

Institution: University of Sussex
Unit of Assessment: UoA Law
Title of case study: Campaigning for children: Child and Family Law policy development and law reform
<p>1. Summary of the impact</p> <p>Research investigating the long-term impact of child contact arrangements in the context of parental separation under the existing law has rapidly and demonstrably impacted upon Parliamentary discussion, policy setting and recommendations by the Children's Commissioner, upon the strategies of cross-disciplinary groups of family justice practitioners who deal with children's issues, and in judicial practice, such that prior presumptions in relation to child contact have altered. Prof. Jane Fortin of the University of Sussex carried out a Nuffield-funded empirical research project between 2010 and 2012, the report of the project, describing the research and providing detailed recommendations, was subsequently published as a book and later dealt with in journal publications.</p>
<p>2. Underpinning research</p> <p>Prof. Jane Fortin has been a member of Sussex Law School Faculty since 2007 and the preliminary, foundational ideas for the research that concerns this case study evolved from 2006 to 2009 [see Section 3, R1, R2, R3]. Supported by co-researchers from the University of Oxford, Jane Fortin acted as Principal Investigator for a study entitled 'Taking a longer view of contact: the perspectives of young adults who experienced parental separation in their youth' [R4], supported by a Nuffield Foundation award of £153,772 for the period July 2010–December 2011. Publication of the research findings facilitated impact by their being taken up in parliamentary debate and by their influence on practitioners and the judiciary, whose work is involved in advising on, advocating and deciding child contact issues. The research study drew on the findings of an earlier pilot study led by Fortin [R2] which had demonstrated that research with young adults on this aspect of parental breakdown produced particularly rich research data.</p> <p>The Nuffield project examined the experience of children dealing with parental separation. Traditionally, separation has resulted in one parent becoming the primary carer whilst the other becomes the contact parent. At the time of the research project's conception there was intense political debate around the question of promoting greater involvement of non-resident parents in children's lives. The research gap addressed by the project comprised a comprehensive investigation of the long-term impact of contact arrangements under the existing law.</p> <p>The research had two principal objectives. First, to give voice to a group of people hitherto largely ignored, i.e. the young adults who had been the subject of contact arrangements during their childhood. Second, to investigate whether the young adults' evaluations of contact were associated with any particular characteristics of contact, their involvement in contact decisions, and the nature and extent of contact problems (including safety concerns and exposure to parental conflict).</p> <p>The study consisted of two parts:</p> <ul style="list-style-type: none"> • First, a telephone survey of young adults in England and Wales who experienced the break-up of their parents' relationship before they reached the age of 16. Participants were screened and then interviewed using the Quancept Computer Assisted Telephone Interviewing system. • The second stage of the study consisted of in-depth, face-to-face interviews with a subgroup of young adults. These were selected on the basis of two criteria: (i) that parental separation

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had occurred after implementation of the Children Act 1989 (because this substantially changed the law) and (ii) that they had had some contact with the non-resident parent.

Key findings from the project included:

- Children are independent social actors. Children's own involvement in decisions about contact is associated with positive contact experiences. Children are not brainwashed into resisting contact with non-resident parents but are able to form clear and mature views as to their own needs.
- In principle, a continuing relationship with both parents is vitally important. This emerged as a view, at least in principle, held even by those with bad experiences of contact. However, it was also clear that no contact was seen as better than bad contact.
- The ingredients of successful contact: continuous contact; a good pre-separation relationship with the non-resident parent; efforts made by the non-resident parent to maintain an enjoyable contact; and the commitment demonstrated by the non-resident parent.
- The relative unimportance of the amount or type of contact; there is no blueprint for contact which will work for all, or the majority of, children.
- Resident parents are more likely to facilitate than to undermine contact.

The research highlighted significant implications for courts and policy-makers. In particular, it identified a number of risks that would be associated with proposed legislation seeking to embed a presumption about the involvement of both parents in the life of the child. Fortin's research strongly suggested that courts should retain unfettered discretions about the welfare of the child and should be able to focus on individual needs.

3. References to the research

Publications pre-dating the Nuffield investigation but building foundations for the research:

- R1** Fortin, J. (2009) *Children's Rights and the Developing Law*. Cambridge: Cambridge University Press.
- R2** Fortin, J., Ritchie, C. and Buchanan, A. (2006) 'Young adults' perceptions of court-ordered contact', *Child and Family Law Quarterly*, 18(4): 211–19.
- R3** Fortin, J., (2009) 'Children's right to know their origins: too far, too fast?', *Child and Family Law Quarterly*, 21(3): 336–55: <http://ssrn.com/abstract=1943591>.

Nuffield project:

- R4** Fortin, J., Hunt, J. and Scanlan, L. (2012) *Taking a Longer View of Contact: The Perspectives of Young Adults Who Experienced Parental Separation In Their Youth*. Brighton: Sussex Law School. This can also be accessed on line at: <http://www.sussex.ac.uk/crrl/family/research/takingalongerviewofcontact>

Outputs can be supplied by the HEI on request.

4. Details of the impact

The 'Longer view of contact' project has received widespread attention, especially in the context of proposed legislative reform. In a letter of January 2013, the directors of the Nuffield Foundation noted that:

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This has been a particularly thorough and carefully presented piece of research, which addresses an important gap by giving a voice to young people affected by parental separation, and is particularly timely given ... the government's intention to legislate on shared parenting. We are particularly pleased to see that you have ensured the study has been picked up by relevant interest groups, and in particular by the Justice Select Committee and the Family Justice Board' [see Section 5, C1].

Examples of impact include:

The research findings have influenced (by rebutting 'populist' assumptions concerning the quality of contact of parents in differing circumstances etc.) the current campaign opposing the present government's controversial aim to amend the Children Act 1989 (a matter which is on-going) through the introduction of a legislative presumption favouring shared parenting arrangements. Notably, the House of Commons Justice Committee, which opposes this legislation [C2] – see (2012) HC 739, *Pre-Legislative Scrutiny of the Children and Families Bill, Fourth Report of Session 2012–13*, TSO – quoted from Fortin's findings as supporting its own opposition (at paragraphs 163–4). The influence of Fortin's debate is also expressly acknowledged in correspondence with the University by Sir James Munby, the President of the Family Division within the Judiciary [C3].

This impact is evidenced by the debates in Parliament about the Children and Families Bill. The Nuffield project and the University of Sussex's involvement in it is explicitly referenced (Col 96) by Elfyn Llwyd, Plaid Cymru's Westminster Parliamentary Group leader [C2].

Fortin's Nuffield research was explicitly relied upon by The Children's Commissioner in (27 February 2013) *A Child Rights Impact Assessment of the Children and Families Bill*, 41–2 [C4] in arguing against the proposed changes in the Bill where it was stated:

Recent qualitative research [full title of Fortin's research cited in a footnote to this paragraph] with young adults about their experience of contact when children suggests that problems with contact are rarely the result of obstruction by resident parents, and highlights a range of different factors which underpin successful contact. It demonstrates *the importance of basing decisions about contact on the specific circumstances of each child*, allowing for arrangements to be flexible and evolve. Critically, the research shows that children were often very clear about their own needs, that their involvement in decision-making is associated with positive contact experiences, and that, if children resist contact with non-resident parents, it is often for their own reasons and related to the behaviour of the non-resident parent.

Caroline Willow, former National Coordinator of the Children's Rights Alliance for England, noted that the research influenced debates on 'shared parenting' during the reading of the Bill, in particular eliciting comments from Liberal Democrat for Home Affairs Baroness Hamwee and Baroness Butler-Sloss [C6].

In a letter to the University from a leading practitioner in the field, Alistair MacDonald QC, it is stated, among other things, 'It is plain that the research conducted by Professor Fortin has already had, and will continue to have, a positive impact on policy and practice in the field of law relating to children' [C5].

In an email to the University, Sir James Munby, President of the Family Division of the Judiciary, states, among other things, that Professor Fortin's research described herein 'was of great practical importance to judges and legal and other practitioners in the family justice system' and, in the context of this impact audience, Sir James Munby also says the research's message 'has been absorbed by everyone and has influenced many people's thinking' [C3].

5. Sources to corroborate the impact

C1 Letter from the Nuffield Foundation, dated January 2012.

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- C2** HC 739, *Pre-Legislative Scrutiny of the Children and Families Bill, Fourth Report of Session 2012-13*, TSO, December 2012.
- C3** Letter from The Right Honourable Sir James Munby, President of the Family Division, dated September 2013.
- C4** The Children's Commissioner (2013) *A Child Rights Impact Assessment of Parts 1–3 of the Children and Families Bill* (HC Bill 131) 27 February.
<http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm130225/debtext/130225-0003.htm#13022524000165>
- C5** Letter from Alistair MacDonald QC, dated August 2013.
- C6** Letter from Carlyne, former National Coordinator of the Children's Rights Alliance for England (CRAE), dated August 2013.