Giving children and young people a voice in the justice system
Simon Hughes MP, Minister for Justice and Civil Liberties

Speaking at a conference organised by the Family Justice Young People's Board, Simon Hughes announced that the Government would take steps to ensure children over the age of 10 have their views heard in care proceedings and custody cases.

On Tuesday this week, I was privileged to attend the Girl Summit at Walworth Academy just off the Old Kent Road in my constituency in south London. This was a hugely impressive and powerful event with the key message that women and girls are not somebody else’s property to be physically interfered with, or to be given or sold to others against their own free will even before an age at which they can make their own decisions. As well as our own Prime Minister and Deputy Prime Minister, Home Secretary and International Development Secretary there were women who had been made to enter into child or forced marriage or other forms of cultural practice. We were joined by the Head of the United Nations Children’s Fund, Prime Ministers, First Ladies and members of royal families from across the globe. Malala Yousafzai spoke very powerfully and impressively about her recent visit to Nigeria and her attempt to persuade people in that country of conflict to treat girls and young women with a new form of respect whatever their faith or belief or family background. This event set an agenda to take forward work in every country of the world to advance the rights of women, children and young people.

Last night in Glasgow, many of you will have seen the opening of the 20th Commonwealth Games by Her Majesty the Queen. The Commonwealth is made up of 71 countries and territories across the world, and the Friendly Games as they are affectionately known give opportunities for athletes from all of them to compete and show how their talent, training and discipline, can lead them to international success. But in many Commonwealth countries even now the rights of children and young people are not upheld without discrimination. In some countries, there is prejudice and discrimination against women and girls. In some countries, holding a particular faith or belief can give you a very hard time. In some countries, your sexuality or a failure by you or your family to comply with cultural norms may lead to your exclusion or vilification or worse. This may all seem, in some ways, slightly far away from our agenda today. But in others, it’s not far away at all. We too are here to talk about rights and justice for children and young people. And our special concern is family justice – and family justice in our countries of England and Wales.

I want to talk personally for a moment. My dad was married twice and his first marriage ended in divorce. My two older half-brothers Richard and David saw their parents’ marriage end before they were 12 years old. One of my half brothers then went through a divorce himself after his first wife left him- and left him with the care of three young children. I was not alive during the first of these events but very well remember the second, and my brother’s separation and divorce were difficult enough for the rest of the family, let alone for his three children. There are probably very few people in the room who do not have members of our immediate or extended families who have gone through divorce or separation or other form of family break up.
I was appointed to my job as Minister of State for Justice and Civil Liberties last December. This is my first chance to talk to the Voice of the Child conference, and so today I want to take the opportunity of making an important statement as to the direction in which I believe our family justice system must move if we are to fully uphold the rights of children and young people in our families, our justice system, our society and our countries in the years ahead.

The law is clear, both at home in the Children Act 1989 and internationally in the United Nations Convention on the Rights of the Child, about the importance of the child or young person’s wishes in any justice proceedings. The United Nations Convention on the Rights of the Child (UNCRC) sets out the rights of every person under 18 and how those rights should be met. The UK government is committed to giving due consideration to the UNCRC when developing new policy and legislation. In Wales there is a new Children’s Rights Scheme which requires all ministers in Wales to have due regard to the Convention when carrying out any of their ministerial functions.

This is the area where you in the Family Justice Young People’s Board have been doing much recent work. I pay tribute to you for all that you do. As you will report to this Conference later you have been working on a National Charter for Child Inclusive Family Justice. I know that this work is not yet finished and the proposed Charter is not yet in its final version, but I want to say now that the government agrees with, accepts and intends for some of the statements in your most recent short version of the Charter to be confirmed as government policy from now on.

Children and young people should be at the centre of all proceedings. We agree. Children and young people should be informed of their rights. We agree. And we in government agree with much which follows in the Charter which you are working on: Children and young people should be given the opportunity to meet and communicate with the professionals involved with their case including workers from the Children and Family Court Advisory and Support Service (CAFCASS), social workers, the judges and legal representatives; every child of sufficient age and ability should have the opportunity of meeting with the judge overseeing their case; every child should have the opportunity through Cafcass of submitting their views directly to the judge in writing; all children should be able to communicate their wishes and feelings to the judge; children and young people should be kept informed about the court proceedings in an age appropriate manner, kept informed of the stage their case has reached, and contacted prior to the first hearing, and have the opportunity of giving feedback through email, text, telephone or written form. We agree with all these statements too.

Children and young people must by law have their views heard before decisions are made about their future, and where decisions are made that will impact them. At the moment, it is still too often that their views are not heard. Or that the law is interpreted to mean that others can make an assumption about the view of the child or young person – often for the best of intentions and acting in their interest, but nevertheless with the outcome that the child or young person does not feel that their own distinct voice was heard.
I therefore want to announce that it is the intention of the Ministry of Justice, and therefore the UK Government, that we move as soon as is practical to apply in all our family justice proceedings in England and Wales where children and young people are concerned the policy that it will be the normal practice, the norm, that, from the age of 10, children and young people involved in public or private law family justice proceedings before the courts will have access to the judge, in an appropriate way which reflects their feelings and wishes to make clear their views as to what is the best resolution of the family dispute in their interest. Children and young people of 10 and over will therefore be given the chance to make clear their views in person or if preferred in another way. We will also work with the mediation sector to arrive at a position where children and young people of 10 years old and over have appropriate access to mediators too in cases which affect them.

Why 10? It seems to me wrong that a 10 year old in England and Wales is deemed old enough to be criminally responsible yet has no automatic voice in family proceedings in which decisions are being made about them. Children and young people should be involved and be seen to be involved. And if a child younger than 10 years is able to express themselves and wishes to do so then they too should have that opportunity. Though of course we must also recognise that where a child or young person is too vulnerable and needs their views to be represented by others, this also should be the case.

Of course how we move from the present court practice to one which implements this change will need careful discussion with all those with proper interests, including the President of the Family Division, Her Majesty’s Courts and Tribunals Service and Cafcass. I have of course already shared my intentions with them, and am pleased that we all are committed to moving together in the same direction. We have of course more careful and detailed work to do, particularly in relation to those processes which are not court processes but which are dispute resolution processes such as mediation outside of the courts.

That is why I propose to start immediately a dialogue with the family mediation profession about how we make sure that the voice of the child and young person becomes a central part of the process of family mediation too. It cannot be right that parents can mediate an agreement affecting their child or children and then ask the court to consider making this into a binding order in the absence of the children's voice being heard.

I have talked through my proposals with the Lord Chancellor and Secretary of State and we are clear that this is the right course to take and the right time to take it. I hope that I am really clear that in future we are not just going to say that the voice of the child and young person will be heard. In whatever are appropriate ways, we are going to make sure this happens. I hope this announcement will be widely welcomed amongst the members of the Young People’s Board, all those other young people involved in these debates and many others besides.

I have had the privilege of meeting members of your young people’s board on several occasions over the last few months and applaud your commitment, enthusiasm and sense of purpose. I am keen to build on the positive relationships which have been forged between the Ministry and your board and to help you take
forward the various strands of your work wherever we can be of help. I have offered the services of the Ministry of Justice to help with the board’s work in areas such as communication and am encouraging closer interaction between the board and my officials in Family Justice, introducing board members to policy officials, encouraging them to explore how policy is formulated within family justice and how the views of children and young people are reflected in developing proposals for change.

The Board’s most significant piece of work this year is clearly the National Charter for Child Inclusive Family Justice which was launched as the Family Justice Young People’s Board Standards at last year’s conference, and which I have already referred to. The National Charter grew from recommendation three of the Family Justice review and it shows how valued the young people’s board are that they were asked to take forward this work. I hope that the work on the Charter will come to a conclusion by the end of the year at the latest with all the various organisations and professions signed up to the Charter and working in accordance with its principles.

Outside your work on the Charter, the young people’s board are constantly increasing their area of influence and expertise as shown by the recent expansion of visits to evaluate the facilities available at court and at child contact centres. I know that the President of the Family Division is supportive of this and other work to help to make sure that the views of children and young people are reflected back into all parts of our family justice system. I know that a number of you here have had direct experience of working with the young people’s board and are as aware as I am that their work is gaining respect and influence across the family justice system. As the Board has grown and gained recognition many organisations have begun commissioning them to undertake work on their behalf; often for the help and advice they can offer in how children and young people can have access to information (in a way they can understand) about the processes and people they will encounter in the family justice system. This is the unique contribution which the Young People’s Board offers - to help us shape the family justice system of the future. The chance to learn and improve the system based on the experiences of those who have experienced it first hand cannot be overestimated.

Children and young people who have been through the courts are clearly experts in this field. You above all will understand what it is like to be that child, at the centre of that court case, which has been going on for two, three or four years. But it is at the moment less clear how children and young people are involved in other processes, such as family mediation. That is why I have announced the policy of involvement in the future in mediation and other out of court processes too. The Young People’s Board therefore has a key role to play in making sure the family justice system is not only focused on children and young people but better supports children and young people who through no fault of their own find themselves involved in our justice system often at a very early age.

It is important to me to recognise that listening to the voice of the child and young person is not solely about listening within the context of an individual court case but listening to these voices in the context of family justice in particular and justice more generally. We need to make certain that the voice of the child and young person is captured in the development of policy that will affect children and young people as they go through the court process and the wider family justice system now and in the
future. Innocent youngsters growing up can be hugely troubled by the difficulties and
dramas in the lives of their parents and their wider families. Children and young
people will be affected by what happens to their family in the court room and you will
no doubt hear many powerful stories today – movingly and articulately expressed –
which bring that home. It is our responsibility, indeed our duty, to make sure that the
effect of the system on children and young people is not a negative one but a
supportive one and that not a single children or young adult feels that their voice
went unheard. The children and young people who have organised this conference
day have a great deal to offer. We have a responsibility not only to listen to what
they say but to hear and reflect on what they say, however uncomfortable some of
those messages might be. I ask you to join me in congratulating the Young People’s
Board on organising what promises to be an enjoyable, informative and thought-
provoking event. Thank you – and all the very best today and in the future.

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