

NYAS AND CORAMBAAF'S RESPONSE TO THE PRESIDENT'S REVIEW OF TRANSPARANCY IN FAMILY COURTS

The President of the Family Court, Sir Andrew McFarlane, recently published his long awaited [review of transparency in the family court](#). We were pleased to see the clear priority of the privacy and safeguarding needs of children in both published judgments and in any reporting of proceedings/judgments, but while we welcome it we have some remaining concerns.

Earlier this year, CoramBAAF supported an important piece of [research evaluating the practice guidance around privacy and safeguarding in the family court](#).

The work, funded by the Nuffield Foundation, was undertaken by Julia Brophy and Marisol Smith and included the perspectives of young people themselves. The President's report is a welcome acknowledgment of the important work that young people from NYAS and the research team have undertaken.

The research found that the information currently available in some judgments – and shared on the internet, is deeply troubling. Unless judgements are properly anonymised and graphic descriptions of sexual abuse of children are summarised and abridged, information in these judgements can compromise the anonymity and future safety of children and young people. Even if the judgment does not include personal information about a child – for example a name or age – sometimes information that is specific to a child or their family can be linked to information from other sources – for example, criminal proceedings against a family member – and this can enable the identification of a child.

We also welcome the focus on making the decision-making process of judges more transparent, giving us a better understanding of the complex work they undertake when making the most profound decisions about the immediate and future safety and welfare of children and young people and their families.

We welcome the focus on more transparency and openness about the workings of the family court and the decision-making process of judges. This is important as it can help give us a better understanding of the complex work they undertake when making the most profound decisions about the immediate and future safety and welfare of children and young people. His proposed changes changes aim to increase scrutiny and accountability.

Many family court judgments involving children are currently published on the [British and Irish Legal Information Institute](#) (BAILII) website. We were disappointed to see that his report contained no proposals regarding the removal of certain judgments concerning the sexual abuse of children already posted on BAILLI: this must be addressed urgently.

And putting more information in the public domain must never jeopardise the privacy and safeguarding needs of vulnerable children: practice must catch up with the digital age and any published judgments must be 'fit' for the digital world and not include graphic

descriptions of any sexual abuse that can be downloaded, shared and traded on the internet.

The President of the Family Court makes it very clear that he wishes to achieve in terms of outcomes: the absolute protection of children's privacy and this is very welcome.

What we need now is workable, effective and prompt solutions. Practice guidance to judges to eliminate risks to the privacy and safeguarding of children from judgments has been an important step forward, but this needs to be better and more consistently applied, and that has resource implications.

We also need clear avenues of recourse and effective sanctions for young people and families where there are breaches of confidentiality within, and following, proceedings. We know that existing avenues of complaint and sanctions have not worked.

The focus now is on how to take these recommendations forward in a way that increases transparency while protecting children. We urge the President to make sure that he involves experienced child care lawyers and clinical child and family experts, and most importantly, a diversity of voices and experiences from children and young people.

We will leave the last word to a young person whom NYAS has been working with: *"Policy changes must ensure new practices include robust protection for children, especially in the face of the digital age, when information can be shared at the press of a button. Safeguarding children, and protecting their lifelong rights to privacy, are key: we are individuals with a future and not merely things or property to be fought over in court."*