



Uncovering private family law: The voice of the child – which children have a voice in proceedings?

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Family Justice Data Partnership

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Family Mediation Trust conference



Population Data Science
at Swansea University



Background

A child's right to participate in decision making about them and the importance of considering their wishes and feelings are enshrined in international and domestic law

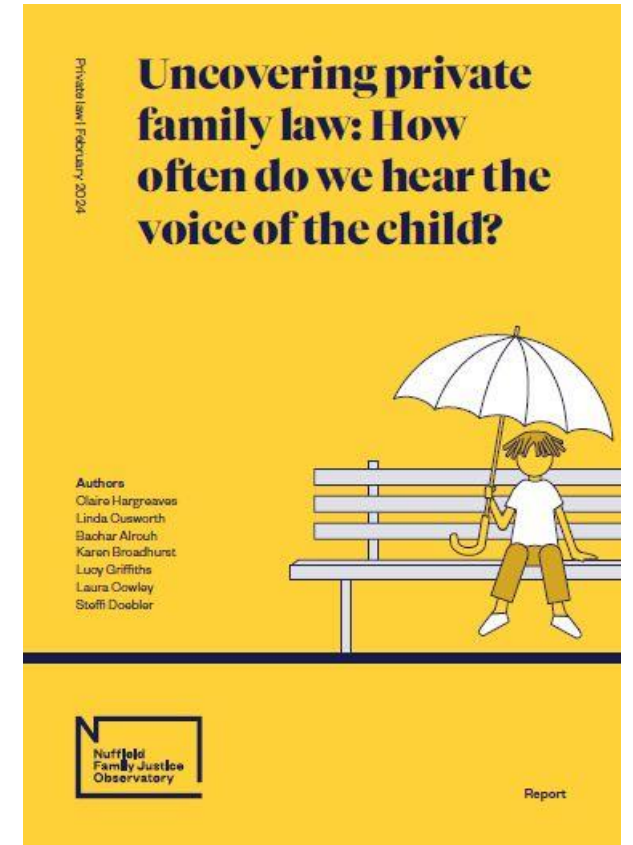
Research highlights the importance of children being involved in decision making and the potential benefits of involvement

But evidence that children feel 'unheard'



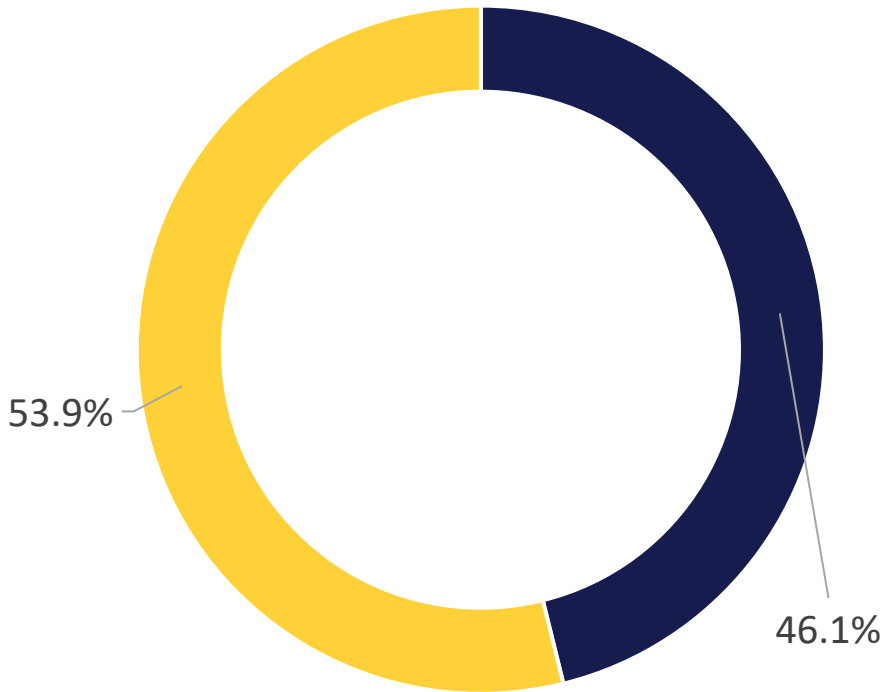
Exploring child participation

- Used Cafcass and Cafcass Cymru anonymised, population-level administrative data, accessed through the SAIL (Secure Anonymised Information Linkage) Databank at Swansea University
- Children in a Section 8 (child arrangements) application in 2019, England and Wales
- Investigated presence of ‘markers of participation’
 - Cafcass section 7 welfare report/Cafcass Cymru Child Impact Analysis
 - Local authority section 7 welfare report
 - Local authority section 37 report
 - Rule 16.4 (guardian appointment)

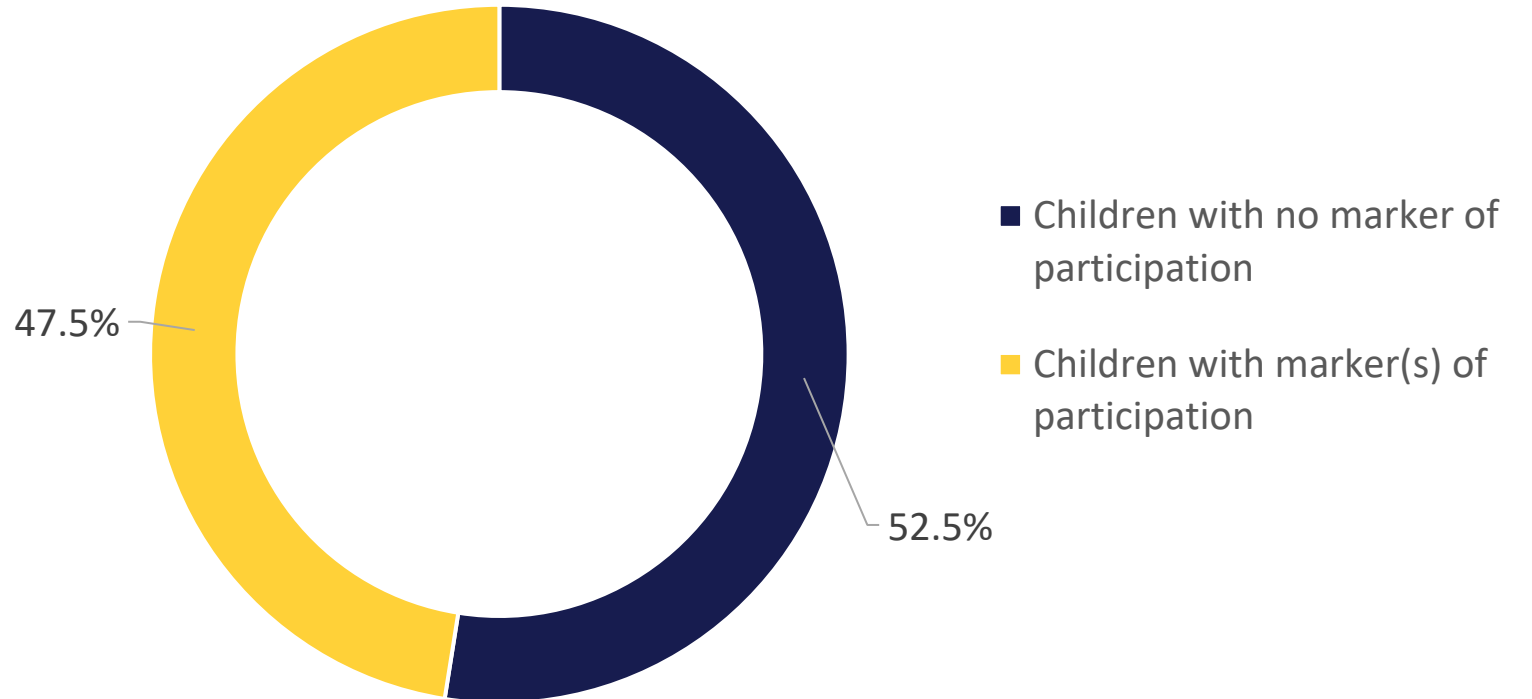


Proportion of children with marker(s) of participation

England

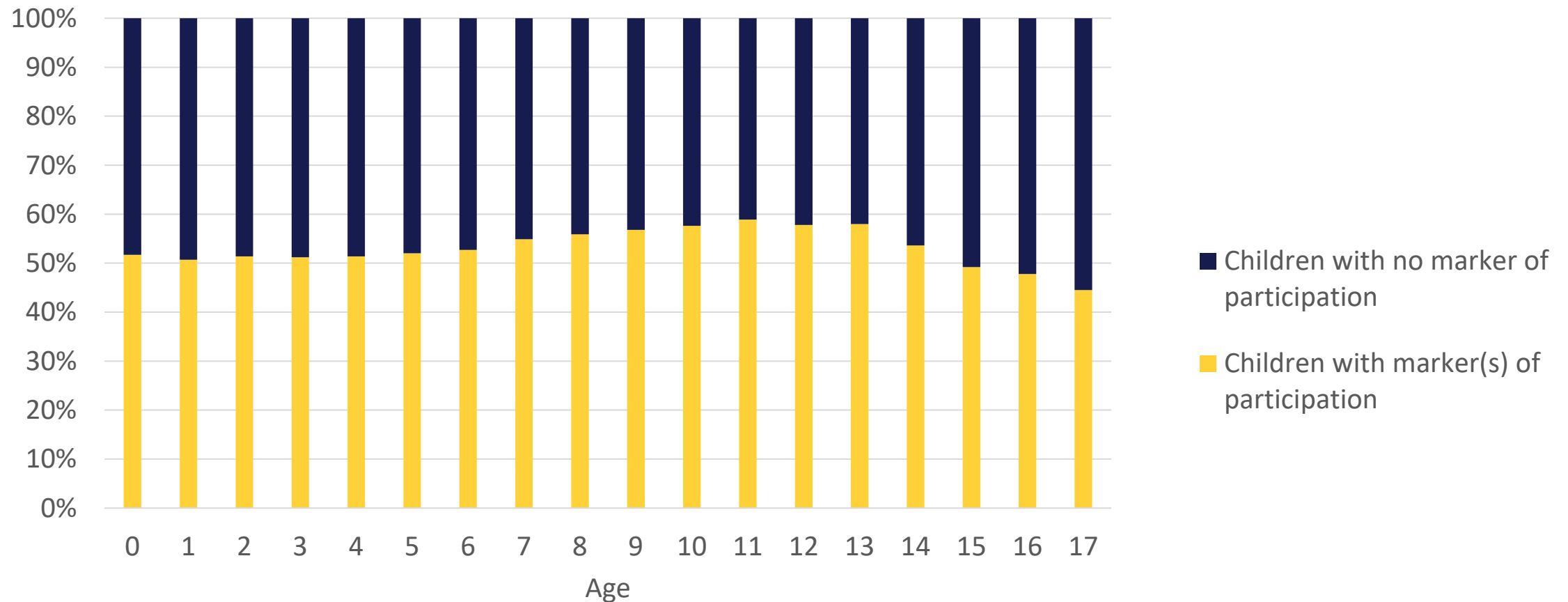


Wales



- Children with no marker of participation
- Children with marker(s) of participation

Proportion of children with marker(s) of participation by age (England)



Reflections

- Around half of children involved in private law proceedings, including older children and teenagers had no markers that they had been consulted directly
- Reliance on the use of welfare reports and the appointment of a children's guardian as the primary vehicles for participation by children is problematic
- The relatively low level of increased participation by age suggests that a child's right to participate, in light of their age and understanding, is not fully reflected in the current system, which does not offer routine involvement for older children
- Need to consider other ways in which children could have their voices heard
- Findings lend support for the expansion of the Pathfinder Courts



Any questions?

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Link to report:

<https://www.nuffieldfjo.org.uk/resource/uncovering-private-family-law-how-often-do-we-hear-the-voice-of-the-child>