with my [baby]. I’m very hesitant. I spoke to my solicitor, and we had a long conversation because I just don’t want to go back. Because the experience, it’s so much trauma with going there. It scares you. It puts you off. It really does.”

## Ade: A Father

Ade and his wife became involved in public law care proceedings after reaching out to social services for support with the care of their child who was diagnosed with autism:

“... That’s how we got involved with the social services, because [my wife] needed support... So, because we are not living together, they thought that he is a child that has no father, or he is one of those fathers that doesn’t care... all of a sudden, they organised a court hearing to get him, even though it was initially a voluntary arrangement.”

Ade shared that his wife received very little support before a decision was made to implement a care order. He felt that harmful perceptions, held by professionals and relating to his and his wife’s racialised identity and ‘non-British’ nationality had impacted this decision: Reflecting on what it meant to navigate care proceedings whilst racialised as Black, Ade said:

“Race is part of it... They have already looked at my wife. ‘She is a Black nobody’. You understand?... Because the law says that they are supposed to support her, but they don’t want to support her. The only way they want to support her is if they have the child as their own... That Section 31 means that this child is beyond her control. So, if he is beyond her control, then they should support her, isn’t it? By giving her support workers. No, they don’t want to support her. They want to collect the child from her, and then put the child somewhere else, and then support that child there... So, they see that as a Black person, her family is in [another country], so let us quickly override her by changing the voluntary arrangement to another arrangement. You know?”

This experience negated the trust that Ade had previously had in the legal system of England and Wales 'I thought that *'Oh, the United Kingdom, something like that cannot happen.'* This was the first time that Ade had been in contact with social services or the family courts, and he had very little understanding of the processes involved or his legal rights as a father:

"I didn't know that there is a place called family court... I didn't know anything about if you have a child that is autistic, you need to ask for a Section 20 agreement, you need to go to family court, that there are people called social services. I didn't know... I have been in this country for [over 20 years]... for the [time] I have been in this country... I used to hear about social services, but I don't have anything to do with them. You understand? I'd never even heard of family court before... So, when they got the care order... I was now trying to find out how to educate myself."

Ade felt unprepared for the hearing as 'everything was done in a hurry'. He described how he had not been given the chance to meet with his legal team or see 'all the documents' relating to the case. Rather, they had 'just asked [him] to come to court':

"Why won't your solicitor, who is supposed to work for you, show you all these documents before the hearing? Why can't your solicitor discuss all the situation with you before the hearing? Why can't you have a meeting before the hearing? Why can't you have a roundtable discussion about what is going on? Why can't the solicitor educate you about what is going to happen?"

As the case progressed, Ade lost further trust in his legal representatives who he felt 'were part of them' (meaning social services and the family courts):

"But, in the end, I now realised that my barrister and my solicitors have to follow the instructions of the judge, not my own instructions. They can't follow my instructions."

Ade did not feel listened to or represented. This feeling was heightened by not being allowed to speak in the courtroom:

"At that hearing, I said, 'What are you doing? Can't you listen to me?' Then they asked me to sit down, stop talking... The judge said, 'Stop talking'. And if you stand up to talk, the judge will award more penalties. Do you understand?"

Ade had begun to educate himself about family law and had left his job to 'focus' on the case and 'fight for [his] rights'. Despite feeling like an 'expert' in the law, he found the court process disempowering:

"When you try to educate yourself, you will learn all these things, but you cannot use it... So, as I'm standing now, I will say myself, I am a fully qualified solicitor. Do you understand? I am a fully qualified solicitor. But no matter how I put my documents together, the judge is not going to listen to me."

At the end of the proceedings, his child was moved from an interim to a final care order. Ade was not allowed to have contact. His wife – who he described as 'starting to work with [social services], giving them everything they want' – was permitted continued contact. Ade viewed this situation as unjust for both him and his wife, as despite his wife 'working with' social services, she was still 'only able to see [their child] when they want[ed] her to'. This reinforced his view that parents have 'no chance' in the family courts whether they 'fight' or comply:

"We applied to appeal... That's when I was studying the law. So, all that time, I was appealing against it... they are not listening to us. I was just wasting my time."

## 6. The policy workshop

As a final element of this pilot stage, we held a policy workshop that was run by two peer researchers. The workshop provided a space for people with lived and professional experience of the family court to reflect on these initial findings and co-produce ideas for policy and practice reform. During the workshop we were joined by an artist who created a live illustration of the discussion. It is therefore fitting to conclude this briefing with this visual representation of the recommendations co-produced in this workshop space:

Lived Experience of the Law

FAMILY COURT POLICY WORKSHOP

12<sup>th</sup> December 2023

**UNDERSTANDING People's LIVED EXPERIENCE of the LAW**

- There is a LACK of GUIDANCE or SUPPORT before HEARINGS
- How these EXPERIENCES AFFECT PEOPLE'S VIEW of the LEGAL SYSTEM...
- Co-Producing RECOMMENDATIONS & improve POLICY and PRACTICE--
- RECOGNISING the EMOTIONAL BURDEN of the SYSTEM as it STANDS.
- OVERLAP between CRIMINAL and FAMILY COURTS.

**People FEEL SILENCED or Like a BYSTANDER during hearings**

- The way people INTERACT with the JUDGE has a LASTING IMPACT
- PROCEEDINGS can move very QUICKLY at some points and very SLOWLY at others!
- COMMUNICATION and SUPPORT during and AFTER HEARINGS can be LACKING.

**How do we BETTER SUPPORT PEOPLE BEFORE HEARINGS?**

- SUPPORT from the MOMENT the REFERRAL is MADE
- REGULAR CONTACT with SOLICITOR is HELPFUL.
- ANYTHING that makes COURT LESS HOSTILE
- MORE ADVOCACY from CHARITIES to SUPPORT PARENTS & GUARDIANS BEFORE HEARING COURT.
- SYSTEM should be PERSON-CENTRED, not LAW-CENTRED.

**How do we PREVENT PEOPLE FEELING SILENCED during HEARINGS?**

- NOT having UNNECESSARY or TOO MANY PEOPLE in COURT
- PROCEEDINGS TRANSLATED into "NORMAL" LANGUAGE - live TRANSCRIPT? MEDIATOR.
- A PROBLEM-SOLVING APPROACH.
- PEOPLE able to take BREAKS if SESSIONS get OVERWHELMING.
- EVERYONE having the RIGHT to SPEAK to the JUDGE.
- RECORDING SESSIONS to ENSURE PROCEDURE is being FOLLOWED.
- Transparency on DISCUSSIONS about US/PARENTS.

**How do we ENSURE PEOPLE have more POSITIVE ENGAGEMENTS with JUDGES?**

- JUDGES better INFORMED on the DETAILS of EACH CASE.
- JUDGES CHECKING in during HEARINGS
- JUDGES provide SPECIFIC advice on the steps that need to be CONTACT/CUSTODY where APPROPRIATE.
- Having a MENTOR PRESENT to help PEOPLE ENGAGE with the JUDGE.
- CONSISTENCY - having the SAME JUDGE follow a case all the way through.

**HOW CAN we ENSURE people have TIME to REFLECT and make INFORMED DECISIONS during HEARINGS?**

- MAKING the PHYSICAL STRUCTURES of the COURTS more ACCOMMODATING and HUMANISING for FAMILIES.
- SPACE and TIME to PREPARE for and REFLECT on HEARINGS.
- MORE SUPPORT for PARENTS to meet the REQUIREMENTS of the COURTS
- EXPERT WITNESS ASSESSMENTS should only RECOMMEND TREATMENTS that EXIST!
- ADDRESS INSTITUTIONAL and RACIAL bias CONTRIBUTING to UNEQUAL TIMEFRAMES.
- MORE FUNDING for PARENTS' SERVICES

**How do we ensure PEOPLE are SUPPORTED AFTER HEARINGS?**

- MORE HOLISTIC APPROACH between MULTIPLE AGENCIES FOCUSED on KEEPING FAMILIES TOGETHER.
- MORE FUNDING is needed for SUPPORT SERVICES?
- SOLICITORS and/or SOCIAL SERVICES should direct FAMILIES towards SUPPORT
- SUPPORTING FAMILIES after PROCEEDINGS should be a STATUTORY REQUIREMENT.
- SUPPORT should NOT be a POST-CODE LOTTERY.
- A LEAFLET with SERVICE INFORMATION.

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#### About the Institute for Crime & Justice Policy Research

ICPR, Birkbeck undertakes academically-grounded, policy-orientated research on justice. All our research is informed by concerns with justice, fairness, human rights and commitment to bringing about improvements in justice policy and practice.

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