

# Towards a Family Justice Observatory

## A scoping study

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### *Main Findings Report of the National Stakeholder Consultation*



“In light of the increasing volume of children law cases reaching the court, we welcome the creation of a national observatory which will continue on and improve upon the work of the Family Justice Research Bulletins and the Knowledge Hub by equipping practitioners to not only identify relevant research, but also to understand its implication for individual cases.”

(Submission from the Law Society, Call for Evidence)

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**Acknowledgements:** We would like to thank those who submitted to the call for evidence and participated in the focus groups. We also acknowledge support and funding from the Nuffield Foundation. We would also like to thank the President of the Family Division, Sir James Munby, and Sir David Norgrove and Anthony Douglas for their support in helping to stimulate responses to the call for evidence.

We would also like to thank the family justice observatory research team including Professor Judith Harwin (Lancaster University), Pippa Coutts and Jonathan Breckon (the Alliance for Useful Evidence), Professor Ruth Gilbert, Dr Jenny Woodman and Matthew Jay (UCL) and Professor Harriet Ward, Dr Lisa Holmes and Dr Georgia Hyde-Dryden (Centre for Child and Family Research, Loughborough University). We are also grateful to our policy and practice partners Dr John Simmonds (CoramBAAF) and Cathy Ashley (Family Rights Group) and project advisors Dr Julia Brophy (Association of Lawyers for Children) and Professor Judith Masson (Bristol University).

**Please cite this as:** Broadhurst, K., Mason, C., Robertson, L., Bowyer, S. and Wilkinson, J. (2017) *Towards a Family Justice Observatory – A Scoping Study: Main Findings Report of the National Stakeholder Consultation*. Available from: <http://wp.lancs.ac.uk/observatory-scoping-study/>

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## Summary and Key Messages

### Background

In 2015, the Nuffield Foundation set out the preliminary case for a new family justice observatory in response to long-standing concerns that family justice policy and practice is insufficiently informed by robust research evidence.

A background document produced by the Foundation described the variety of ways in which the broader social science or child welfare research evidence might complement legal knowledge, in the effective delivery of family justice policy and practice.

This report presents the findings from the first consultation with stakeholders conducted between August 2016 and March 2017 as part of a multi-stage scoping study funded by the Nuffield Foundation. The study will shape the design of a new family justice observatory for England and Wales.

A broad range of stakeholders were consulted through a call for evidence. In addition a series of focus groups were held with frontline practitioners, judges, children and young people, parents and kinship carers.

The consultation sought to understand:

- The research evidence needs of stakeholders;
- The opportunities and barriers to the application of research evidence in policy and practice;
- Stakeholder priorities for new research;
- Stakeholder priorities for a family justice observatory.

## Key Messages

### Research use

Stakeholders described wide-ranging use of research evidence. Typically, research evidence is seen as important for organisational and policy development at both national and regional levels, as well as assessment and decision-making at the case level both pre-court and in court. Evaluation research is also seen as critical for effective innovation and practice development. Parties to cases described a range of information needs, including the need for research evidence.

The majority of stakeholders considered that frontline practitioners involved with public or private law children cases and policy makers should have a basic grasp of the latest child welfare research. Practitioners considered that robust decisions about children's futures in both public and private law cases were achieved through the application of an interdisciplinary body of knowledge.

However, in the absence of an expert instructed by the court, frontline professionals were not always clear as to how non-legal knowledge could be introduced at the case-level. There was greater clarity about the value of research evidence for policy and system development.

Stakeholders reported a variety of different ways in which they accessed research evidence, but there was considerable variability among stakeholders regarding research literacy. Legal professionals demonstrated the least research literacy and opinions were split as to whether further research training was either desirable or feasible.

### Main barriers to accessing research evidence

Limited time and resources were consistently identified as major barriers to accessing up-to-date research by the range of stakeholders participating in the consultation. Smaller organisations reported the least resources.

Given increasing pressures on the family justice system, frontline practitioners indicated that they had little time to engage in CPD or self-directed reading of relevant research.

Lawyers, judges and barristers stated that it was a challenge to keep up with case law, leaving little time for keeping up to-date with the broader social science literature.

Stakeholders also consistently complained that insufficient research is published open access; pay-walls prevent access to the most up-to-date published research.

Stakeholders consistently reported that research is not always reported in accessible formats. The most useful formats are summaries of evidence that make very clear key messages.

Stakeholders felt that not all research was relevant for policy and practice. This was particularly an issue for frontline practitioners who wanted research evidence that would directly aid case decision-making. A number of organisations (e.g. Cafcass, NSPCC) have been very active in producing practical evidence-informed tools for frontline practice; however, awareness of decision-making aids or other tools among frontline professionals was variable.

Stakeholders raised questions about how parties to cases access advice and information given radical cut backs to legal aid. Although it was acknowledged that bespoke organisations representing children and families are best placed to advice this particular group of stakeholders, access to justice for self-representing litigants was a widespread concern.

Many frontline practitioners stated that there was a lack of money available within their organisations to support further training or conference attendance.

### **Court culture and evidence use**

Frontline practitioners described some ambivalence on the part of the family courts towards child welfare research/social science evidence. That studies delivered contradictory findings was seen as problematic, and judges did not want the methodological detail of studies to consume court time.

Amongst judges there was a very clear message that research evidence needs to be accepted and endorsed by the wider community of judges. The reputation and expertise of researchers was critical in regard to the credibility of research evidence.

A lack of confidence in the use of child welfare research evidence in family courts is in part due to some continued lack of confidence in local authority social workers, who are sometimes seen as lacking experience and confidence in the court environment.

A number of social workers also stated that they were more confident in reporting first-hand case observations, than referring to specific child welfare research studies.

However, it was also clear from focus groups with frontline professionals that background child welfare was implicit in both case assessment and care planning.

### **Trust/independence**

Across all stakeholders there was a concern that not all research is impartial. A strong message was that the observatory must be independent of government and powerful lobbying groups.

Stakeholders wanted to see the development of an observatory that could help build trust in research evidence, through independent summary and appraisal of the strength of evidence against key topics.

The creation of a “one stop shop” that radically changed both access to, and confidence in research evidence was a key priority for all stakeholders, whether they held policy or practice roles, or were parties to cases.

All stakeholders consistently stated that they wanted closer engagement in setting research priorities to ensure relevance and to gain a better understanding of research.

### **Stakeholder priorities for new research relating to both public and private law**

Respondents’ priority topics for new research included:

- Longer-term outcomes of family justice system involvement for children and families;
- Impact of family justice reforms – policy and legislation;
- Robust evaluation of interventions/innovation;
- Research on the assessment of risk.

The need for a longer-term perspective on the impact of family court decisions in both public and private law was the most consistent message from stakeholders. Difficult decisions are taken in the family court and stakeholders felt that they would have greater confidence in these decisions, if they ultimately improved the lives of children and families.

Practitioners identified many gaps in research evidence but, in some instances, also demonstrated limited awareness of even high quality published research. In particular, stakeholders demonstrated very limited awareness of research evidence relevant to private law children’s cases.

### **Stakeholder priorities for a new observatory**

Based on stakeholders’ priorities, a new observatory needs to:

- Improve the evidence base for family justice policy and practice through better use of large-scale datasets;
- Commission authoritative knowledge reviews and make these highly accessible;
- Host events and conferences to improve dissemination of research findings;
- Support better use of regional data to enable variability/best practice to be identified.

Stakeholders consistently stated that they felt there is insufficient evidence about how the justice system is working. Policy makers, professionals as well as parties to cases all stated that better comparative data at a local level would help to address questions about consistency of court outcomes and fairness.

## **Conclusion**

The consultation has proved invaluable in engaging stakeholders in the development of the new observatory and learning first-hand about stakeholder needs and priorities.

However, the consultation has also identified that there is much work to be done to achieve a higher-level of integration of research evidence in frontline practice, in particular.

Although stakeholders were clear that legal as well as non-legal knowledge is essential to effective family court decisions, further work is needed if research evidence is to be applied, routinely, in both assessment and decision-making.

Meeting the needs of stakeholders in regard to both the supply of new research evidence (particularly in private law) and better summary and dissemination of existing robust evidence will be challenging and require careful priority setting.

Passive dissemination of research evidence online (for example) is not likely to meet stakeholders' evidence needs. The new observatory will need to take an active approach to engaging stakeholders and to ensure reach across England and Wales.

A pilot phase (2-3 years) is suggested for the new observatory to establish quality standards for research evidence, relevant for the family justice system, and to establish and test mechanisms for the synthesis and effective dissemination of evidence.

A pilot phase also needs to ensure barriers to the use of administrative and survey datasets are tackled, whilst ensuring the privacy rights of data subjects. Urgent investment also needs to be made in building capacity in quantitative researchers and analysts.

Given stakeholders' keen interest in setting research priorities, further consideration needs to be given to a series of small-scale regional pilots that serve to meet local evidence needs, and promote awareness of the broader observatory project.

A pilot phase will enable the niche of the observatory to be refined, based on analysis of the sustainability and likely impact of activities.

The observatory will need to remain independent, but equally co-operate with government departments and the new What Works Centre for Children's Social Care, to avoid duplication and ensure efficient use of resources.

The observatory also needs to stay abreast of leading international developments in the field and build on networks established as part of the scoping study.

## Background

In 2015, the Nuffield Foundation set out the preliminary case for a new family justice observatory in response to long-standing concerns that family justice policy and practice is insufficiently informed by robust research evidence. A background document, written by Bryan Rodgers, Liz Trinder and Teresa Williams (2015) summarises problems in both the *supply* and *application* of research evidence. The position of the Foundation is that policy and practice is best informed by an interdisciplinary knowledge base - the broader social science or child welfare research complements legal knowledge.<sup>1</sup>

In 2016, the Foundation appointed a team to undertake a detailed scoping study to explore the feasibility of establishing a new observatory and its potential remit and functions. Professor Karen Broadhurst of Lancaster University was appointed to lead the team, working with colleagues from University College London (UCL), CCFR Loughborough University, The Alliance for Useful Evidence, Research in Practice (RiP), CoramBAAf and the Family Rights Group (FRG). A mixed-methods scoping study is underway, comprising a number of different stages, with a completion date of December 2017. The project website provides further details of the study and the research team members.<sup>2</sup>

The first stage of the scoping study is now complete and is the focus of this summary report. The first stage has comprised a consultation with stakeholders in England and Wales. A decision to consult initially with stakeholders in England and Wales reflects the fact that the observatory will aim for initial impact in these two jurisdictions, given commonalities in family justice legislation and practice. Over time however, the reach of the new observatory will be national and international. An international consultation exercise is currently in progress and will report separately.

This initial consultation invited stakeholder organisations to respond to a call for evidence (August 2016 – November 2016). In addition, frontline practitioners were invited to participate in a series of focus groups held across England and Wales (September 2016 – February 2017). The findings were presented to stakeholders participating in the consultation at a workshop in February 2017 at the Nuffield Foundation. The workshop provided participants with an opportunity to hear main findings, but also to provide feedback and engage with next steps.

This report presents the main findings drawn from integration of data from the call for evidence and the focus groups. The report is divided into five sections:

- **Section A** provides an overview of the methodology and approach to data analysis and integration
- **Section B** reports the main findings regarding stakeholder perspectives on research use in organisations and the supply of research evidence
- **Section C** provides stakeholder priorities for new research relating to both public and private law
- **Section D** reports stakeholder priorities for a new observatory
- **Section E** provides a summary of key discussion points from the stakeholder workshop.

It has not been possible to convey the detail of responses to the call for evidence in this summary

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<sup>1</sup> Social science research can inform system design and provide detailed intelligence about the patterns and outcomes of family justice policy and practice. It can help commissioners think about the impact of specific interventions or new models of family court practice. Research can aid assessment and decision-making at the case level in the family courts.

<sup>2</sup> Lancaster University Project Website: <http://wp.lancs.ac.uk/observatory-scoping-study/>



report; hence, submissions have been published in full, where organisations have granted permission.<sup>3</sup>

Overall, many of the findings we report, regarding the knowledge-to-action process, are not surprising. The opportunities and barriers that family justice practitioners and policy makers report, in both locating and applying research evidence, have been widely reported in related fields of health and education (Nutley et al., 2007). However, there are also some features of the knowledge-to-action process that appear particular to the family justice system. For example, endorsement of valid research by the senior judiciary appears to greatly enhance its use in the family courts. At a case level, there is continued debate about the place of non-legal knowledge in family court decisions and adjudication. The way in which the family justice system reflects but also *departs* from other fields in regard to the application of research warrants careful consideration in the design of a new observatory.

The consultation has proved very fruitful in both confirming a desire for and eliciting clear priorities for a new observatory, given a high level of consensus across stakeholder groups. Moving forward, the challenge in designing the new observatory is to identify the optimum organisational model that will ensure efficient and effective delivery of priorities. A further series of higher-level interviews with national policy, judicial and social care leads in England and Wales will conclude in August of this year, as will the international consultation and review of relevant organizational models. Alongside this work, there are two data scoping components to the study: (i) a review of national administrative and survey datasets being undertaken by University College London and ii) a case study of regional data use and linkage, being completed by Loughborough University in collaboration with North Yorkshire County Council. Further short reports, covering different elements of the study, will be published in due course and will be brought together in a final report in January 2017.

A new national observatory cannot be all things to all people, hence the over-arching aim of this scoping study is to narrow stakeholder priorities, and establish which priorities are likely to have the greatest impact on the family justice system. A key observation drawn from the study to-date, is that an evidence-informed culture is less well embedded in the family justice system, when compared to related fields of health and education. This observation indicates a pilot phase for the observatory; in which infrastructure is built and different activity streams are tested for their feasibility and impact. A new observatory will need to be underpinned by a realistic set of objectives that *build capacity* both in the research and user communities.

## Section A: Methodology

### A.1 The Call for Evidence

A call for evidence was launched in August 2016 that invited organisational leads to consult with their members and submit a written response to a series of questions that were grouped according to the following six themes:

1. Research use in organisations
2. Access to research evidence
3. Research literacy and co-production
4. Improving the research evidence base

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<sup>3</sup> To access submissions from the call for evidence see <http://wp.lancs.ac.uk/observatory-scoping-study/national-call-for-evidence-findings/>

5. Perspectives on a system-wide approach to research generation
6. Priority functions and priority audiences for a new observatory

Given the dearth of published research on the use of evidence in the family justice system, the consultation aimed to elicit a detailed picture of the evidence needs of stakeholders as well as the opportunities and barriers to the application of research evidence in policy and practice. In addition, responses would inform priority setting for the new observatory. The format and questions included in the call for evidence can be found in **Appendix 1**.

The call for evidence was advertised through a dedicated website at Lancaster University, as well as through the websites of the Nuffield Foundation and the wider project team. Emails were sent to national and regional organisations as well as local authorities and these were followed up by telephone contact. A total of 47 submissions were received, with the majority of responses submitted by national organisations or bodies (e.g. the Association of Lawyers for Children, Cafcass England, Cafcass Cymru, National Adoption Network Wales). The aim of the call for evidence was to elicit detailed, largely qualitative responses, from key informant organisations, speaking on behalf of members. Consultation exercises that invite voluntary participation inevitably fall short of representing an entire field; however, we were encouraged by the consistency of responses to the call for evidence and those given by focus group participants. In addition, the consultation aimed to:

- raise awareness of the Nuffield Foundation's aspirations for a new observatory
- identify organisations motivated to engage with a change agenda regarding the use of evidence in the family justice system

**Figure 1** below shows the type of organisations responding to the call for evidence, indicating a relatively even split between those with a social work and legal remit, together with a small number of submissions from organisations with a health remit. A small number of universities also responded. Given the limited number of submissions from Local Family Justice Boards (LFJBs), individual interviews are underway with District Liaison Judges in England and Wales. A full list of organisations participating in the call for evidence is available in **Appendix 2** and submissions (where publication was approved) are published online at Lancaster University's project website.<sup>4</sup>

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<sup>4</sup> Lancaster University Project Website: <http://wp.lancs.ac.uk/observatory-scoping-study/>

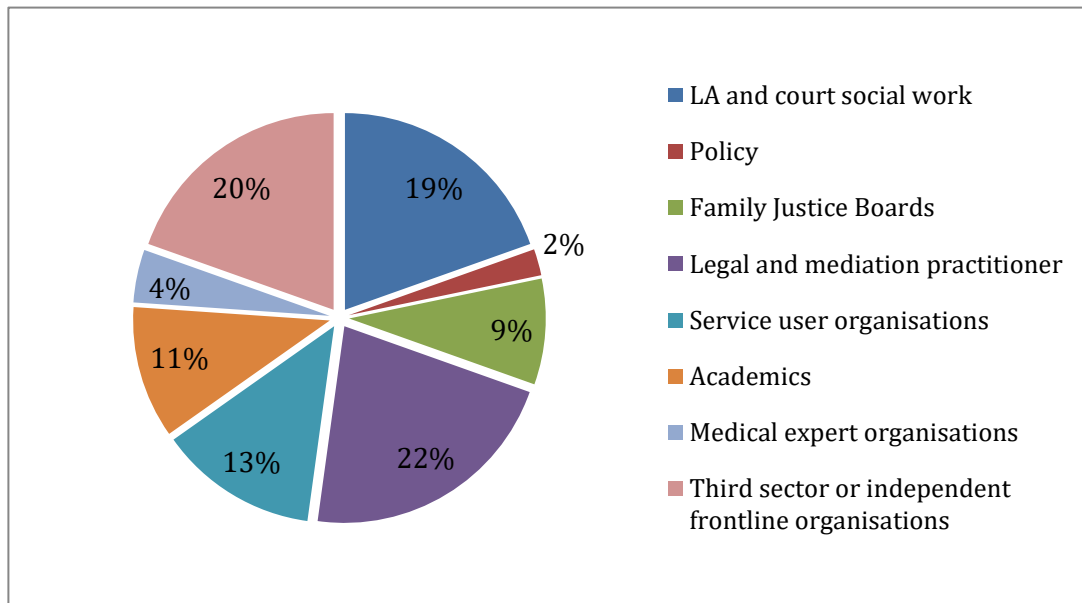


Figure 1: Call for evidence types of organisations

## A.2 The Focus Groups

To complement the call for evidence, a series of fifteen focus groups were held in England and Wales aimed at frontline practitioners, as well as young people and families. The organisation *Research in Practice* led this element of the work, with support from Lancaster University and the Family Rights Group. A separate series of four focus groups were held at the Judicial College and facilitated by Professors Karen Broadhurst and Judith Harwin, with Emma Hitchings from Bristol University.<sup>5</sup> Thirty-six judges attended these focus groups.

All focus group materials and processes were subject to scrutiny by Lancaster University ethics committee. Permission was sought from the President of the Family Division for focus groups with judges. A number of the focus groups were co-facilitated by a Lancaster University researcher to ensure continuity across the project.

### *Focus Groups with frontline professionals (accessed via the LFJBs)*

The research team contacted District Family Judges (DFJs) in eight LFJB areas (see **Table 1** below) to request the help of a named person to facilitate recruitment of focus group participants and to source a venue. The suggested invitees to the focus groups included professionals in the following roles:

- Director of Children's Services
- Assistant Director leading on family courts work
- Local authority Principal Social Worker and/or Case Manager (where this role is in place)
- Local Cafcass lead
- LFJB coordinator
- LFJB Chair and members (other than judiciary)
- Engaged and active solicitors acting in public law cases
- Engaged and active solicitors acting in private law cases
- Leading local family barristers' chambers

<sup>5</sup> We are grateful to Professor Judith Masson for her advice and assistance regarding the focus group work with judges.

- Other key professionals identified by the LFJB contact

In total, 339 individual invitations were sent to potential focus group participants, with follow up emails to stimulate engagement. A total of 92 professionals accepted the invitation, with 59 professionals then attending one of the focus groups. The majority of participants were local authority social work professionals as illustrated in **Figure 2** below.

Table 1: Number of focus groups and participants in each region

LSCB	Region	Number of focus groups (and participants)
<b>1</b>	East Midlands	1 (5)
<b>2</b>	South East	1 (4)
<b>3</b>	North West	2 (9)
<b>4</b>	South West	2 (9)
<b>5</b>	London	2 (10)
<b>6</b>	Wales	1 (6)
<b>7</b>	Wales	2 (9)
<b>8</b>	North West	2 (5)
	Ad hoc conference calls <sup>6</sup>	1 (2)
<b>Total</b>		<b>14 (59)</b>

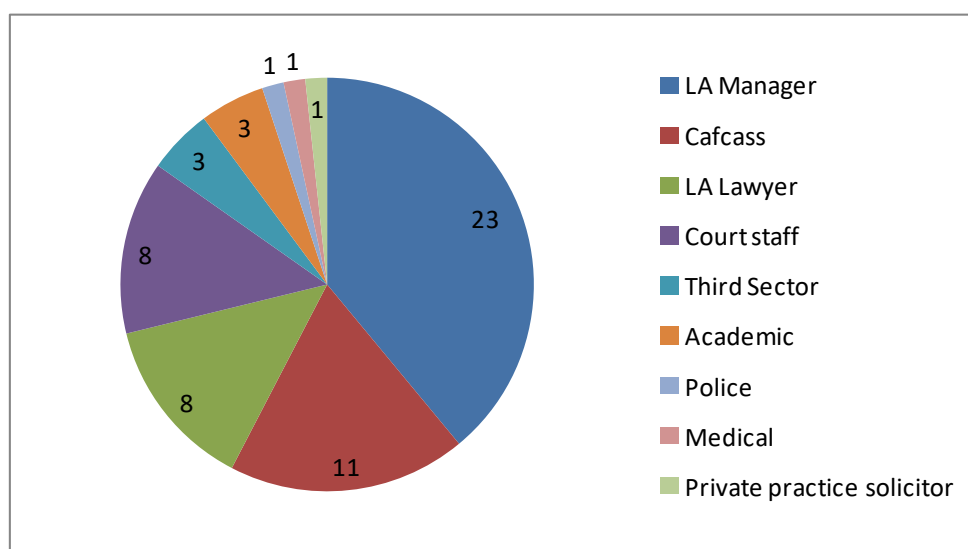


Figure 2: Focus group participants

A topic guide based on key themes that structured the call for evidence was developed (see **Appendix 3**). It focused on three key areas (although there was some overlap between these):

1. How professionals in the organisations currently use research and data
2. Professionals' perspectives on priorities for new research
3. Participants' views on the scope and key priorities for a new family justice observatory.

<sup>6</sup> Where a professional requested a telephone conversation in lieu of attendance, this was agreed in all cases.

A list of possible functions for the observatory was provided to participants as stimulus material for discussion (see **Appendix 3**). Participants were also asked to rate the priority functions using a 'traffic light' system:

- Green - high priority
- Amber - medium priority
- Red - not a priority

Each focus group lasted up to two hours. All discussions were recorded, with participants' permission. Although only a number of the focus groups were transcribed verbatim, all key messages were transcribed to retain the original context and meaning of the discussion topics.

### *Young people's focus groups*

Children and young people are key stakeholders in the family justice system but are, arguably, the least well placed to answer abstract questions about the use of research or the remit for a new observatory. RiP worked with the Family Justice Young People's Board (FJBYPB coordinated by Cafcass) and The Who Cares? Trust (WCT, which has since renamed as Realising Ambition), to adapt questions and exercises for young people. In addition, these two organisations also assisted RiP to recruit young people from their active groups of care experienced young people. Two focus groups were convened: one co-facilitated by staff from Cafcass and the other co-facilitated by staff from the WCT. A total of 14 young people attended the groups (five young people from the Family Justice Young People's Board and nine from Realising Ambition). Lancaster University Ethics Committee and the respective practice organisations approved all processes and materials for the focus groups.

The topic guide was organised into different sections and was designed so that the focus group would be interactive and facilitate discussion of topics concerning the family justice system that were of interest to young people (see **Appendix 3** for the topic guide). The questions focused on children and young people's information (rather than evidence) needs and also posed broader questions about what young people wanted from the family justice system.

The structure of the young people's focus groups was as follows:

- Statements regarding young people's information needs (e.g. do children and young people get all the information that they need about the family courts?) were provided to participants, who then voted on and discussed whether they agreed or disagreed
- Discussion about the role and possible functions of a new observatory
- A silhouette activity - silhouettes of judges, social workers/guardians and young people were put onto a flip chart. Young people worked in groups and wrote on post-it notes what they thought each of the people (roles) need to 'give' and to 'get' in order to assist the judge in making a good decision (e.g. the judge needs to **give** the young person an opportunity to speak or write to them and they need to **get** some information about the longer-term impact of separation from siblings)
- Feedback and discussion following the silhouette activity.

The focus groups lasted around three hours, with a one hour break for lunch. Discussions were recorded (with the consent of the young people) for later transcription. As with the professional focus groups, the recordings were not transcribed verbatim, rather the researchers listened to the recordings a number of times whilst coding the content. All quotations presented in this report are however verbatim extracts, transcribed for the purposes of reporting.

### *Focus Group with Kinship Carers and Parents*

One focus group was conducted with seven kinship carers recruited via the Family Rights Group's Kinship Carers Alliance. One focus group was also conducted with five parents recruited via the

Family Rights Groups's Parents' Panel. These focus groups lasted approximately two hours and were recorded, but as above were not transcribed verbatim. The participants were presented with a series of statements and asked to what extent they agreed with each. Participants were also asked how research could be useful to them and what the priorities for the observatory should be.

### ***Focus Groups at the Judicial College***

Four focus groups were held at the Judicial College, using a slightly adapted topic schedule (see **Appendix 4**). Judges were asked to participate on a voluntary basis, hence this was a convenience sample. However, composition of the groups reflected a range of experience and seniority. All judges were provided with a project information sheet; data usage and data storage commitments were fully explained. A total of 36 judges participated in the groups, drawn from across England.

## **A.3 Data Analysis and Integration**

All submissions to the call for evidence were uploaded to NVivo, which enables a framework approach to qualitative data (Ritchie et al., 2013). The questions included in the call for evidence were used as the initial thematic framework for coding across transcripts. This provided a useful and simple structure for initial coding (indexing) of the data. Thus, researchers (CM and KB) proceeded deductively regarding initial indexing and sorting of the data, whilst allowing new categories to emerge. Initial coding and sorting yielded some unwieldy lists, particularly in relation to priority topics for new research, hence further work was undertaken to introduce new codes *in vivo*, to condense responses. This comprised merging sub-codes and some splitting and re-naming of sub-codes (Bradley et al., 2007). The purpose of the analysis remained throughout on *identifying consensus and priorities* among stakeholders, so one way of reducing complexity was to delete codes that contained only a single or marginal response that appeared less relevant (Bazeley, 2014).

To explore differences in opinion or perspective between stakeholder groups, we used the 'attribute' function within NVivo. The attribute function separates responses according to professional background and thus, aids comparison. Some notable differences emerged which are discussed in the main findings sections of this report. Further refinement and condensing of coding resulted in a final summary matrix.

Research in Practice led the analysis of the focus group data from the frontline professionals, which again proceeded deductively using the coding framework established for analysis of the call for evidence. Professors Karen Broadhurst and Judith Harwin undertook thematic analysis of the data drawn from the judicial focus groups, again using the coding framework as above, but equally remaining open to new observations. RiP analysed the focus group data from the groups with young people, which are reported in the main findings of this report. FRG with Claire Mason analysed the data from the focus groups with kinship carers and parents.

A formal data integration workshop was held on the 7<sup>th</sup> February 2017 to aid integration of findings from the call for evidence and the focus groups and to produce a final single matrix of main findings. Again, analysis was driven by a search for consensus and priorities. As we describe below, a high-level of consensus between respondents regarding the key issues in the use of evidence but also priorities for the observatory facilitated data reduction and integration.

## **Section B: Main Findings**

Main findings are reported regarding both the use and application of research by stakeholders, but also stakeholder perspectives on how the research evidence base for family justice policy and practice might be improved. In addition, we summarise stakeholder perspectives on priority functions

for a new observatory.

## B.1 How is Research Used in Organisations?

Stakeholder organisations reported wide use of research evidence but the following four purposes were consistently cited in this order of frequency:

1. To inform organisational policy, service or practice development
2. To inform assessment and decision-making at the individual case level
3. To influence national policy development
4. To shape the national practice context

*Organisational policy, service and practice development:* Research and evaluation evidence is clearly widely used to inform both policy and service development at the level of the individual organisation. For example, evidence about the impact of early help or pre-court preventative services<sup>7</sup> influenced local commissioning decisions. In Wales, the Wales Adoption Cohort Study<sup>8</sup> undertaken by the Children's Social Care Research and Development Centre (CASCADE) at Cardiff University and also research by Julie Selwyn and colleagues at Bristol University (Selwyn et al., 2014), informed the development of adoption support services in Wales. National studies, such as recent research on recurrent care proceedings (Broadhurst et al., 2015)<sup>9</sup> was used to make the case for the development of new local services targeted at parents whose children had been removed from their care. Evidence about the effectiveness of practice models such as Signs of Safety (Turnell and Edwards, 1999) influenced decisions within organisations to adopt new models of practice and initiate staff training.

Research is seen as the basis for service development.  
(Submission from Coram Voice, Call for Evidence)

[research is used in] Academy and workforce development: using a wide evidence base to develop training events, students support, ASYE<sup>10</sup> development programme.  
(Submission from Devon County Council, Call for Evidence)

*Assessment and decision-making at the case level:* Research evidence regarding outcomes of different permanency options (Selwyn et al., 2014) and child contact (Kenrick, 2009), was frequently cited as useful in considering the full range of options for child placement.

Individuals in our organisation use research mainly to inform their recommendations when writing court reports in specific cases in their roles as Children's Guardians and Independent Social Workers.  
(Submission from NAGALRO, Call for Evidence)

Although practitioners were aware that research could be misused in court (social workers "cutting and pasting" or barristers "selecting evidence to make a case"), stakeholders felt that application of research evidence was vital for case assessment and decision-making. There was clear acknowledgement that research evidence could not determine case decisions, but that effective child care decisions needed to be based on case observations together with broader interdisciplinary research evidence. At present, there is concern that court outcomes can, in some cases, be overly influenced by the competence or persuasive abilities of advocates in the court room, rather than best evidence. Practitioners consistently cited the need for more robust longitudinal research on child outcomes to inform case level decisions and understand the consequences of their decisions.

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<sup>7</sup> Organisations did not provide a specific reference, rather they referred broadly to this research

<sup>8</sup> Wales Adoption Cohort Study: <http://sites.cardiff.ac.uk/adoptioncohort/>

<sup>9</sup> Recurrent Care Proceedings Study: <http://wp.lancs.ac.uk/recurrent-care/>

<sup>10</sup> Approved and Supported Year in Employment (social worker's first year in qualified practice)



*Influencing national policy development:* Many organisations were actively engaged in national policy developments. For example, in their submission to the call for evidence, the organisation Relate stated that publication of the following report produced by the organisation: *Breaking up is hard to do: Assisting Families to Navigate Family Relationship Support Before, During and After Support* (Marjoribanks, 2015) was launched with Ministry of Justice involvement and support for its recommendations. Women's Aid provided further examples and referred to the following two influential reports: *Twenty-nine Child Homicides* and *Nineteen Child Homicides*. These reports were described by the organization as having a direct impact on policy, and resulted in a review of judicial practice for domestic abuse cases. For some organisations lobbying for change was a key function. Research evidence enabled informed engagement with policy debates and influence. For example, service user organisations found research evidence on grandparents and contact to be helpful in lobbying for the rights of extended family members.

*Shaping the national practice context:* A number of organisations were involved in the education and training of other professionals or students and used research evidence in this work. Examples included the impact of domestic violence on children, the impact of child sexual exploitation, or trauma arising from child maltreatment, or interventions with families within court proceedings.

Research on the Family Drug and Alcohol Court has provided evidence that holistic and intensive work with families can reduce the need for long-term care for some children (Submission from BASPCAN, Call for Evidence).

Thus, it is clear that research evidence is important for a wide variety of organisational functions to include: organisational and policy development, practice development and at the as well as case-level assessment and decision-making.

## B.2 Access to Research Evidence

### B.2.1 Methods and sources

In keeping with the published literature on research use in other fields (e.g. health and education) (see, for example, Nutley et al. (2007)), stakeholders reported a variety of different ways in which they accessed research evidence. Respondents indicated a range of methods, with the following most frequently reported:

1. Authoritative bodies, research intermediaries, government reports
2. In-house resources
3. Informal networks
4. Personal online search

*Authoritative bodies, established research intermediaries and government reports:* Well-established research intermediaries and leading practice journals play a vital role in mobilising knowledge for frontline policy and practice. The organisation Research in Practice was the most frequently cited formal research intermediary, which is unsurprising given that a large number of local authorities subscribe to this organisation.<sup>11</sup> Legal practitioners most frequently cited the professional journal *Family Law* as the key source of up-to-date information about new case law and research. A range of other sources were cited less frequently, for example: CoramBAAF, NSPCC inform, Community Care, Core Info, the Joseph Rowntree Foundation, Law Works, Case law databases (e.g. West Law).

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<sup>11</sup> Ninety local authorities currently subscribe to Research in Practice.



Respondents also cited government reports, which given they are typically published online and are *open access* reports, were considered very accessible:

We regularly review information published in Family Law and some other trusted sources. We also analyse the information and data produced by MoJ and LAA – often following up with further specific questions to statistics teams.

(Submission from Families need Fathers CYMRU, Call for Evidence)

However, respondents were not always convinced of the objectivity of government reports, particularly where they were perceived as linked to political agendas - this is discussed in further detail below.

Events organized by authoritative professional bodies were also consistently cited as very useful in terms of sharing up-to-date research and providing space for debate:

The Family Justice Network Conference, AUK conferences and ADSS CYMRU, Spring/Autumn Conferences – these are all extremely useful events and provide opportunity to learn about current research and practice developments.

(Submission from the National Adoption Service Wales, Call for Evidence)

Some organisations had well-established relationships with particular universities. These relationships typically resulted from active engagement in research or training at a local level and the expertise of universities was highly valued. Organisations were aware of the work of leading academics in the field, or leading research centres. For example, CASCADE at Cardiff University was widely cited by Welsh respondents across Wales. Some respondents felt able to directly contact well-known academics for copies of research articles or advice, although respondents also complained consistently about research being “hidden away” behind pay-walls and inaccessible to the wider family justice community.

Every year we have a “Celebrating Social Work” conference. We did the last one in partnership with [neighbouring] University. We bring in keynote people from around the country to talk to us about research initiatives; they are high calibre people. It's for professional development but also to keep them up to speed with what is current, cutting-edge research with credible people.

(Professionals Focus Group 12)

The College [of Mediators] has recently collaborated with Professor Elizabeth Stokoe (Loughborough University) and Equinox Publishing to produce a new academic journal (Mediation Theory and Practice).

(Submission from the College of Mediators, Call for Evidence)

Judges were asked specifically about the role of the Judicial College. The Judicial College was consistently described as an important forum for both formal learning but also informal sharing of good practice. However, focus groups with judges identified this group of stakeholders as particularly detached from other opportunities of knowledge exchange. In particular, judges felt that they lacked opportunities for learning about local good practice initiatives that were judge-led. The current context of court reform and reduction in legal aid following the implementation of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LAPSO) was frequently described as hugely challenging, but with few opportunities for judges to learn from peers.

Respondents' accounts of the functions of LFJBs indicate wide variability in their development. Although the Family Justice Review (Ministry of Justice, 2011) envisaged an active network of LFJBs that would support implementation of the Review, the reality on the ground is of boards that vary in the range of functions they fulfill, and vary in the extent to which stakeholders perceive them as useful. A consistent complaint was that the boards dealt narrowly with court performance issues and did not sufficiently support the broader development of local family justice policy and practice. Local Family Justice Boards are very well placed geographically to support the work of a new observatory. However, evidence from this consultation indicates that there is much work to be done

to maximise the capability of this potential key knowledge exchange network.

In contrast, Local Children Safeguarding Boards (LSCBs) appeared more proactive in the identification and exchange of research, although the LSCBs appeared to disseminate locally produced knowledge and research, rather than report major national studies:

In terms of policy, it comes most clearly from the safeguarding board rather than external research. They've just published a neglect strategy; there is information in that which we would expect practitioners to be responding to as it's a locally informed picture.  
(Professionals Focus Group 8)

*In-house resources:* It was clear that individual organisations endeavor to promote research and are committed to an evidence informed approach to policy and practice. In-house resources took the form of internal seminars, briefings on key research or legal updates, or internal library facilities. However, the larger national organisations appeared far better placed to both source and disseminate research to their membership, with some having staff time dedicated to sourcing and promoting the use of up to date research. For example, the Association of Lawyers for Children (ALC) reported that a dedicated policy and research officer with expertise in research “can advise on access to research evidence, aims to ensure our policy documents are informed by research findings and that committee members are kept informed about relevant studies/report findings”. However, both national and regional organisations all reported a reduction in resources (both time and money) and this was having an impact on research informed policy and practice.

We don't have any regular ‘drip feed’ to the frontline on research. Workforce development used to do regular briefings, but that doesn't happen now.  
(Professionals Focus Group 1)

*Informal networks* played a vital role in the circulation of research evidence. The importance of informal contacts and networks is widely reported in the literature (Nutley et al., 2007) and in addition, it was clear that online and offline networks were both playing a vital role (e.g. Twitter networks, or personal contacts with particular academics, or simply peers).

*Personal online search:* finally respondents described simply searching online, using Google or other search engines to browse for research, using keywords or a reference they had picked up “on the job”.

Overall, a systematic approach to identifying literature was not generally evidenced, and some organisations (typically national) appeared far better equipped than others to identify reliable research evidence. Respondents stated that they felt frequently overwhelmed by the information available and had difficulty in determining trusted resources. This also applied to organisations representing parties to cases, with participants raising questions about how the self-representing litigant might navigate a rather confusing array of knowledge resources. As part of this consultation, we asked respondents to cite studies frequently used in family court decision-making and we noted wide variability in the work reported in terms of scope and quality. This confirmed that many practitioners struggled to differentiate the quality of research evidence. We also noted that respondents reported evidence gaps – where in fact robust research evidence has been published. Clearly a number of key national bodies, professional organisations and universities play a vital role in mobilising knowledge for frontline policy and practice, but the impact of this effort appears inconsistent or would benefit from better co-ordination. Findings suggest that better co-ordination of dissemination and is needed, together with some streamlining of impact pathways.

## **B.2.2 Access to research evidence: barriers**

*Time and money:* Respondents to both the call for evidence and in focus groups were asked to

describe the most pressing barriers to research use and application. Again, in keeping with the broader literature (Levin, 2011), respondents frequently stated that there was simply “not enough time” to locate relevant research or read relevant studies. This is a particular issue for stakeholders working in the family justice system whose work involves both the production and reading of much “paper work” on a daily basis and to increasingly tight performance timescales (e.g. 26 weeks for care proceedings duration). Beyond the working day, frontline practitioners frequently continue producing/reading key documents for court cases, leaving little time for their own study.

If there is some useful research we need simple messages about what research tells us. You can't expect people to trawl through hundreds of documents to understand what the research is about.  
(Professionals Focus Group 3)

Again of little surprise, many frontline practitioners also stated that “my organisation does not have sufficient funding” to support further training or conference attendance. Individuals working in smaller organisations, e.g. family law firms or small voluntary sector, were at a particular disadvantage in terms of finding fees for attendance at national training events or conferences:

From the focus group data, we begin to see how participants framed solutions. In the face of a confusing array of evidence and where time is constrained, many respondents wanted a “one-stop shop”:

I think there is a real need for a nationally recognised hub people could go to that is not a random Google search... If there was an observatory and a recognised body of research that would increase confidence and consistency in what people use.  
(Professionals Focus Group 3)

An open access, one stop shop, open to all – research has been properly peer reviewed and everybody can then proceed on that basis.  
(Judicial Focus Group 4)

*Relevance/translation:* A further key barrier, consistently cited by respondents, was that much of the published research was not directly relevant to policy and practice – or its relevance could not be readily discerned. Again a concern with relevance is much cited in the broader literature on research utilisation (Nutley et al., 2013). This was a particular issue for frontline practitioners who wanted research evidence that would directly aid case decision-making. Frontline practitioners could see how research might inform policy, but were less clear how research could be applied at the case level. Different practitioner groups demonstrated variable levels of confidence in their ability to apply research at the case level. It was not surprising that those who had served as expert witnesses in the family court were far more confident in applying research and communicating this to the court, than other practitioners:

...as expert witnesses... we would see it as part of our job to interpret the research as it relates to a specific case and to make it understandable to the court.  
(Submission from the Anna Freud Centre, Call for Evidence)

Participants indicated that a new observatory might help with this challenge and ensure better application of research evidence at the case level in particular:

In light of the increasing volume of children law cases reaching the court, we welcome the creation of a national observatory which will continue on and improve upon the work of the Family Justice Research Bulletins and the Knowledge Hub by equipping practitioners, to not only identify relevant research, but also to understand its implication for individual cases.  
(Submission from the London Law Society, Call for Evidence)

It is essential that any research material is reported in a manner which can be applied to practical situations in order for it to have any impact.  
(Submission from Staffordshire Local Family Justice Board, Call for Evidence)

The issue of translating evidence for policy and practice has been widely discussed in the international literature (see, for example, Shonkoff and Bales, (2011)). There are two issues here, one is the issue of *accessibility* the other is the *translation* of evidence into practical tools for the frontline. It is clear that a number of the major studies in public and private law provide robust insights into how the family justice system is working, but practical applications do not always follow. A recent exception to this is the work of Julia Brophy and colleagues (Brophy et al., 2015; Brophy, 2016), which provides direct practical guidance to judges regarding best practice in the anonymisation of published court judgements. In some cases, practice agencies have led translation, for example, our own work on recurrent care proceedings and successive removals of children has led to a proliferation of practice developments, including Pause<sup>12</sup> (Broadhurst et al., 2015). A number of practice-led organisations clearly operate in this translation space and pro-actively translate research findings into practical tools for frontline practice. For example, practitioners cited the work of Cafcass on practical tools for court.

At Cafcass we have a comprehensive tool set, which is research based. It can be accessed by anyone. They create tools from research so practitioners do not have to digest loads of research, they can just use the tools... There is an expectation of using tools in reports and the feedback from court is that the quality has improved.

(Professionals Focus Group 8)

Although practical applications might, in some cases, be seen as requiring further development or adaptation, the development of tools for frontline practice was vital in ensuring research found its way to the frontline. Translation deficits were particularly emphasised in relation to studies of private law proceedings, as well as by organisations representing parties to cases.

*Court Culture:* In terms of barriers to research, the culture of the family court warrants particular consideration. Frontline practitioners described some ambivalence on the part of the family courts towards child welfare or social science research evidence, unless a particular expert had been instructed by the court to give an opinion. This has also been reported in the international literature, with Burns et al. (2016) in Australia, describing inconsistent attitudes on the part of the judiciary as to the reliability or indeed relevance of social science evidence for court decision-making. Although lawyers, social workers, judges and other experts are involved in a complex problem-solving exercise and non-legal criteria must in part determine best interest decisions, the place of social science evidence appears somewhat contested. Judges were clear that research evidence (for example on adoption breakdown rates) was certainly important in the ‘hinter-land’ of each case, but each case also had to be determined on its specific facts. Participants were not entirely clear how a particular study might find its way into a case – how would current rules in regard to admissible evidence provide a framework for thinking about citation of particular studies? This kind of ‘evidence’ would need to be made available for consideration by all parties. Further work is needed to explore how a particular body of research evidence, or a specific study might be introduced at the case level in family court decisions, in the absence of an expert instructed by the court.

For legal practitioners, legal rules, statute and procedure are far more certain - there is a correctness to the law which they find wanting in social science. Child welfare evidence cannot be applied so straightforwardly to cases, whereas the law is somehow more concrete. Social science evidence can appear contradictory and judges stated that they did not want hard-pressed courts to become consumed with the methodological detail of studies. Judges were highly pro-active in terms of keeping up to date with case law and reading relevant journals, but regarding the broader social science research evidence, many stated that they tended to come across this when it was presented as evidence in a case:

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<sup>12</sup> PAUSE: <http://www.pause.org.uk>

I would question the process, but unless someone brings the [research] evidence as part of a case, then I wouldn't consider it.  
(Judicial Focus Group 3)

Amongst judges there was a very clear message that research evidence needed to be accepted and endorsed by the wider community of judges. This also appeared to apply to any new observatory:

It [the observatory] would have to be accepted by everybody – the evidence held in this hub can be trusted and is accepted by everybody.  
(Judicial Focus Group 3)

Private practice family lawyers tended to see their principle knowledge base as comprising substantive knowledge of the law - statutes, doctrines, legal principles, and relevant past cases. They felt ill-equipped to seek out social science research evidence.

Most lawyers are not equipped to pick out research. It's not what our training is designed for.  
(Professionals Focus Group 4)

As a [private practice] lawyer it's limited to case law, rules and practice directions. There is no remit for the use of any additional research... We use West Law [database]. It's easy to know which cases are neutrally approached or approved and which ones are criticised, it's easy to find your way through it all. It's a huge case law database that law firms have.  
(Professionals Focus Group 8)

However, barristers tasked to argue the case in court claimed that a lack of knowledge of up-to-date child welfare research was an impediment to their work, because child welfare knowledge fills the gap between disputed facts and the law in complex family cases. For example, if a barrister wanted to challenge a care plan for a child or contact arrangements, this would be difficult without knowledge of the most recent child welfare studies.

From the perspective of respondents to the call for evidence and focus groups, lack of confidence in the use of child welfare research evidence in the family courts in England and Wales, is in part, due to variable levels of confidence in local authority social workers. Although the Family Justice Review (Ministry of Justice, 2011) positioned social workers (local authority) as the holders of child welfare expertise, it is clear from this consultation that local authority social workers in particular fear cross-examination and are not consistently confident in making reference to research to support their claims. Local authority social workers claimed that they felt more comfortable reporting their first-hand case observations or the observations of other professionals directly involved in children's cases, than citing research evidence.

There was widespread agreement among participants with a legal background, that they had limited research literacy. Practitioners described being largely unable to determine the validity of research evidence. Exceptions to this were practitioners who had undertaken undergraduate or postgraduate studies in social science as well as the law. In addition, legal practitioners expressed a lack of confidence arising from the contested nature of child welfare research. Whereas academics are comfortable with highly contested debate, frontline practitioners in the focus groups felt that disputes over knowledge – particularly where *no resolution* appeared to have been reached - could serve to shut down their enthusiasm and interest in research. The following quotes indicate the impact that controversy arising from the publication of *Decision-making within a child's timeframe* (Brown and Ward, 2013) had on practitioners:

It [research on infant brain development] stirred up massive, unpleasant political dispute... it caused all sorts of damage.  
(Professionals Focus Group 2)

When controversies emerge – like the brain thing – it would have been good to have some consensus... weighing up the different sides and drawing a conclusion would have been more helpful.<sup>13</sup>

(Professionals Focus Group 11)

All this is, of course, compounded given the (potentially) adversarial nature of both public and private law proceedings. Given this context, social workers described “playing safe” in their use of child welfare research in court proceedings. They stated it was better to cite research that they knew the court was familiar with, and which would be accepted by the judge than risk challenging cross-examination.

...there were bodies of work that were accepted by court that were not challenged - the Glaser<sup>14</sup> research around contact and domestic violence. We knew that we could rely on that and not be challenged. It was really helpful to have that and to know it was accepted by the court.

(Professionals Focus Group 7)

Research is a matter for Children's Services. As a lawyer I'm cautious and try to prevent them [social workers] using it. Some are very happy to put research all over their work, but I ask them about whether there is anything to disprove it, as I'm afraid a barrister would Google it and go to court with something that says something different.

(Professionals Focus Group 9)

However, playing safe mediates against the evolution of social science/child welfare knowledge within the family justice system, in stark contrast to substantive law, and in stark contrast to other fields of practice – such as medicine. When we reviewed the studies cited in both the call for evidence and in focus groups, although we noted some reference to up-to-date major studies, we also noted frequent reference to some very dated work that has now been superseded. It was also concerning that some practitioners described a number of small-scale, but well known pilots, as having a major influence on decision-making, where in fact, research ought to have been applied with more caution.

*Trust/Independence:* Finally, but by no means a lesser consideration was the issue of trust in research evidence. Consistent across all stakeholder groups, was a concern that not all research is *impartial*. Participants were suspicious of research which they felt was commissioned to support political agendas. There was also suspicion about national statistics – participants raised concerns about selective reporting and data quality. There was a sense that governments were less diligent in establishing *robust and independent peer review* processes in regard to the commissioning of research, than had been the case in the past. Some participants compared current practice to the much-valued Department of Health's 'Messages from Research' series, which was established following the implementation of the Children Act 1989 and seen as something of a gold standard.<sup>15</sup> However, participants also acknowledged that sometimes research findings are disagreed on the base of opposing values, rather than methodological weaknesses. However, a major complaint on the part of legal practitioners and organisations representing parties to cases was perceived lack of evidence for the wide-ranging cuts introduced with LASPO and the consequences thereof.

Thus, a strong message across all stakeholder groups was that the observatory must be “independent of government”. It was suggested that an independent observatory could be trusted to “kite-mark” or “quality and date stamp” bodies of collated evidence, providing an authoritative and accessible steer

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<sup>13</sup> Practitioners are referring to the fierce debate that followed the publication of Brown, R. and Ward, H. (2013). This debate illustrates the difficulty of producing accessible summaries for frontline practice on contested issues, which require very careful attention to process in order to inspire confidence.

<sup>14</sup> The practitioners are referring to a document that has been frequently cited in family court proceedings: Sturge, C. and Glaser, D. (2000).

<sup>15</sup> A series of studies were commissioned to evaluate the Children Act 1989; for example, see Aldgate, J and Stratham, J. (2001).

to the field.

### B.3 Research Literacy and Knowledge Co-production

*Research Literacy:* Responses to both the call for evidence and the focus groups indicated considerable variability among stakeholders in research literacy. By research literacy we refer to the language, concepts and methods of social research, as well as an understanding of how to apply evidence in practice. In general, legal practitioners reported less research training and confidence in the use of research evidence than social workers. We received only a limited number of submissions from organisations that employed health professionals (typically psychologist and psychiatrists) but this group described the highest levels of research literacy and confidence in the application of research in practice. This is not surprising given that research training is not typically part of either undergraduate or postgraduate law degree programmes, but is typically a compulsory element in social work education and in health/medical training. The absence of research training within university law degrees is a long-standing issue, described by Helen Genn et al. (2006) in a report that examined the reasons behind the limited primary empirical research undertaken in the discipline of law. In addition, there was considerable difference in opinion among legal respondents as to whether further research training was either desirable or feasible.

We do not take the view that there needs to be specific training in terms of the use of research or that there needs to be a specific qualification. Specific training courses offered post qualification, in any of the disciplines involved in this area would be preferred given that they can be targeted at the appropriate audience.

(Submission from Staffordshire LFJB, Call for Evidence)

It is the ALC's view that solicitors and barristers could benefit from additional research training, as part of undergraduate studies, as well as postgraduate professional training (during the graduate diploma in law as well and the Bar vocational course and the legal practice course), and opportunities for such training as part of continuing professional development.

(Submission from ALC, Call for Evidence)

The majority of judges felt that research methodology was not really relevant to their work, they wanted instead, a summary presentation of findings and indication of how findings could be applied. However, some legal practitioners, particularly barristers, felt that a level of research literacy was necessary for effective advocacy and challenge, given that child welfare court decisions rely not just on knowledge of the law, but also child welfare or broader social science evidence as discussed above. Social workers consistently expressed a keen interest in further opportunities to develop research training as part of post-qualifying education and saw that up-to-date knowledge and ability to cite confidently, reliable child welfare/broader social science research evidence, as essential to case assessment and decision-making.

*Judging the quality of research evidence:* Research evidence is frequently contested and this is particularly so in the family justice system, where decisions are often felt personally or politically. In contrast to health professionals who can turn to trusted bodies such as NICE to help them determine the quality of research evidence – this is not the case in the field of family justice. In the absence of agreed quality standards, tailored to the family justice system<sup>16</sup>, we asked all respondents to consider how they determine the quality or trustworthiness of research evidence. Providing a series of prompts, we asked respondents to indicate, which, if any of the following considerations influenced their appraisal of research evidence:

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<sup>16</sup> The Association of Family and Conciliation Courts (AFCC) has recently established a taskforce to focused on evidence/research standards for family justice. Also, The Association of Directors of Children's Services (2017) recently commented on the appropriateness of NICE guidelines for social work/care.

- A consideration of the researchers – their reputation and standing
- A consideration of the source of funding – is independence compromised?
- Seeking advice from a knowledgeable personal contact
- Establishing whether the work has been formally peer reviewed
- Using national standards or critical appraisal frameworks.

In the call for evidence, most organisations commented that they were limited in their capacity to judge the quality of evidence. Some national organisations were better placed to respond to this question because they had a research or policy expert in-house or members of the organisation had an applied health background (e.g. psychology, psychiatry).

Both the level of training of clinicians, and the existence of a thriving research department at AFNCCF [Anna Freud National Centre for Children and Families], mean that, in general, individuals in this organization do have the skills to judge the quality of research evidence, and can call upon the advice of others in the organisation with more knowledge where necessary.

(Submission from Anna Freud Centre, Call for Evidence)

However, in general the question was either ignored or only partially addressed. Where an answer to this question was given, respondents said they considered the standing of the researchers (authors) or the reputation of the organisation responsible for undertaking the research. Some organisations questioned the reliability of research accepted by the family courts, and this extended to the use of evidence by experts:

We are concerned about the standard of scientific expert witness evidence given in the Family Court. We would welcome a national dataset that includes information regarding the use of scientific expert witnesses and scientific expert witness evidence, particularly if the dataset would enable the utility of that evidence to be evaluated.

(Submission from Chartered Society of Forensic Science, Call for Evidence)

The focus groups were informative in throwing further light on these issues. In particular the focus groups with judges were important in providing insights into how research evidence gets into circulation in the family courts. Again judges referred to the reputation and standing of the researcher and his/her organisation, but also stated that, if a judge in a higher court cites a particular study, then the broader community of judges will tend to cite the same study. The higher courts have considerable influence on the lower courts, and this appears to apply to the acceptability of child welfare or broader social science research evidence – with senior judges playing a critical role in the endorsement of research evidence. We noted in both submissions to the call for evidence and the focus groups, that the same studies were frequently referenced by stakeholders (e.g. Sturge and Glaser, 2000; Kenrick, 2009). It was also interesting to note that studies being cited were highly variable in scope (pilot, large-scale, research review). This suggests that the court's familiarity with the reference is at least one of the criteria that determine circulation.

Overall, there was a very high level of consensus that a new 'observatory' could make a major contribution to the use of research evidence in the family justice system through improving both the accessibility of research, but also through a "quality assurance role", to improve stakeholder confidence in research. Again judges in particular, felt that robust critical appraisal of research ought to fall within the remit of a specialist body such as the observatory, rather than be undertaken by those with insufficient expertise.

The need for quality standards specific to the family justice system is currently being addressed by the Association of Family and Conciliation Courts (AFCC)<sup>17</sup> and it will be important to keep abreast

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<sup>17</sup> AFCC: <http://www.afccnet.org>



of international developments in this respect.

*Research co-production:* Across all stakeholder categories, a desire to be involved in setting research priorities was consistently stated. Some stakeholder groups, particularly judges, and parties to cases, felt that they had little influence on research priority setting. Stakeholders suggested that a new observatory might establish *mechanisms for annual consultation* to ensure inclusion of representative groups in priority setting. Respondents widely welcomed opportunities to sit on research project advisory boards or otherwise serve as consultants to projects. However, the majority of respondents did not consider research internships as relevant. That said, some organisations wanted to carry out their own small-scale action research projects locally, and indicated an interest in a research design service, offered by a new observatory.

## B.4 Improving the Research Evidence Base

In both the call for evidence and in the focus groups, we asked participants to consider the supply of research evidence. As stated in the introduction, there have been long-standing concerns about both the quality and scope of research specific to the family justice system. The Nuffield enquiry on empirical legal research undertaken by Genn et al. (2006), was prompted by concerns that many pressing questions about the impact of law in practice could not be answered because of insufficient empirical legal research. Some five years later, the final report from the national Family Justice Review (Ministry of Justice, 2011) also drew attention to the limited availability of research evidence. In 2015, the Nuffield Foundation's preliminary case for a new observatory also pointed out problems in the supply of robust research evidence and limited use of national administrative datasets. In this context, it was important to probe the extent to which participants agreed with these concerns. We posed the following three questions to both respondents to the call for evidence and to focus group participants:

- What is your opinion regarding the potential use of national datasets to understand outcomes of the family justice system?
- What, if any, is the impact of regional variability in service performance on children and families?
- How does your organisation currently evaluate its performance and impact? Would your organisation benefit from support to make better use of in-house, routinely collected data?

Again, we found high levels of consensus among diverse stakeholder groups in response to these questions. In general, stakeholders confirmed the opinion of the Nuffield Foundation. The supply of research was seen as insufficient, leaving too many questions about the impact and outcomes of the family justice system unanswered.

*Better use of national datasets:* From policy leads through to organisations representing parties to cases, there was widespread concern about the lack of robust and transparent data about how the family justice system is working.<sup>18</sup> Respondents consistently wanted to know much more about the longer-term outcomes for children and families involved in both public and private law cases. Respondents rightly pointed out that:

The post permanency work by Fratter and Neil regarding contact is used, but recognised as limited by the

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<sup>18</sup> The issue of transparency in the family court is a long-standing issue. Recently Lucy Reed and colleagues established the online Transparency Project to provide straightforward and accurate advice to litigants and the wider public, with a key objective being to comment on high profile cases where misunderstanding is common: <http://www.transparencyproject.org.uk>

small-scale nature of the studies. More work is needed on this very important topic.  
(Submission from NAGALRO, Call for Evidence)

One of the most significant omissions in the Family Justice System has been a failure to undertake longitudinal studies of outcomes following intervention by statutory services, including the family courts. Outcomes for children as well as parents should be assessed too.  
(Submission from Families needs Fathers CYMRU, Call for Evidence)

Respondents were overwhelmingly in favour of large-scale, population based studies that could throw light on patterns and outcomes at a national level (England and Wales) and enable regional comparisons. Organisations representing parents in private law disputes underscored the importance of a gendered analysis of the litigant's journey through the family court and beyond. Welsh respondents stated that it would be very helpful to not only make better use of Welsh datasets, but also extract Wales-specific data from datasets that combined both England and Wales:

We would welcome the opportunity to have to easily extract Wales only data as part of any proposed national research evidence base.  
(Submission from National Adoption Service Wales, Call for Evidence)

There was absolute consensus that *independent* analysis of national datasets was critical to the shoring up professional confidence in statistics produced by the Ministry of Justice in particular.

Respondents felt that studies tended to be small-scale and whilst the value of qualitative research was seen as entirely appropriate to address particular questions requiring depth and detail, they commented strongly on the insufficiency of national investment in larger-scale datasets that could offer a longitudinal perspective on the operation of the family justice system – particularly in light of major policy or legislative changes. Co-operation between the observatory and statistical teams in the Ministry of Justice and the Department for Education and Department of Health was seen as important in progressing the use of national administrative data and also improving datasets in England and Wales.

Respondents highlighted the stark absence of system 'intelligence' in comparison to sectors of health and education. Judges participating in focus groups indicated that service development was very difficult in the absence of any meaningful comparative data, which was part of a broader problem of a lack of effective mechanism (aside from the Judicial College) for the sharing of good practice. In both the call for evidence and focus groups, for professionals representing parties to cases, the absence of robust data was described as a major issue of transparency. Debates about transparency are long-standing (as above), however responses from participants indicated that questions of fairness and equitable treatment of cases remain absolutely at the forefront of all those involved in the family justice system. However, variability between court practices or variable access to resources or legal aid cannot be answered in the absence of published datasets. In the same vein, and with judges equally mindful of principles of fairness, they also lamented the lack of system intelligence, which would enable them to compare their own practice with that of others. Respondents also commented that they wanted to see datasets 'joined up' so that a holistic picture could be gained about the impact of different services to case outcomes, child and family wellbeing and permanency.

*Regional and local datasets:* Respondents all expressed concern about regional variability, and the need to compare decision making and outcomes for children across different court areas. In contrast to local authorities, which appeared to have a wealth of data at their fingertips, the courts felt that, aside from local performance data, very little local data about the family justice system was available. Where data is published on the number of different types of court orders made, respondents wanted more information to set patterns in context, for example in relation to regional demographics or patterns of expenditure.

We are aware of regional variation in the pattern of enforcement orders made – the reasons for which need specific study and comment.

(Submission from FNF Both Parents Matter CYMRU, Call for Evidence)

Again this gave rise to concerns about fairness, but was also seen as a major impediment to service development.

*Innovation and Evaluation:* A consistent message from stakeholders was the need for robust evaluation of innovation – many stakeholders felt that new pilot practice initiatives were rolled out rather too often, before evaluation evidence was published. This fueled skepticism about new initiatives and suspicion that new practice initiatives were politically motivated rather than firmly evidence based.

It is really important that pilot schemes to improve family justice are properly thought through with robust evaluation plans, so that evidence of effectiveness is obtained before decisions are made to extend them.

(Submission from GW4 Network on Family Regulation and Society, Call for Evidence)

New pilot initiatives such as the SPIP [separated parents information programme] appear to come into practice without it being clear that these initiatives will work – we need robust evaluation of new family justice interventions, to have any confidence that they will improve outcomes for children and families.

(Judicial Focus Group 3).

The robust testing of new practice initiatives can, however, be challenging, given the small-scale nature of many pilots. Expectations need to be carefully managed, regarding the nature of evidence that will likely result from innovation that is in its infancy. Although the RCT is the gold standard in health research, there are many practical and political obstacles to the randomisation of families into family justice practice pilots as has been encountered in the NSPCC'S evaluation of the New Orleans Intervention Model (NSPCC, 2017). Addressing questions about what constitutes proportionate evaluation and what can be learned from other fields where appropriate, is a further pressing national and international issue. These concerns are common in the introduction of new health, education and child welfare initiatives, and are not exclusive to attempts to introduce new practice in family justice (Wiggins et al., 2012).

## **B.5 Perspectives on a System-wide Approach to Research Generation**

The Nuffield Foundation's background paper, referred to in the introduction to this report, suggested that better co-ordination of research priorities would be of help to the family justice system (Rodgers et al., 2015). We asked all stakeholders what they thought of a system-wide approach to both the setting of research priorities and funding. Stakeholders consistently welcomed better co-ordination, but also specified some cautions, which were that it was important to ensure both a responsive and planned approach to priority setting and funding. Nuffield's recent work in relation to the questions posed by the President of the Family Division in relation to rising care demand is one example of how responsive research is important and can run alongside planned streams of work.

We are concerned that the tighter coordination of research priorities may mean that the focus of the observatory is too narrow and useful research ideas are not prioritised. Likewise, if the observatory were to introduce annual consultations, there is a risk that urgent issues will not be addressed. We would welcome some flexibility in the way research topics are prioritized.

(Submission from the Law Society, Call for Evidence)

Organisations representing parties to cases, were particularly concerned about how parties might be involved in setting research priorities. In general judges and parties to cases appeared to be most detached, or have least access to forums/mechanisms that would enable them to participate in research agenda setting.

There are certainly advantages in research funding following a set of clear and objective priorities. There are dangers however, if those priorities are not universally agreed – particularly between litigants and professionals.

(Submission from FNF Both Parents Matter CYMRU, Call for Evidence)

## B.6 Findings from Young People's Focus Groups

It was necessary to significantly adapt questions for the young people participating in the focus groups. We posed a series of statements that probed children's direct information needs, rather than presenting questions about research evidence, which would have had little meaning for this group.

Responses clearly indicated that they thought children and young people needed to be involved in case decisions; needed information about their case; communication of information needed to be better tailored to age and level of understanding. **Table 2** below provides the detail of young people's responses to a series of prompt statements.

Table 2: Young people's responses to statements

Question	Response
Children and young people get all the information they need	All disagree
Children and young people need to know everything about what is going on in the family court and their case	General agreement, but 'it depends on the age of the child and whether it is appropriate... They might not need to know everything - if there is too much depth there can be a lot pressure' (Focus Group 2).
Children and young people should have access to all the information they need	General agreement, but with conditions: 'They need emotional support afterwards. Reading my files was very emotional. When I was going through the care system I didn't understand it. When I read it as an adult it was a shock to my system. It needs to be age appropriate and have emotional support after you've read the file' (Focus Group 2).
Social workers and Cafcass are the ones who should explain things and update every child and young person	It depends on who the child trusts and the situation. Others could do this as well e.g. youth workers, teachers.
Children and young people are not regularly informed about their case	General agreement 'There is so much stuff in their paperwork and case they are not allowed to know... Sometimes they inform you but it's like you're not involved' (Focus Group 2).
Children and young people do not want to know anything about their case. It's an adult's job to sort it out	General disagreement but: 'It depends- some young people don't want to associate themselves with their problem... I know people who just want to go to school and just live their life' (Focus Group 2).
There's lots of information about family courts but it's not very child friendly	All agree

I do/ did not trust my social worker/ Cafcass worker to give me all the information I need	Split 50/50 'I was in foster care since I was four and a half and every social worker I've had has been amazing. I didn't know a thing about what was going on. I was given any information I needed straight away' (Focus Group 2). 'With older kids it's harder to build trust when you've not trusted anyone your whole life. I didn't want to know anything social workers had to say to me. I thought it's another adult, they're not going listen to me' (Focus Group 2).
All Children and young people should be able to speak directly to the judge if they want to	All agree

We also asked young people what they wanted from the family justice system. This question was posed in a roundtable discussion and also through a silhouette exercise, where young people wrote messages for various professionals on post-it notes. The young people listed the following:

- Help in understanding their case and family justice processes
- Social workers, Cafcass guardians and judges need to explain to children and young people how the family justice system works and what the process will be  
Child friendly information on the family justice system should be available for children and young people
- Social workers, Cafcass guardians and judges should be given all the information they need to understand individual cases.

It was clear that young people felt that professionals needed to be very well prepared for court, but young people did not make explicit reference to research evidence – rather they referred to the particular details of cases. It was also clear that many young people wanted to be actively involved in their case and welcomed opportunity to speak directly to judges and magistrates. Young people felt their wishes and feelings needed to be listened to and taken into account.

In terms of a role for the observatory – young people felt that improving the family justice system required further training to help professionals communicate with children and young people.

- Training should focus on how to communicate with children and young people and how to provide them with emotional support
- Judges in particular need training to help them understand children and young people's needs and how to communicate with them. They also need training around cultural and topical issues.

It was also interesting that young people echoed the opinion of frontline professionals in feeling that professionals needed more information about the impact of long-term decisions on children and families:

- Judges need to consider the long term impact of decisions that are made in court

Again, in considering the role of the observatory in meeting children and young people's needs, the question is whether the observatory works with agencies best placed to support them with requisite expertise, but also challenge in ensuring that children are included in priority setting.

## Section C: Priority Topics for New Research

We asked all respondents, in both the focus groups and call for evidence, to identify priority topics for new research – to list the *most pressing gaps* in research evidence. We have grouped respondents' research priorities into the following four categories:

1. Longer-term outcomes of family justice system involvement for children and families
2. Impact of family justice reforms – policy and legislation
3. Robust evaluation of interventions/innovation
4. Research on the assessment of risk

Given responses to other questions in the call for evidence and the focus groups, these priorities are of little surprise.

***Longer-term outcomes of family justice system:*** There was *overwhelming consensus* that more robust research is needed on the impact of family justice involvement for children and families and this applied equally to public and private law cases. Respondents were hugely aware of the highly consequential nature of decisions taken in both public and private law cases, and wanted to know far more about the longer-term consequences of different permanency or child-arrangement options<sup>19</sup>.

There is a real [knowledge gap] we don't know whether the orders the court makes actually work, whether it's the right outcome... In both private law and especially in care proceedings, we don't know the long-term outcomes.  
(Professionals Focus Groups 12)

If we're talking about the fact that one of the purposes of the observatory would be to look at the statistical trends, outcomes, how these special guardianship orders are being made, how are they fairing in years after in longitudinal studies, breakdowns etc. I would be very interested in that.  
(Judicial focus group 3)

Respondents also helpfully highlighted questions that, as yet, are very much under the radar in terms of programmes of research:

There is a piece of work to be done around children who go from our care and who end up in secure or mental health provision – what those pathways are. Although they are small in number, they cause us the most worry and have a high amount of activity and disagreement about their care plan.  
(Professionals Focus Group 14)

Given that longitudinal research is scant regarding the family justice system, the consensus among stakeholders regarding this issue is not surprising.

*Key topics* listed by respondents included: the longer-term wellbeing and placement stability outcomes of different permanency options; the impact of child contact or child arrangement orders; impact of different sibling placements, regional variability.

***Impact of family justice reforms:*** Respondents again consistently cited evidence gaps in relation to family justice reforms. Respondents wanted to know how key policy and legislative changes were impacting on children and families, but also on professionals in the system. Respondents pointed to the lack of research to inform or validate government changes, but also research to subsequently evaluate changes – respondents complained that court reform was largely operating in an evidence vacuum. In private law, reforms arising from LASPO were considered to be seriously under-

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<sup>19</sup> There are very few studies that have commented on this issue, the most relevant and recent published study is that of Masson, J. (2015).

researched.

*Key topics:* impact of performance timescales; impact of litigants in person (self-representing litigants); use of experts; difference between cases that meet the 26 weeks timescale in public law and those that take longer; impact of legal aid cuts and distribution of legal aid; regional variability in performance and implementation of reforms; capacity issues; number of judges needed; and sitting time and court time.

***Robust evaluation of interventions/innovation:*** respondents welcomed innovation and in particular new interventions that aimed to divert cases from court proceedings, but felt that evaluation was often insufficiently comprehensive – often based on small samples, or a short evaluation window. It was felt that proper investment was needed in the evaluation of key innovations that have perhaps been trialed and shown promise in other countries. Reference to Separated Parents Information Programme in private law appeared but there appears to be insufficient evidence that this is working, or indeed that parents are using online self-help in private law cases.

*Key topics:* uptake and impact of different models of mediation, online information to separating parents; pre-proceedings diversion models; alternative treatment courts

***Research on the assessment of risk:*** The assessment of risk to children is a critical issue in public and private law cases. In private law, respondents felt that there was insufficient research to guide decisions about contact with ‘difficult parents’ in high conflict separation cases. In cases of high conflict couples, focus group participants stated that it was not always clear when the case should become subject to formal child safeguarding procedures. In public law, typically more research was wanted on the impact of domestic violence in terms of understanding the point at which conflict between couples spilled over into harms to children.

***Spotlight on Private Law:*** Respondents’ concerns about the limited evidence base, regarding private law warrants particular consideration. Respondents were overwhelmingly concerned about the limited evidence base regarding private law, particularly given perceived drastic changes to the provision of legal aid since LASPO. Equally mediation was seen as under-researched:

Lack of time and a lack of value placed on mediation research. Not enough mediators carrying out research and sharing findings. A lack of research activity was mentioned several times.  
(Submission from College of Mediators, Call for Evidence)

Social workers are being called on to provide statements in private law proceedings; increasingly these are very complex proceedings. In the absence of legal aid, we are being drawn in. Some research to support us ... on the completion of complex section 7 reports would be very helpful.  
(Professionals Focus Group 14)

Children in public law often have a large number of professionals around them to protect them. In private law they don’t have that. It’s far worse in terms of having a legal framework. Litigants in person and the whole battleground around legal aid in private law will have an impact on children. Private law is much more in need [of research] than public law.  
(Professionals Focus Group 11).

There has been a heavy interest in data on 26 weeks – the drive for data has all been related to public proceedings. It would be really interesting to look at the data on private proceedings in terms of duration of cases, when they are concluded and how, what locally might have more success than other [options].  
(Professionals Focus Group 7)

Again this observation from stakeholders is not surprising, given the limited number of researchers working on issues relating to private law children and family cases. However, respondents appeared less aware of some of the high quality studies that are published for example research on the enforcement of contact orders or litigants in person (Trinder et al., 2014a; Trinder et al., 2014b). In

some cases, respondents appeared to want more consistent or robust messages, again indicating the importance for practitioners of clarity in order to inform decision-making

We need a solid knowledge base about the impact on children of conflict and separation. I want to know what the research tells us about 50/50 arrangements for example.  
(Professionals Focus Group 2).

To summarise, regarding private law, respondents stated that more research was need on:

- Outcomes related to various models of dispute resolution and mediation
- High-conflict repeat litigants – who are they and are there alternative ways of working with them?
- Child-arrangement orders and impact of different patterns of contact
- Basic epidemiology of separated couples – both the scale and pattern
- Gender, non-resident parents – unequal access to justice where one party is represented and the other is not – access to legal aid

There was clear acknowledgement that data on how families are resolving private disputes in the context of LASPO is difficult to obtain, given that little data emerges from those conducting mediation, and that now many couple separations operate in the DIY space. This issue has recently been explored in detail by Caroline Bryson et al. (2017) in their report *Understanding the lives of separating and separated families in the UK: what evidence do we need?* It has also been explored in Anne Barlow et al.'s (2017) study, *Mapping Paths to Family Justice: Resolving Family Disputes in Neoliberal Times*, also examines the experiences of people taking part in out-of-court family dispute resolution in England and Wales since the early 2000s.

## Section D: Stakeholder Priorities for a New Observatory

The charts below indicate stakeholder priorities for a new observatory. Having invited qualitative responses in both the call for evidence and the focus groups, we then asked participants to rank priorities for the new observatory. Rank order of priorities closely reflected qualitative responses, and helped to confirm priority functions from the perspective of stakeholders.

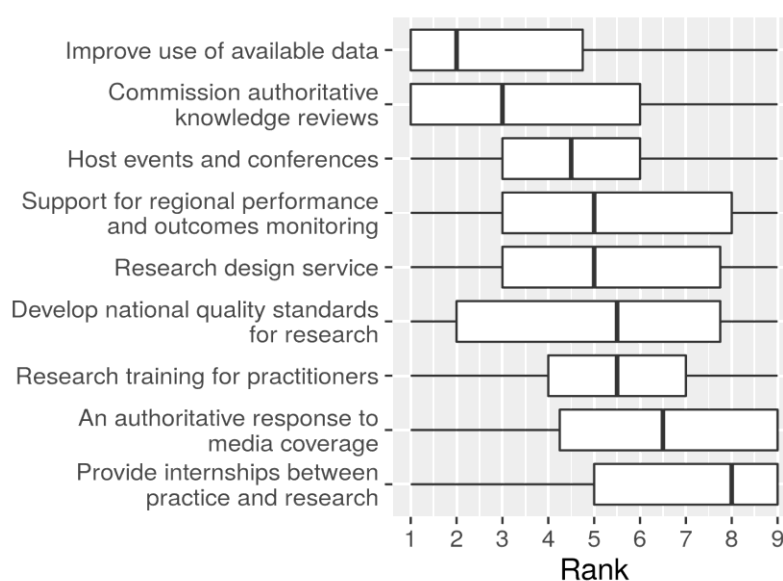


Figure 3: Call for Evidence (N= 47 Respondent Organisations)



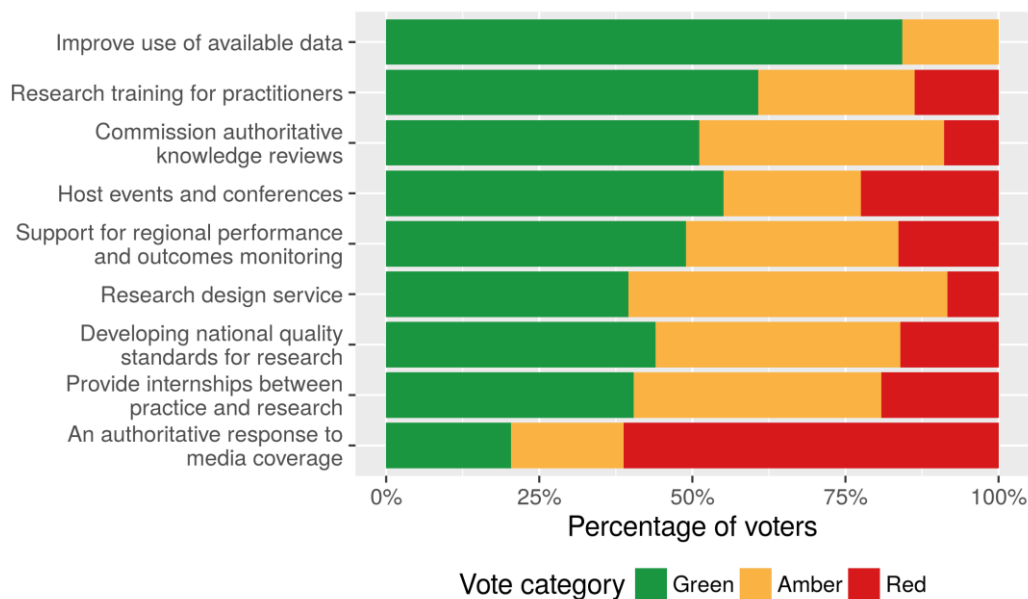


Figure 4: Professional Focus Groups (N= 59 participants)

The two figures above represent priorities for organisations responding to the call for evidence (**Figure 3**) and the frontline multi-professional focus groups (**Figure 4**). The box plots in figure 3 show the rankings of the priorities in order of the median, with the boxes and whiskers showing the variability in the rankings given. For the call for evidence respondents, the three top priorities were (i) to improve use of available data, (ii) to commission authoritative knowledge reviews and (iii) to host events and conferences.

The focus groups were asked to rate each function separately using a ‘traffic light’ system where green indicates a high priority, amber a medium priority and red not a priority. Figure 4 shows the three top priorities were: (i) to improve use of available data, (ii) research training for practitioners and (iii) to commission authoritative knowledge reviews.

Given the emphasis from all participants, whether parties to cases, professionals or judges regarding the lack of national ‘intelligence’ about how the family justice system is working and its impact on children and families over time, it is of little surprise that participants consistently ranked better use of national datasets as the top priority. This priority was consistent among participants whether their focus was on either public or private law work. Improving the use of national datasets would, however, require that the observatory to address the related issues of quantitative research capability, data protection and ethics, as well as secure storage.

Ranked second by respondents to the call for evidence and third by focus group participants was “commissions authoritative knowledge reviews”. Again, this is of little surprise, given that many respondents expressed difficulty in identifying relevant research. As we described above, respondents wanted a “one stop shop”, that would provide access to trusted research, authorised by the new observatory.

Although recognising that knowledge continues to evolve, participants consistently stated that an independent body could at the very least identify strengths and weaknesses in the evidence base, and

identify unanswered questions. Given that respondents were not always aware of published research – it is clear that an important role for the observatory would lie in supporting both the synthesis and dissemination of research evidence.

“Hosting events and conferences to improve dissemination of research findings” was also ranked as a high priority – third by the respondents to the call for evidence and fourth by focus group participants. In the call for evidence, many respondents highlighted the lack of time and resources available to professionals to access research and therefore, low cost events offered through the family justice observatory would be welcomed.

Support for regional performance and outcomes monitoring was consistently ranked as a high priority, highlighting widespread concern about questions of fairness, which was also highlighted in the focus groups. This arguably also reflects a keen interest in developing best practice at a local/regional level, which is difficult in the absence of data about how the system is working.

Research training was a high priority for frontline professionals participating in the focus groups (ranked 2<sup>nd</sup>), but less so for respondent organisations responding to the call for evidence (ranked 7<sup>th</sup>). Social work organisations who responded to the call for evidence identified continuing professional development programmes as a way in which research training could be provided. Many judges as described above, were less clear that additional research training would lead to the level of expertise needed to appraise research with confidence, particularly given current time and resource constraints.

We might have expected the development of quality standards to be of less relevance to this particular audience and to fall further down the priority list, given that the majority of respondents struggled to answer questions about the appraisal of research evidence. Nevertheless, it is difficult to see how the observatory can play a role in either capability building in use of quantitative research or evidence synthesis, without agreed quality standards for research. Moreover, such quality standards would need to be tailored to the family justice system.

## **Section E: Stakeholder Workshop: Response to main findings**

A stakeholder workshop was held in February 2017 to which organisations that had submitted a response to the call for evidence were asked to nominate a representative; in addition, we invited focus group participants. We also extended the invitations to key organisations, such as the Department for Education, who requested a place, but had not yet been able to respond to the call.

The workshop aimed to further probe respondent priorities as described above. The audience was divided into six groups and presented with a series of prompt questions on (i) priorities for the family justice observatory, (ii) embedding an evidence-informed culture into the family justice system and (iii) trust and independence. This section provides a summary of the responses to these questions. Each of the small groups was facilitated by a member of the core research team, who summarised key points.

Discussion Question 1: In order to make the biggest impact on the family justice system, which of the priorities presented to you today, should be prioritised first? What is your rationale for these priorities?

*Improving the supply side:* Across the six discussion groups, there was consensus that the observatory needed to tackle problems with the data infrastructure to support Family Justice policy and practice. Further investment needed to be made in robust, longitudinal studies. However, workshop participants made the following recommendations:

- i. The observatory must focus on some quick wins. The observatory must demonstrate its capability by ensuring any work with national datasets delivers in the short as well as medium-term.
- ii. Available administrative data at a national and regional level is under-used. The observatory should start by using the most readily available datasets to address pressing questions.
- iii. Feedback loops should be established between researchers and data providers to improve national and regional datasets.
- iv. An aspiration to link datasets is welcome, but this is a more ambitious objective where health datasets are in scope and hence, must run in parallel with 'quick win' options.
- v. Ensuring that data is communicated in an effective and accessible way is important.
- vi. The observatory should ensure it complements national and international developments. It must link closely with the national initiative being led by the MoJ to link DFE, CAFCASS and MoJ national administrative datasets.
- vii. Public and private law needs to be in scope and this is a challenge regarding private law given much activity now takes place in the "DIY" space.

There was a general discussion about the role of the observatory regarding research – would the observatory identify a programme of work and commission it or set aside funding specifically for this purpose? To what extent would the observatory undertake primary empirical research? This was unclear, although the observatory must play a role in identifying evidence gaps and steering priorities. The FJO should anticipate further information needs of the sector and provide advice to the FJO community of funders, researchers and analysts. The DoH/DfE Messages from Research initiative was suggested as a very positive way in which research can be both coordinated and supported at a national level (see, for example, Thomas (2013) and Davies and Ward (2012)).

*Improving the 'demand' side of research:* There was a general consensus that a high priority for the observatory should be to support/collate available evidence on priority topics. Whilst acknowledging that evidence continues to evolve, it was clear that participants agreed that current best evidence is not sufficiently reaching the frontline.

The following recommendations were made:

- i. The family justice system needs balanced summaries of best evidence – rather than simply critique
- ii. Access must be simplified
- iii. Further thought needs to be given to how best evidence is applied at the case level
- iv. Summaries of best evidence do not always translate into practical applications – how can this translation gap be filled?
- v. Quality standards need addressing, but this is a major challenge.

Following discussion that aimed to narrow priorities, we then asked half the groups to consider the following question:

Discussion Question 2: Our consultation indicates that an evidence-informed culture is not firmly embedded in the family justice system. How might we change the culture of the family courts to promote better use of child welfare research evidence in assessment and decision-making?

The groups were offered the following prompts:

- i. Social workers are not always confident about referencing relevant child welfare research in court – they fear cross-examination

- ii. Legal practitioners are not always clear about the boundaries of their expertise – should they, or should they not, improve their knowledge of the latest child welfare research?
- iii. Practitioners tell us that they are unclear how to judge the quality of research – but we did not detect a clear consensus that legal practitioners in particular would welcome more research training
- iv. All practitioners tell us that they lack time and access to resources, to enable them to stay abreast of important studies.

Workshop participants made the following points:

- i. Time and resourcing were described as critical barriers to *cultural* change. However, an effective FJO might greatly simplify access to best evidence
- ii. Cultural change needs direction from the top – the hierarchical nature of the Family Court needs careful consideration
- iii. Can the network of LFJB's be strengthened?
- iv. Need to review how research training might be embedded in legal training and in CPD for social workers.

Although participants noted the ambivalence expressed in the call for evidence and focus groups regarding further research training, the general consensus among workshop participants was that without further research training, it was difficult to see how an evidence informed culture could be embedded within the family justice system.

Discussion Question 3: The consultation indicates that any new observatory must be independent, and must gain the trust of the family justice community. How might the observatory inspire trust?

The groups were offered the following prompts:

- i. Practitioners have told us that they do not trust research, if it appears to be driven by particular political agendas – here respondents made reference to government agendas but also other interest groups
- ii. Practitioners told us that they consider quality standards, relevant to the family justice system as important
- iii. Practitioners want the observatory to collate bodies of evidence and produce kite marked summaries – what challenges might any observatory meet in trying to produce such summaries?

Workshop participants made the following recommendations:

- i. The observatory must assert its independence of government political objectives, but will still want to collaborate with government departments
- ii. Credibility is earned over time – hence the emphasis on quick wins
- iii. Trust is in delivery as well as independence
- iv. Quality standards needs addressing
- v. Consultation and Effective Governance
- vi. Relate closely to a community of FJO stakeholders

## Discussion and Conclusion

The consultation has proved very fruitful in learning from stakeholders, first-hand, about their research evidence needs and priorities. However, the study has also confirmed that an evidence-informed culture in regard to *non-legal knowledge* requires further development. The majority of stakeholders acknowledged that at all levels, from system design through to case-level decision-

making, an interdisciplinary knowledge base is desirable, yet barriers stand in the way of making best use of the broader social science/child welfare literature. At the case level in particular, frontline practitioners were less clear about how non-legal knowledge could be used *in evidence*, given the reduction in the use of experts.

Many frontline practitioners stated that they did not know how to search systematically for relevant research, and felt that they lacked the skills to critically evaluate research. Lawyers, barristers and judges described themselves as the least research literate, when compared to social workers and health professionals. Practitioners consistently claimed that a “one-stop shop” or knowledge hub that “validated” research would greatly aid the use of research evidence.

Regarding research generation, respondents from all stakeholders groups felt that there was a lack of robust research to address many pressing questions. In particular, stakeholders felt that far more research was needed to understand the longer-term impact of court decisions on children and families, to understand local/regional variability and to understand the impact of policy and legislative change.

A high level of consensus among stakeholders about priorities for the new observatory, made the task of condensing a large volume of qualitative data a more manageable task. Priorities were clear; a new observatory needed to:

1. Improve the evidence base for family justice policy and practice, through better use of large-scale datasets
2. Commission authoritative knowledge reviews and make these highly accessible
3. Host events and conferences to improve dissemination of research findings
4. Support better use of regional data to enable variability/best practice to be identified

Moving forwards, the new observatory will need to tackle problems regarding both the there supply of high quality research, as well as its uptake. There are however, challenges on both sides of this coin. It is clear that better use needs to be made of available national administrative data assets – that is data routinely collected by such as CAFCASS, the Ministry of Justice and the Department for Education. In addition, better use needs to be made of available survey data and other national statistics, e.g. ONS as well as data from key surveys/panel studies.<sup>20</sup> However, when we consider the population of researchers currently undertaking population-level analyses or larger scale quantitative research focused on the family justice system – they are few in number. At a local or regional level, agencies collect a wealth of data, but this is also under utilised. Thus, meeting stakeholder aspirations for better system-level intelligence requires concerted national effort to build capability in quantitative socio-legal research. Doctoral and post-doctoral fellowships will be key in growing the next generation of researchers.

Making better use of national datasets also requires the linking of data across health, social care, education and criminal justice. Yet, there are major barriers to such linkage, with very few published exemplars in this field. Despite a growing appreciation of the value of administrative data for research purposes in the context of the Digital Economy Act 2017, legal and ethical challenges are significant and currently present major obstacles to researchers.

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<sup>20</sup> Bryson et al. (2017) provide a thorough critique of the usefulness of these respective datasets in relation to examining family separation. Also, Woodman et al. (2017) report conclusions drawn about the relevance of population-level data (administrative data, cohort studies and large scale longitudinal surveys) for family justice research drawn from a seminar as part of this scoping study. The Stability Index, a new initiative by the Children’s Commissioner to measure the stability of the lives of children looked after by local authorities, and in its initial stages of development, also provides important new data and insights on the experiences of stability for children in care (Children’s Commissioner, 2017).

As part of this scoping study, we are producing a separate report (November 2017)<sup>21</sup> that will:

1. Describe a range of population-level data sources relevant to the family justice research community, to include their scope and quality
2. Provide examples of how such data sources might be used for a range of studies of different complexity
3. Consider the legal, technical and ethical issues inherent in the use of administrative data
4. Report on a local data linkage exemplar, that illustrates the potential of secondary use of administrative data for a range of agencies.

From the perspective of stakeholders there is clearly much work to be done to improve both access and confidence in research evidence. High on the wish list for stakeholders was a “one stop shop” that would provide ready access to authoritative research summaries. Again, meeting this aspiration will be challenging given the contested nature of family justice matters, but it is clear that best evidence is not consistently reaching family justice stakeholders. In contrast to health where well-established, searchable repositories such as PUBMED are widely used by health practitioners to access primary research, family justice practitioners are more likely to read summary or digest articles in professional journals. Although professional journals play a vital role in the circulation of research, this raises a question about the consequences for the field of limited access to full-text original articles. Use of evidence is patchy and inconsistent and issues around dissemination as well as uptake of evidence must be considered. In order to facilitate the use of evidence, training and mentoring will need to be offered to support the use of research reviews or other evidence summaries.

This consultation has been very valuable in indicating the methods/sources that family justice stakeholders currently use to access research evidence. It is clear that the journal *Family Law* is a key port of call for legal practitioners and that *Research in Practice* performs a vital knowledge mobilisation role for social workers. In addition, responses to the call have given a clear indication of which national bodies and agencies are motivated to engage with the observatory project. Although we might have assumed that the LFJBs would provide an important first tier knowledge exchange network, more needs to be done to realise their potential. It is clear that meeting the full range of divergent needs of family justice stakeholders will be a huge challenge, but working alongside expert organisations best placed to achieve change and communicate with particular stakeholder groups will be vital. Operational and frontline professionals will need to be engaged with the observatory as a priority, given their position in the day-to-day delivery of family justice. A practice board that helps to steer the observatory is suggested, as an essential mechanism of knowledge exchange and consultation.

The consultation has confirmed the importance of the senior judiciary in shaping the family justice system, and a new observatory will need firm endorsement by them if it is to be accepted. The observatory needs to reach out beyond London, and the feasibility of exploring opportunities for small-scale regional pilots should be explored, with the aim of stimulating the LFJBs and the District Liaison Judges/Designated Family Judges.

In addition, the observatory will need to tread a fine line between collaborating with government departments to build capability in this field, but equally asserting its independence from government political agendas as well as other powerful interest groups. In addition, maintaining and building links with international organisations such as the AFCC will be vital to ensure that we learn from important initiatives underway.

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<sup>21</sup> The data scoping element of the work is led by Professor Gilbert at UCL who is Co-Chair of the Administrative Research Centre England and Dr. Lisa Holmes of Loughborough University, who is working with agencies at the local level to pioneer data linkage.

On the basis of this consultation, and to be confirmed from further elements of the scoping study now also drawing substantially progressed, a pilot phase for the new observatory is clearly indicated. During this pilot phase (2-3 years), new ways of working would be tested, primary networks and infrastructure established, with a view to fine-tuning the particular niche for the observatory. Looking ahead, the observatory needs to invest in activity that has the greatest impact on the field, working very closely with operational/frontline stakeholder organisations.

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## Appendices

### Appendix 1: Call for Evidence Submission Document

# Call for Evidence Submission Template

## How to complete and submit

- **Save** this word document to an appropriate place on your computer.
- Enter your responses into the text boxes provided.
- Once complete, email this document with the subject heading “**Call for Evidence Response**” to:

[observatory.scoping.study@lancaster.ac.uk](mailto:observatory.scoping.study@lancaster.ac.uk)

## Introduction

In Section A, you are required to complete participant and organisational details and to confirm consent in order to comply with Lancaster University’s ethical clearance procedures.

Questions are then divided into two sections; use of research evidence in policy and practice (section B) and priority functions and audiences for a new national observatory (section C) as shown below. We would welcome detailed responses to all sections but understand that participants may not feel able to complete all questions. Section D provides space for additional comments.

## Contents

### **Section A: Participant details and consent**

### **Section B: Use of research evidence in policy and practice**

B1: Research use in organisations

B2: Access to research evidence

B3: Research literacy and knowledge co-production

B4: Judging the quality of research evidence

### **Section C: Priority functions and audiences for a new national observatory**

C1: Improving the research evidence base

C2: Priority functions

C3: Priority audiences

C4: Towards a system-wide approach to research generation

### **Section D: Additional comments**

## Section A: Participant details and consent

### A.1 Your details

Your name	
Name of your organisation	
Primary function(s) of your organisation	
Your role within the organisation	
Your own research experience/formal research training	
Describe primary roles and functions of your employees/members	

### A.2 Consultation within your organisation

Please describe any internal consultation that has taken place within your organisation to inform this call for evidence (e.g. internal meeting, seminar, email discussion).

--

If no specific consultation has been undertaken, please indicate what has informed this response to our call for evidence?

--

### A.3 Attendance at the dissemination event

We will run a dissemination event in Spring 2017 to share findings from this call for Evidence. If your organisation would like to attend this event, please nominate yourself or another member.

Attendee name	
Job title	
Telephone number	
Email	

### A.4 Consent Form

Please sign to indicate that you have read the background document provided with this call for evidence and that you make this submission with full agreement of your organisation. By signing you also agree that your submission will be retained electronically, in accordance with Lancaster University guidelines, which stipulate that data must be kept for a minimum of 10 years after the end of a research study.

Signature	
Date	

### A.5 Publication of submissions

We intend to publish submissions to this call for evidence online in the spirit of transparent consultation. Unless indicated below, we assume that you agree to your full response being published via the websites of Lancaster University and the Nuffield Foundation.

Please remove the name of my organisation from the published response.	
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## Section B: Use of research evidence in policy and practice

### Question B1: Research use in organisations

Research evidence can play an important role at the case-level in the family justice system, by helping practitioners evaluate a range of options and arrive at the best decisions for individuals, children and families. Research can also play an important role in informing local and national policy, by providing insights into the performance of the family justice system or the effectiveness of new legislative, policy or practice initiatives.

**B1.1** How do individuals within your organisation currently use research evidence - for what purposes?

**B1.2** Can you provide one or more examples of the direct application of research in the work of your organisation (e.g. at the case-level or in service development)?

**B1.3** Can you provide one or more examples of how research has had a broader conceptual impact (e.g. has changed thinking about the nature of problems or solutions)?

## Question B2: Access to research evidence

A wealth of research is reported in a variety of formats. For example:

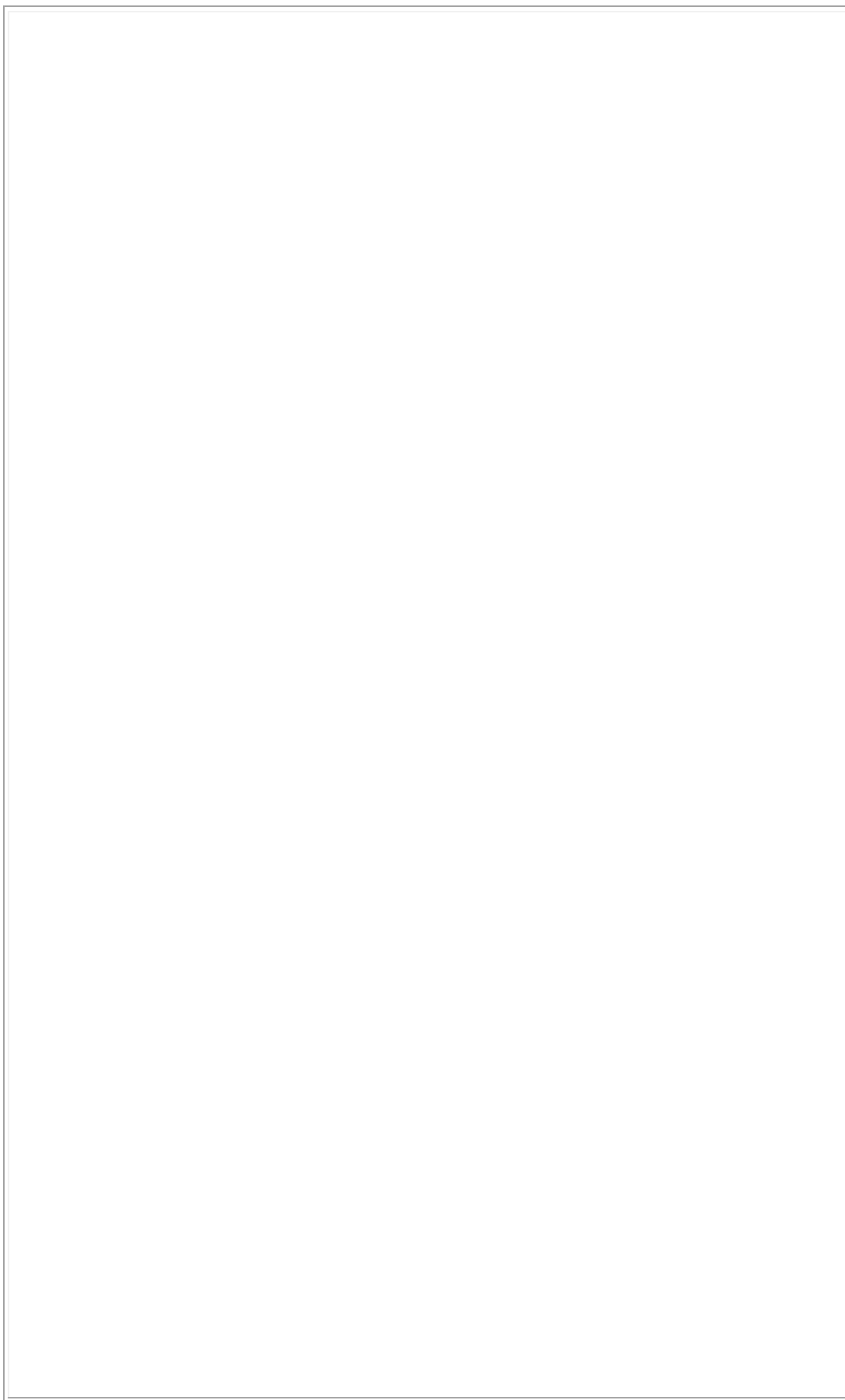
- Government departments publish findings in open access reports and executive summaries.
- Universities and other research centres publish peer-reviewed articles in academic journals as well as more accessible formats.
- Organisations specialising in knowledge mobilisation summarise research and promote the uptake and implementation of findings in policy and practice (e.g. Research in Practice).
- Conferences, seminars and training events are important vehicles for research dissemination as can social media.
- Social networks and personal contacts can play an important role in enhancing knowledge exchange, bridging the worlds of knowledge producers and knowledge users.
- Knowledge can be immediately available in house, where researchers, policy makers and/or practitioners work together to co-produce knowledge at a generate knowledge ‘bottom up’.

**B2.1** How do individuals within your organisation access research evidence? Can you identify any preferred sources or methods?

**B2.2** Does your organisation, or do individuals within your organisation, subscribe to any journals, associations, or evidence intermediaries (such as Family Law, Association of Lawyers for Children, Research in Practice)? Please state which ones and comment on their usefulness.

**B2.3** Does your organisation fund attendance at annual conferences or seminars? Please state which ones and comment on their usefulness.

**B2.4** What does your organisation consider to be the most pressing barriers regarding access to research?





## Question B3: Research literacy and knowledge co-production

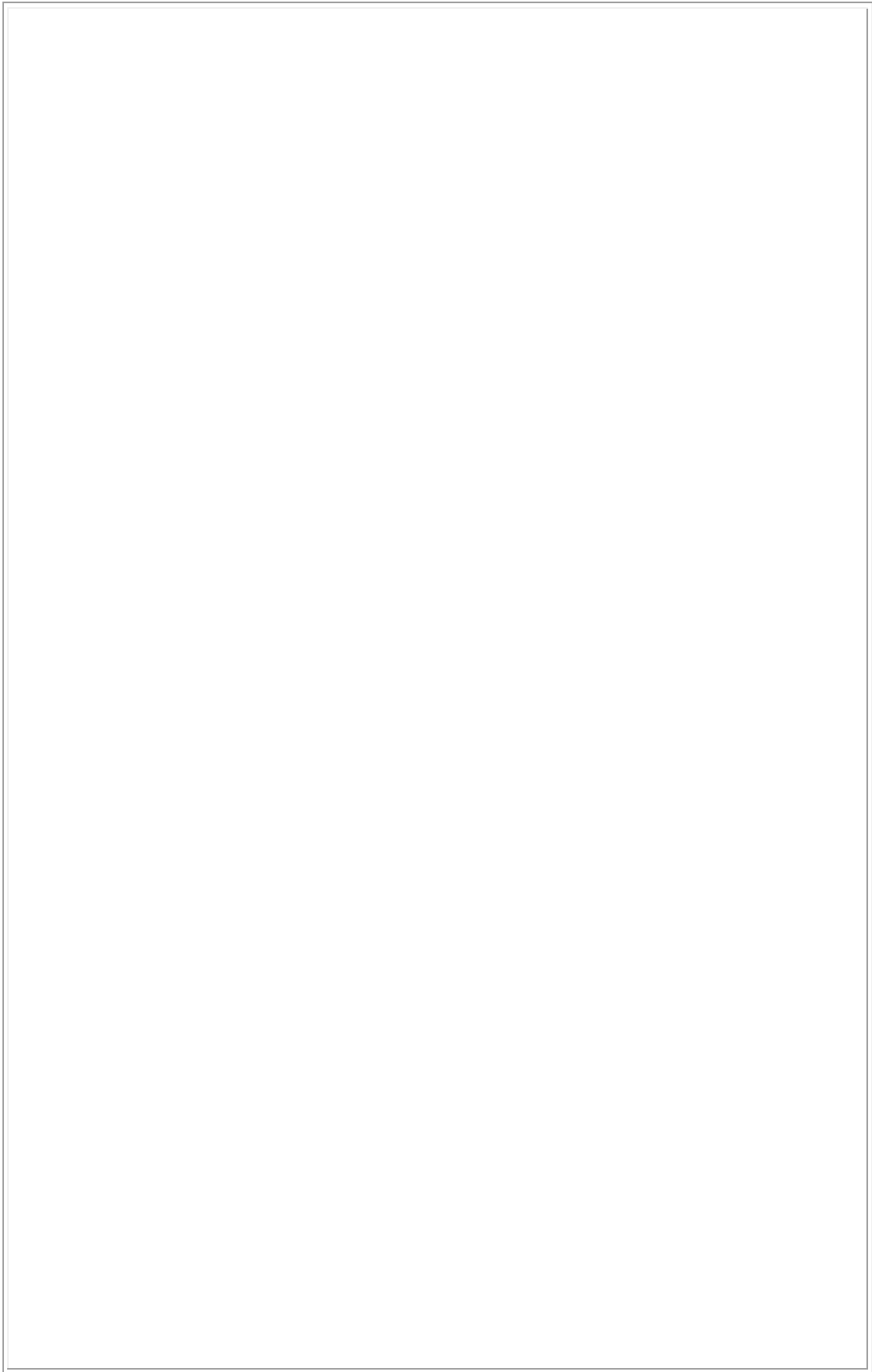
There are a number of possible reasons why research evidence may not sufficiently impact on policy and practice. It could be argued that: a) research can be reported in ways that are difficult to comprehend because academics and researchers are not necessarily focused on the practical application of their work, or b) because practitioners and policy-makers may lack the knowledge and skills to interpret research.

There are long-standing concerns that professional training for lawyers, judges and social workers does not contain sufficient research content, in contrast to professional training for careers in health. It has been suggested that more ‘exposure’ to researchers and opportunities to co-produce knowledge (research and practitioners working together on projects) through action research, would break down barriers between ‘knowledge producers’ and ‘knowledge providers’.

**B3.1** To what extent does your organisation agree or disagree with the above statements (a and b)? Please give examples to support your view.

**B3.2** Do you think that professionals in your organisation want or would benefit from additional research training? Would any additional research training form part of undergraduate or initial qualifying training, or should this form part of a continuing professional development (CPD) programme?

**B3.3** Has your organisation found opportunities to engage local academics or researchers alongside practitioners to evaluate/understand the impact of your service, or to assist with the implementation of research in policy and practice? Would you value such opportunities?



## Question B4: Judging the quality of research evidence

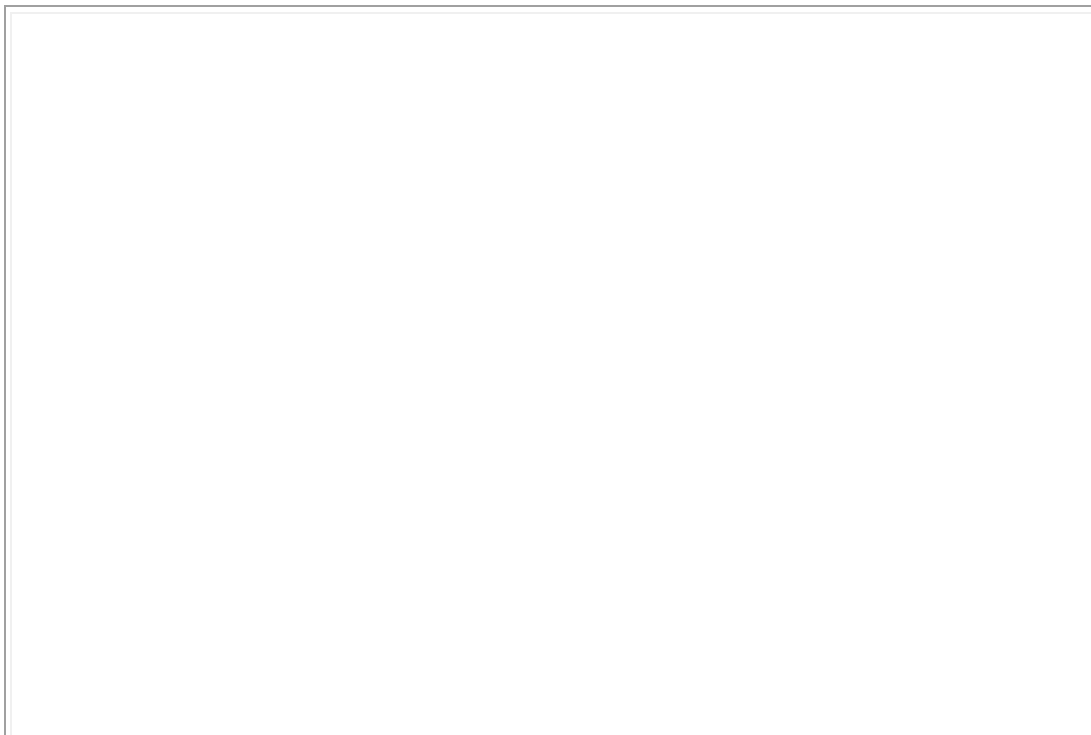
The family justice system has been described as ‘adversarial’. One aspect of this is the contestation of research evidence – a lack of agreement about what constitutes reliable research evidence. This creates particular challenges for practitioners and policy makers, particularly where they, or their organisations, lack the skills and knowledge to confidently judge the quality of research evidence. Common methods for assessing the quality of research evidence include:

- A consideration of the researchers – their reputation and standing.
- A consideration of the source of funding – is independence compromised?
- Seeking advice from a knowledgeable personal contact.
- Establishing whether the work has been formally peer reviewed.
- Using national standards or critical appraisal frameworks.

Even where research evidence is considered ‘strong’, the implications for policy and practice may remain contested or recommendations may be ignored because of funding constraints or political priorities.

**B4.1** Which topics, if any, does your organisation consider to be the most contested or confusing in regards to the use of research evidence?

**B4.2** Describe research literacy in your organisation, do individuals have the skills to judge the quality of research evidence? Which of the methods listed above, if any, would help individuals within your organisation judge the quality of research evidence?



## Section C: Priority functions and audiences for a new national observatory

The Nuffield Foundation proposes a new national family justice observatory (England and Wales) that aims to improve both research generation and research utilisation. The Foundation indicates that the new organisation could have one or more of the following functions:

- Improving the research evidence-base (e.g. through better use of administrative and survey datasets to establish national patterns and outcomes of the family justice system and regional variation).
- Synthesising and integrating existing research (e.g. authoritative research reviews on key topics).
- Promoting the use of research (e.g. events and dissemination).
- Capacity building (e.g. through secondments, research internships, research training, research design service).

The Foundation also has a vision for a system-wide approach to the generation of new research, so that priority topics are addressed and duplication of effort is avoided. **Choices need to be made to ensure investment has the greatest impact.** A system-wide approach would also need to be informed by agreed quality standards for research specific to the family justice system.

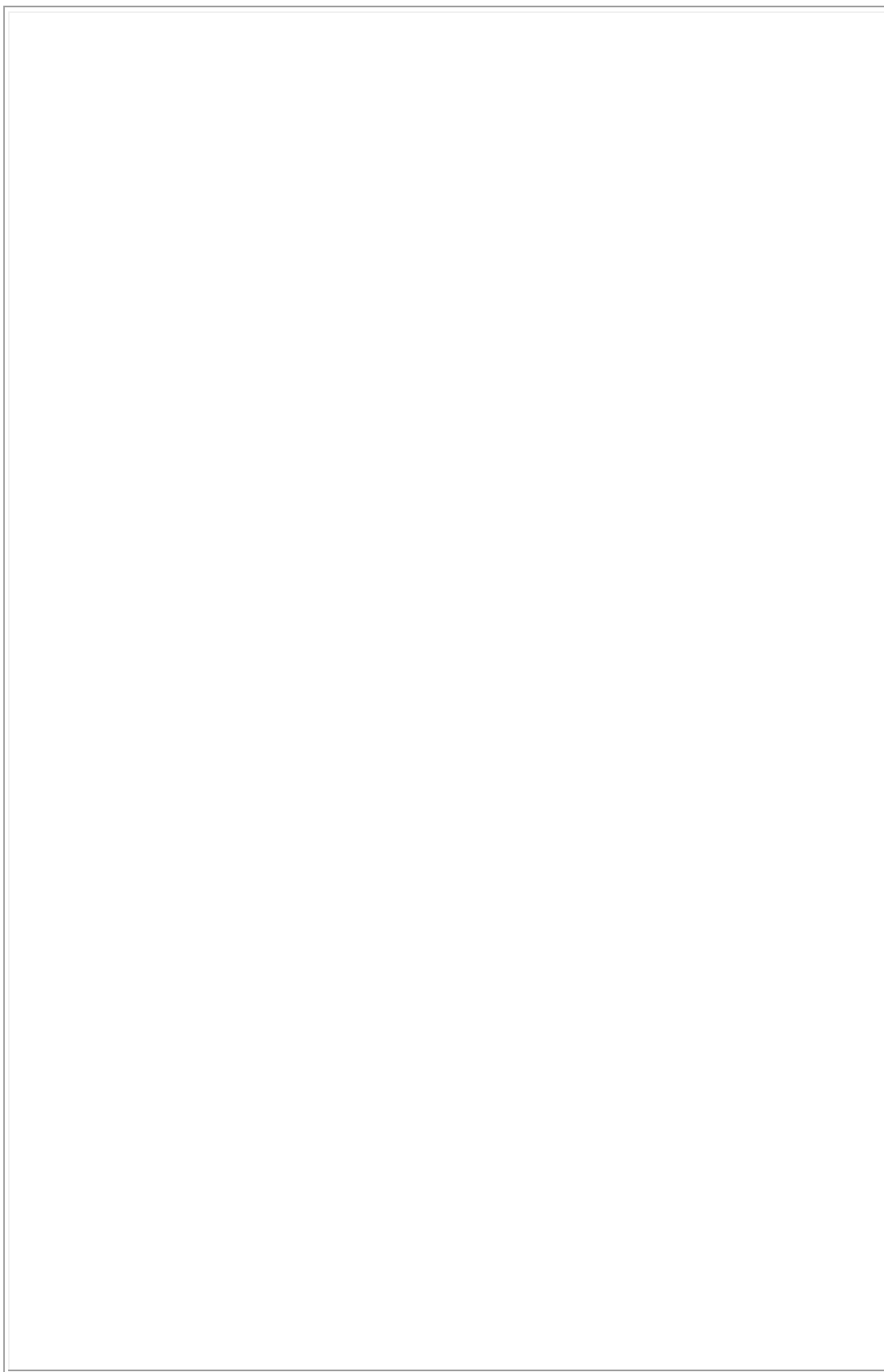
### Question C1: Improving the evidence base

The Nuffield Foundation considers that a key element of the work of a new national observatory would be to support new research, and access to research, that offers robust findings about patterns and outcomes of the family justice system in England and Wales. Currently, we do not make sufficient use of available national datasets, despite some excellent examples of how such datasets can be used. There are only a handful of robust longitudinal studies that follow-up children and families involved with the family justice system. More use of available datasets would also enable recommendations to be made about how national datasets could be improved.

**C1.1** What is your opinion regarding the potential use of national datasets to understand outcomes of the family justice system?

**C1.2** What, if any, is the impact of regional variability in service performance on children and families?

**C1.3** How does your organisation currently evaluate its performance and impact? Would your organisation benefit from support to make better use of in-house routinely collected data?



## Question C2: Priority functions

A new family justice observatory cannot be ‘all things to all people’. In the first inaugural cycle (1-3 years), the observatory needs to focus on priority functions that will enable it to make the greatest impact on the family justice system. Priorities can, of course, change over time.

**C2.1** Please give each of the following nine functions a ranking, with a rank ‘1’ meaning highest priority. Use Section D for any additional comments.

Priority functions	Rank
Improving the research evidence base through the use of national large-scale administrative and survey datasets.	
Support for regional performance and outcomes monitoring, to identify and respond to unexpected variability.	
Developing national quality standards for research to both improve the quality of research and confidence in its use.	
Commissioning authoritative knowledge reviews to distill key and trusted messages.	
A research design service to ensure better quality of new practice or policy pilots, along with robust evaluation.	
Research internships to strength the links between practice and research.	
Research training to improve the skills and knowledge of practitioners to enable better access and understanding of research.	
Events and conferences to improve dissemination of research findings.	
Authoritative response to media coverage of service failures/SCRs/current debates by providing balance and context.	

### Question C3: Priority audiences

In order to effect change in the use of research evidence within the family justice system, the observatory will could engage with a wide range of stakeholder groups:

- Independent practitioners
- Parties to cases
- The media
- National policy and practice leads (e.g. DfE, MoJ, National Family Justice Board, ADCS)
- Government researchers and analysts
- National organisations
- (e.g. Association of Lawyers for Children, Association of Directors of Children's Services(ADCS), National Youth Advocacy Service(NYAS))
- National evidence intermediaries and educational bodies
- (e.g. Research in Practice; the Judicial College)
- Local family justice boards
- Frontline practice organisations (social work, family law) and the family courts
- Academics

**C3.1** Which groups do you consider to be the **priority audiences because they are best placed to catalyse and steer change**? Please explain your reasoning.

## Question C4: towards a system-wide approach to research generation

The Nuffield Foundation envisages a system-wide approach to the generation of new knowledge. Better co-ordination of funding and strategic priorities for new research, would avoid duplication and ensure that pressing topics are addressed.

**C4.1** How would you like to see your organisation involved in setting research priorities? For example; annual consultations; key informant annual workshops; individual communications with the observatory.

**C4.2** What do you think are the risks and benefits to tighter co-ordination of research priorities and strategic investment in funding?

**C4.3** What topics, if any, do you think should be prioritised for new research?



## Section D: Additional comments

Please add any further comments you wish to make regarding sections B and C.

## Appendix 2: Full list of respondents to National Call for Evidence

	Organisation	Organisation Type	Area of interest pertinent to study
1	Cascade - Cardiff	Academic	Children's social care
2	GW4 Network	Academic	Children and families
3	University of East Anglia - Centre for Research on Children and Families	Academic	Children and families
4	University of Essex, Sociology	Academic	Children and families
5	Anna Freud Centre	Charity	Child and family mental health
6	British Association for the Study and Prevention of Child Abuse and Neglect (BASPCAN)	Charity	Child protection
7	Coram Voice	Charity	Family advocacy
8	Family Rights Group	Charity	Family advocacy
9	Families Need Fathers	Charity	Family advocacy
10	FNF Both Parents Matter Cymru	Charity	Family advocacy
11	Grandparents Apart	Charity	Family advocacy
12	Grandparents Plus	Charity	Family advocacy
13	NSPCC	Charity	Child protection
14	Pause	Charity	Repeat care proceedings
15	Relate	Charity	Relationship support
16	FJB Kent	Family Justice Board	Family Justice Board
17	FJB Staffordshire	Family Justice Board	Family Justice Board
18	Association of Her Majesty's District Judges		
19	Association of Lawyers for Children (ALC)	Legal	Child legal representation
20	Cafcass	Legal	Child legal representation
21	Cafcass Cymru	Legal	Child legal representation
22	Family Drug and Alcohol Court (FDAC) National Uni	Legal	Family Law
23	QC	Legal	Family Law
24	Law Society	Legal	Family Law
25	Resolution (Family Law)	Legal	Family Law
26	Family Matters Mediate LTD	Limited company	Mediation
27	Cornwall Council: Children & Families Service	Local Government	Children and families
28	Devon County Council, Children's Social Work and Child Protection	Local Government	Children and families
29	Medway Council	Local Government	Children and families

<b>30</b>	<b>Newport City Council - Children and Families Services</b>	Local Government	Children and families
<b>31</b>	<b>Royal College of Paediatrics &amp; Child Health</b>	Medical	Child health
<b>32</b>	<b>Male Psychology Network</b>	Membership association	Mental health
<b>33</b>	<b>National Adoption Service for Wales</b>	National body	Adoption and fostering
<b>34</b>	<b>Family Mediation Council</b>	Oversight body	Mediation
<b>35</b>	<b>Chartered Society of Forensic Science</b>	Professional association	Forensic science
<b>36</b>	<b>College of Mediators</b>	Professional association	Mediation
<b>37</b>	<b>CoramBAAF</b>	Professional association	Adoption and fostering
<b>38</b>	<b>NAGALRO (National Association for Professional Association of Guardians and Independent Social Workers)</b>	Professional body	Family advocacy
<b>39</b>	<b>Coram</b>	Third Sector	Children's Charity
<b>40</b>	<b>Researching Reform</b>	Project	Child welfare, family justice system
<b>41</b>	<b>Women's Aid</b>	Registered Charity	Domestic Violence
<b>42</b>	<b>Transparency Project</b>	Registered Charity	Family Law

## Appendix 3: Topic Guide

### **Towards a family justice observatory: a scoping study** **Professional Focus Group Topic Guide**

Introduce facilitators.

**Background information** [send background information as part of event pack, hand out information when arrive with a short summary at the start of focus group to save time]

#### **The scoping study**

Lancaster University has been commissioned by the Nuffield Foundation to lead on a scoping study for a new national family justice observatory. This scoping study aims to explore:

- The feasibility of establishing a new observatory
- Its potential functions.

As part of the research team, Research in Practice (RiP) is leading on a series of regional focus groups in eight LFJB areas.

The scoping study follows on from the findings of the Family Justice Review (2011), which:

- Highlighted deficits in research generation, communication and application.
- Drew attention to issues with the underpinning data infrastructure for the family justice system.

Following the publication of the Review, the Nuffield Foundation set out the preliminary case for a family justice ‘observatory’.

#### **Focus groups**

This focus group is one element in a national stakeholder consultation to inform the scoping study. The first element was a national Call for Evidence (August-October 2016).

The aim of the focus group is to provide in-depth information to the national Call for Evidence by exploring:

- The current use of research by stakeholders
- Stakeholders' views on what an observatory might most usefully do.

We will seek participants' views in relation to both public and private family courts activities.

The focus group should last approximately two hours.

#### **Group Rules**

It is important that everyone here feels free to express opinions openly and without prejudice. We are interested in areas where there is a broad consensus of opinion, as well as those where there are differences. For the purposes of this focus group, the discussion needs to remain confidential within the group. Does everyone agree to that?

You will not be identified by name in any reports to ensure confidentiality. However your professional group/organisation sector/remit may be named

No-one has to take part and can withdraw at any time or choose not to answer specific questions.

Clarify that if withdraw once recording has begun we cannot delete their contribution as will jeopardise group recording.

### Data Security

To help me with the analysis are you happy for me to record the discussions? Explain details re data storage: Audios transcribed within 3 weeks, de-identified, encrypted devices, LU server up to 10 years and storage on secure database accessible by other approved researchers

Please do not use any identifying details if discussing particular cases, must keep anonymity.

### Safeguarding

Explain the limits to confidentiality (make clear under what circumstances confidentiality may need to be broken i.e. if anyone is deemed to be a risk to themselves or others.

Do you have any questions before we start?

**Check all completed consent forms and happy to proceed**

### Introductions

Go round table- organisation, job role etc.

### Topic 1: Use of research evidence

The first topic is about how you/ your organisation **currently** use research evidence. Research evidence may play a role at the individual case-level and in informing local and national policy and practice. At the case level it can help practitioners evaluate a range of options and arrive at recommendations for children, young people and families. At the local and national level research can provide insights into the performance of the family justice system.

In the discussions, it would be helpful if you could consider the use of research evidence with regard to the following:

[put on flip board]

- **Where and how research is accessed:** e.g. through on-line sources; conferences or learning events; professional journals etc.
- **What research is accessed/applied:** e.g. administrative data sets; journal articles; individual research studies; research reviews; summaries of research on specific topics etc.
- **Who is using research? When?:** e.g. at individual case decision level; in local/national policy; in reports to court; to inform judicial decision making

1. What **kinds of evidence** do you/your organisation need for the work you do?

- What are the main **bodies/disciplines** of research that you currently utilise (e.g. on medical research on child maltreatment; articles in law journals; research on placement outcomes etc.)?
- What are the main **topics** of research that you refer to in your work?
- What are your main **sources** for accessing research? (e.g. journal subscriptions; professional library resources; university library access; trade press; summaries provided by research dissemination units etc).
- How do you evaluate the quality of research? What do you consider to be ‘**trusted**’ evidence or research? Why?

- Which **organisations or forums** do you find helpful in finding and evaluating the latest research? Why?
  - **How** have you **used** research evidence in your work in recent years (e.g. to inform policy development; for CPD; to inform professional guidelines; cited in facts and arguments for a case; cited to inform options for decision making etc)?
  - What **impact** (if any) has research evidence had on policy and practice for you/ your organisation?
2. What (if any) are the **barriers** for you/your organisation in accessing and using research evidence?
- What makes **accessing** research difficult?
  - What makes **applying** research to policy or practice difficult?
  - Does your organisation **value** the use of research?
  - If so, what **strategies** does your organisation use to improve the uptake of research, and to measure uptake and the impact on practice?
3. Where is research **insufficient** or too uncertain?
- In your experience, what research areas are the most **contested** by different stakeholders within the family justice system?
  - Do you have **concerns about** the ways in which other stakeholders in the family justice system use research? Why?
  - What are the **priority topics** for new research or better synthesis of existing knowledge?

[Short break]

## Topic 2: Functions for FJ observatory

The Nuffield Foundation proposes that the new national family justice observatory could have one or more of the following functions:

[put on flip board]

- Improving the research evidence-base (e.g. through better use of administrative and survey datasets to establish national patterns and outcomes of the family justice system and regional variation).
- Synthesising and integrating existing research (e.g. authoritative research reviews on key topics).
- Promoting the use of research (e.g. learning events and dissemination).
- Capacity building (e.g. through secondments, research internships, research training, research design service)

- A system-wide approach to the generation of new research, so that priority topics are addressed and duplication of effort is avoided.

4. What do you view as the **priority functions** of the national observatory? Why?

[following initial discussion display the following options from the call for evidence on flip board and discuss their views of the priorities. At the end of the session hand out paper version of options for them to rank highest to lowest priority]

- Improving the design and use of administrative data sets to provide the basis for better data and **research evidence** on outcomes?
- Support for regional **performance** and outcomes monitoring?
- Developing national **quality standards** for research to improve the quality of research and confidence in its use?
- Commissioning authoritative **knowledge reviews**?
- A **research design** service to ensure better quality of new practice or policy pilots, along with robust evidence?
- **Research internships** to strengthen links between practice and **research**?
- **Training** to improve practitioners' skills, knowledge and confidence in finding and using research?
- **Events** and conferences to disseminate research findings?
- Authoritative **responses to media coverage** of family courts work/ SCRs etc?
- Other?

5. What should be the **scope** of the observatory?

- Should it include research evidence in relation to both **public and private law**?
- What information on **outcomes** after formal court proceedings would be useful?

6. Which **stakeholders** do you consider to be the priority audience for the national observatory? Why?

- Should the observatory focus on a narrow core audience (e.g. social workers and judges), or deliver the same or similar information for a wide range of groups? Why? How could this be done?

7. How could the **infrastructure** of the observatory build on and interact with other initiatives/ stakeholder groups to effect change in the use of research evidence?

- How would you like to see your organisation involved in setting observatory priorities?

[Additional questions/ topic areas to be added following early feedback from call for evidence]

[Thanks and close]

## Appendix 4: Judicial Topic Schedule

### Towards a Family Justice Observatory: Focus Groups with Judiciary

#### Topic Schedule

#### Background

Facilitator to give brief overview of project. Feedback from the call for evidence will be shared at the outset. Participant information sheet will have been distributed beforehand via the Judicial College

- Facilitators to ensure that all participants have read information sheet and the consent form and have had an opportunity to ask questions. Facilitators to make explicit issues re:
  - boundaries to confidentiality
  - safeguarding,
  - audio recording
  - data storage .

Collect signed consent forms and begin audio recording.

1. Why and how do you access research to aid your judgements?
2. To help you understand and appraise research, do you want more training and in what format? Is there a further role for the Judicial College?
3. A range of family justice practitioners tell us that they don't know which evidence to trust – what would help the judiciary determine trusted evidence?
4. Practitioners tell us there is ambivalence about the use of research in family proceedings – do you think that family court decisions should be informed by research?
5. What role do higher court judges play/should play in this?
6. The use of experts is now limited within family court proceedings – how has that influenced decisions about children and has this created an evidence gap?
7. A range of stakeholders tell us that they want to see more major, robust, longitudinal studies of the family justice system – do you agree with that – do you think that there are some basic questions about patterns and outcomes that simply haven't been answered?
8. Are you worried about variability between local areas – how would you monitor your performance - do you need more benchmarking facts and figures to help you compare your court's performance with other areas?
9. Is it fair to say that local family justice boards are variable in the extent to which they are active/support local practice/ should they have a stronger role in promoting the use of research evidence and how might they be strengthened
10. Should a new observatory focus on public law or private law or both?
11. What do you consider to be the priority functions of an observatory (*practitioners to be given a list of options to score*)