

Strasbourg, 10 June 2010

CJ-S-CH (2010) 6 E

[cdcj/cdcj and subordinate committees/CJ-S-CH /
CJ-S-CH documents /CJ-S-CH (2010)6 E]

**GROUP OF SPECIALISTS ON CHILD-FRIENDLY JUSTICE
(CJ-S-CH)**

**SUMMARY REPORT ON THE CONSULTATION OF
CHILDREN AND YOUNG PEOPLE CONCERNING
THE DRAFT COUNCIL OF EUROPE GUIDELINES
ON CHILD-FRIENDLY JUSTICE,**

by Ms Ursula KILKELLY

Child Friendly Justice: the Views and Experiences of Children in the Council of Europe

Summary Document prepared by Ursula Kilkelly, 3rd June 2010

Introduction

The Council of Europe is drafting Guidelines on Child Friendly Justice in close co-operation with the Programme “Building a Europe with and For Children”. To ensure these Guidelines are informed by the views and experiences of children, the Group charged with drafting the Guidelines decided to undertake a consultation exercise across Council of Europe states in Spring 2010.

Method

The primary method used was a questionnaire. This was prepared in association with approximately 30 partner children’s organisations including Children’s Rights Alliance for England (CRAE), the European Network of Ombudsman for Children (ENOC) and Unicef. National organisations were asked to distribute the questionnaire as widely as possible and they were also encouraged to use other methodologies, as appropriate, to gather the views of children especially young children and hard-to-reach groups. Dr Ursula Kilkelly, a children’s rights expert, was engaged to collate the material returned and to report to the Council of Europe on what the children had said and how this should be taken into account in the drafting of the Guidelines. She was also asked to make recommendations as to how future consultation exercises should be conducted. Her full report is available on the Programme website at www.coe.int/children. A child-friendly version of the report is also available.

The Response

The national organisations all responded differently to the Council’s request for co-operation. Many distributed the questionnaire widely among schools and community-based settings, while others used it to engage with specific groups, such as those in conflict with the law, in detention and in care. In total, almost 3,800 questionnaires were returned from 25 countries and they report on the experiences of views of children who have had direct contact with the justice system in various contexts and those who have had no such contact. This data was enriched by a range of focus group discussions conducted with particularly vulnerable groups of children (such as those in detention, refugee children and those whose relatives are in prison), and some national organisations submitted useful reports giving context to the consultation exercise, and providing further information on the impact of the justice system on children. Given that this was the first such exercise for the Council of Europe, it is not surprising that the process was somewhat erratic and in future steps must be taken to ensure a more consistent approach is taken. The use of a broad range of methodologies that are appropriate to children’s diverse needs must also be a priority. If it is to fulfil its potential to provide leadership in this area, it is recommended that the Council adopt Guidelines on the standards it expects its partners to follow when carrying out consultation with children under its auspices.

Findings

Despite its shortcomings, the process produced rich data on the views and experiences of children in the justice system. This will continue to be analysed and reviewed in the months ahead. The following is a snapshot of what the children told us.

About the Children

The respondents ranged in age from a small number of children under 5 and under 10 years, to the vast majority who were between 11 and 17 years, about half of whom were under 15 years. An almost even number of boys and girls completed the Questionnaire. The vast majority of children who completed the Questionnaire had some level of contact with the justice system in either its civil (usually education or family) or its criminal context. Many young people who had not had such formal involvement had nonetheless come into contact with the police.

Information about their Rights

A very high proportion wanted more information about their rights and when asked who they wanted that information from, the majority chose their parents or others in a position of trust. Youth workers, and to a lesser extent lawyers and teachers featured strongly. When asked where they wanted to find this information, the internet was the most popular choice, with other media – notably television – featuring strongly along with community-based services, including advertisements in health and social service offices, police stations etc. Schools were also identified as a good place to have information. Telephone helplines, perhaps surprisingly, did not feature strongly here.

Getting Justice

Children were asked whether they would tell someone if they were unhappy with how they were being treated. The majority said they would and parents, friends and siblings were the overwhelming choice as to who they would tell. Virtually all other categories – including official or public persons, like health workers, teachers, youth/social workers, police officers and lawyers - fared very badly indeed. The most common reason for not telling anyone was that they could handle it themselves, or that they did not think they would be believed.

Decisions made about them

Children were asked to identify what decisions had been made about them. They reported they had been made by a judge, police officer or teacher in the areas of family law, including care, criminal law and education. A slim majority of children reported being present when decisions had been taken about them, and less than half said that they had been offered an explanation as to what was about to happen. Just over a third said they had been asked for their views, and less than a third felt these views had been taken seriously. A third felt they had not been treated fairly.

A significant majority said they had been supported through the process, and about half said that the decision had been made in a setting that was safe and comfortable. As to what would have helped, the vast majority proposed having someone that they trust present.

Almost two thirds said that they understood the decision made about them and a similar number recorded that it had been explained to them. Children were asked who they would prefer to explain this decision to them, and in response they chose family. They expressed opposition to receiving explanations indirectly such as in writing. A huge majority of children who responded considered it important that they are heard and an overwhelming number want to speak directly to the person making the decision, rather than having their views mediated or moderated by others.

When asked about the key messages for the Guidelines on Child Friendly Justice, children voted in most numbers for:

- Being treated with respect;
- Being listened to;
- Being provided with explanations in language they understand and
- Receiving information about their rights.

Key themes

A number of strong themes emerge from the analysis of the consultation with children. They can be summarised as follows:

- **Family:** The importance of family in the lives of children was made very clear. Every time children were given a choice as to who they wanted present, who they would confide in, who they wanted information and explanations from, children identified parents, siblings and friends as a priority.
- **Mistrust of Authority and Need for Respect:** By contrast, children have little faith in those in authority. They were critical of many officials – police, lawyers and others – for not respecting them, for not appreciating their special needs as children and for not showing them empathy. A huge gap needs to be bridged here.
- **To be listened to:** children want to be heard, they want to receive information that they can understand and to be supported to participate in decisions made about them.

How the views of Children have informed the Guidelines

Presentation of the findings of the consultation to the group charged with drafting the Guidelines led to the Guidelines being informed directly by the views and experiences of children. During the drafting process, numerous changes were made to ensure that the Guidelines met the needs of children, responded to what children told us about the justice system. Overall, a very genuine effort was made to ensure that these views were taken into account in the detail, scope and strength of the Guidelines.

In particular, the views of children have been used to

- support the extent and manner in which the Guidelines recognise the right of children to be heard, to receive information about their rights, to enjoy independent representation and to participate effectively in decisions made about them. The wording in all relevant sections was strengthened in these respects. For example, the Guidelines now require judges to respect the right of all children to be heard in all matters, and require that the means used shall be adapted to the child's understanding and ability to communicate and take into account the circumstances of the case,
- ensure that adequate provision is made in the Guidelines for children to understand and receive feedback on the weight attached to their views;
- strengthen the provision in the Guidelines for the supports that children enjoy before, during and after contact with the justice system. Particular consideration was given to the role of parents and those trusted by children (eg section on children and the police);
- support provision for an unequivocal right to access independent and effective complaints mechanisms for all parts of the justice system, support specialisation among all professionals and require comprehensive and ongoing training for all professionals who come into contact with children in the justice system. These were considered central to addressing the lack of trust in authority expressed by children during the consultation;
- strengthen provision for confidentiality in professionals' dealings with children;
- promote consultation and partnership with children where appropriate on the operation of the justice system to children, and the development and review of law, policy and practice.

Conclusion

It was vital to the effectiveness of the Guidelines on Child Friendly Justice that children were consulted about their experiences and their views. This ambitious project demonstrates the value of genuine consultation of children on issues that affect them. It illustrates how such a process can be used to strengthen children's rights standards in the Council of Europe (and possibly elsewhere).