



Children's rights and wellbeing: child-inclusive mediation in a rights age: 24 March 2022

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CONTEXT – RELATIONSHIPS MATTER

- Relationships and their quality influence health and well-being throughout the life course.
- **The well-being** of children whose parents separate is associated with **the quality of family functioning post-separation** (Harold et al., 2016).
- The level of conflict children witness before, during and following parental separation drives the **long-term impact** on them (Harold and Sellers, 2018).
- Added to this, the Covid-19 pandemic has had a devastating impact of on young people's mental health (Morris and Fisher, 2022)

SCALE OF THE ISSUE

- 1.25 million children are exposed to inter parental conflict each year (Harold and Sellers, 2018)
- The parents of approximately 280,000 children separate each year in the UK

CHILDREN WANT A VOICE

Research tells us that children want:

- their **views to be better represented** in mediation processes following parental relationship breakdown (Barlow et al., 2017; see also Report of the Family Mediation Task Force, 2014; Smart and Neale, 2000);
- good quality information and support (Barlow et al., 2017).

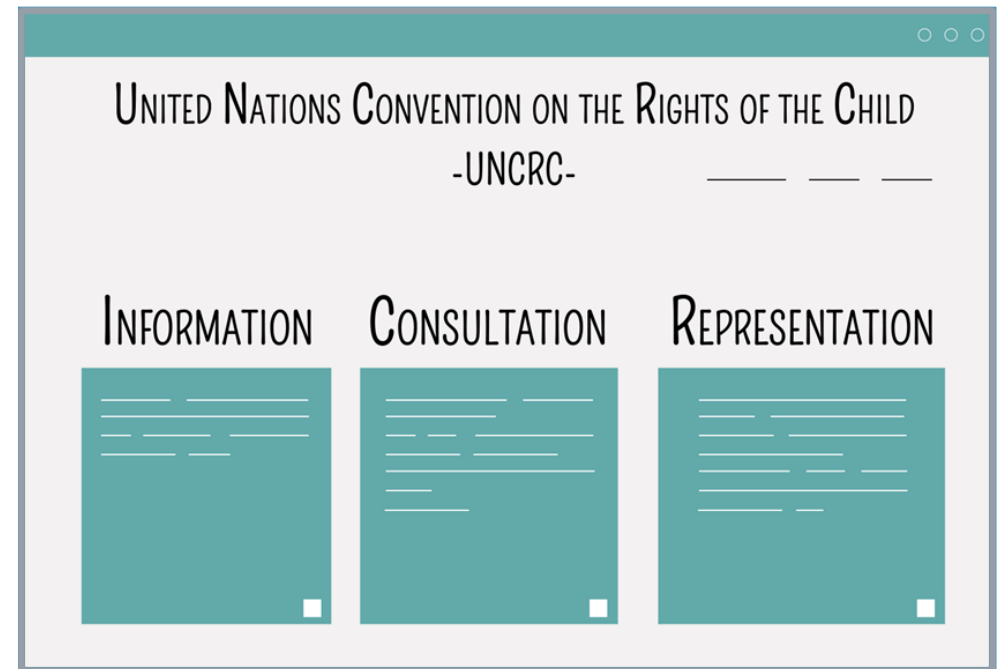
CHILD'S VOICE MATTERS WHEN PARENTS SEPARATE

Research tells us that when children are consulted:

- they tend to be **more satisfied** with the arrangements (Butler et al, 2002)
- arrangements are **longer lasting**, father–child relationships are better, and parenting is more cooperative (Walker and Lake-Carroll, in Family Mediation Task Force Report, 2014)
- the adverse effects of parental separation can be ameliorated by **reducing parental conflict** (McIntosh et al., 2008, Fortin et al., 2012)

ART 12 UNCRC COMPLIANT?

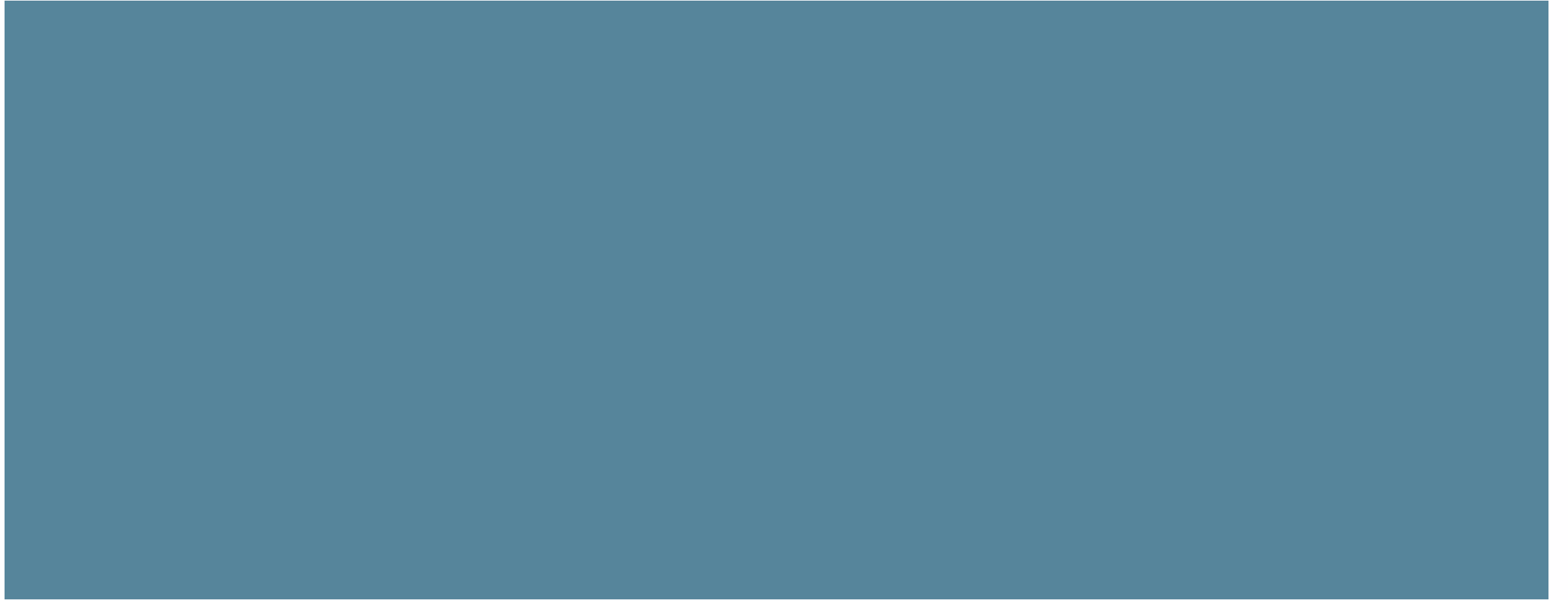
- States Parties shall assure to the child who is capable of forming his or her own views **the right to express those views freely in all matters affecting the child**, the views of the child being given due weight in accordance with the age and maturity of the child.



CHILD'S VOICE IS MUTED IN AND OUT OF COURT

Many children have little or no voice in the decision-making when parents separate:

- Most private law cases proceed without a Section 7 report
- Only 26% of children aged 10 and over are consulted in mediation
- Little is known about the extent to which children are consulted when parents do not engage in mediation or issue court proceedings
- 'Children who have experienced domestic abuse go unheard... through lack of consultation or are muted in various ways' (The Harm Report, 2020)



METHODS



A 360° APPROACH

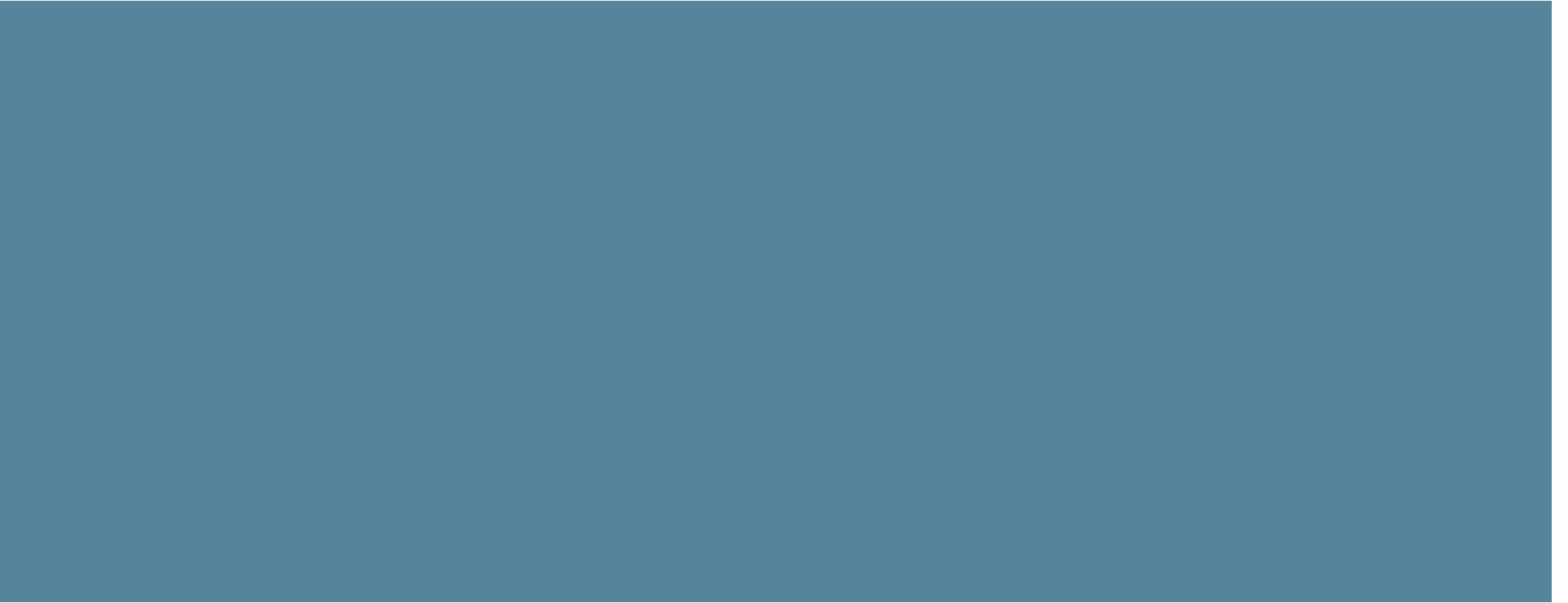


- What can we learn from relationship experts and counsellors about what hearing from a child does for the child's mental health and wellbeing?
- What are the barriers to greater uptake?
- What do mediators think is the purpose of CIM and how does this compare with the views of:
 - the parents on the purpose of CIM and why they took it up?
 - the young people on their experience of the process?
- How can these findings inform best practice?

METHODS - HEART

In the HeaRT phase project we have considered the role that CIM might play in promoting paths to **better mental health and wellbeing** for young people whose parents separate by:

- interviewing 10 relationship professionals, 20 CIM trained mediators, 12 parents and 20 young people; and
- running 5 focus groups with the FJYPB/family law campaigners



KEY FINDINGS: OVERCOMING BARRIERS TO UPTAKE



BARRIERS TO GREATER UPTAKE - AWARENESS

Awareness of CIM was low amongst the parents and young people interviewed.

- Only four parents (33%) and one child (5%) had heard of it before the parents engaged in mediation, the child through school.
- Two further children (10%) had heard of mediation and assumed that children would be involved.

OVERCOMING THE 'AWARENESS' BARRIER

The following may help to overcome low levels of awareness of CIM:

- The 2018, amendments to the FMC's 'Standards Framework' should ensure that parents are informed **once they have approached** a mediator, but work is needed to enhance awareness of CIM in the general population.
- FMC, member organisations and individual mediation practices should make CIM prominent on their websites, in their literature and in encounters with the client from the outset.
- The Government should commit to a media campaign of awareness raising around children's rights to be heard generally – and promote awareness in schools and other touchpoints such as GPs.

BARRIERS TO GREATER UPTAKE - COST

Cost remains a barrier:

- Most mediators have made the '*intellectual shift*' needed to embrace hearing from children, but '*the impediments in terms of funding are so great that it is difficult to see how they can actually then put that into practice.*' (Henry Sanderson, CIM mediator).
- Parents and people recognised that cost is a barrier for less affluent parents.

OVERCOMING THE 'COST' BARRIER

If the right to be heard was the starting point, then finding ways to overcome costs would need to be found:

- The Government would have a greater obligation to put the public funding of CIM on a proper footing as part of its international obligation to uphold children's rights.
- Mediators would be more likely to look for imaginative ways to overcome the cost issue ('the voice of the child... just became part of what we were doing and... if you... cut me in the middle you will probably see advocacy for that.' Amy Sale)

BARRIERS TO GREATER UPTAKE - PRACTITIONERS

Building confidence

‘For years and years... I did very few... as the years went by... I saw the **lack in confidence** and **it didn't really feel like the thing that you really had to do**. [Attending the update day had] a very significant impact on me... **it gave me the confidence**... I kind of knew that I should be doing it... [the trainers said]... “actually parents are interested in it and **it's to do how you explain it to them** at the MIAM”.’ (Maria Ingram, 2020)

OVERCOMING THE 'PRACTITIONER' BARRIER

**Dual
purpose?**

‘...it's a wellbeing conversation ... [and if] something positive comes out of it... agreeing arrangements or the parents are a little bit more cooperative... less argumentative... that is a secondary extremely useful thing.’

(Laura Gurney, mediator)

OVERCOMING THE 'PRACTITIONER' BARRIER

Practitioner confidence in their ability and the process might be overcome by:

- Reframing the training for CIM mediators so that it is evidence-based and taught with an agreed purpose built on the right of the child to be heard.
- Reinforcing this with a robust Code of Practice for CIM.
- **'Own[ing] the process'** (Sam Burns) V **'an optional bolt on'** (Mel Illingworth).

BARRIERS TO GREATER UPTAKE - PARENTS

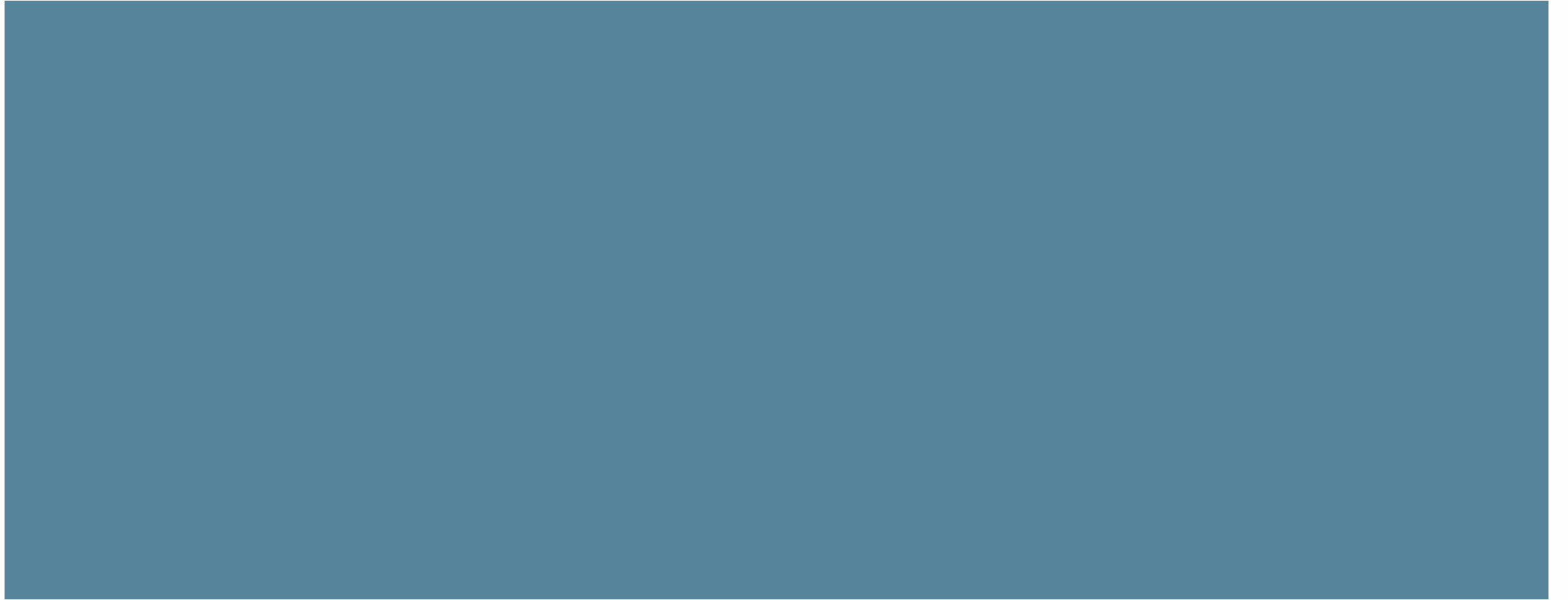
Parents as a barrier:

- 'The biggest barrier is [that] the **parents are the gatekeepers**, and you often get permission from one parent and not the other one... There are a lot of parents who believe they are protecting their children by not involving them and that also means not giving them any information as well.' (Bella Morris, CIM mediator)
- 'To be honest I had been a bit nervous of it and slightly tentative because I didn't really want to, as I saw it, drag [the children] into what was a painful family episode.' (Elisa Foxton, parent)

OVERCOMING THE 'PARENT' BARRIER

The 'parent' barrier can be overcome by:

- Working at the parent's pace to ensure that they are emotionally ready to engage in CIM: e.g., Trevor Cox moved from being '**dead against the idea**' of CIM to concluding that '**without a doubt... you have to involve children**'
- Presenting the process as normative – the practitioners who did so had seen a marked increase in uptake.
- Framing the offer as a matter of children's rights.



YOUNG PEOPLE AND PROFESSIONAL'S VIEWS



PROFESSIONAL'S VIEWS ON HEARING THE CHILD

Helps to
process
grief

[When parents separate, without a voice, young people struggle to] **'identify the loss or put into language what is happening [so], they cannot grieve and come to terms with it.'** (Jacob Beardsley, Relationship professional)

YOUNG PEOPLE'S VIEWS ON INFORMATION

Young people wanted information on:

- **the process:** What needed to be sorted out? Who makes the decisions? How long will it take? What say would they have in decisions made?
- **the practicalities:** What would change? What would stay the same?
- **the support available:** What support is available and how can they access it?

THE IMPACT OF INFORMING A CHILD

Greater
awareness
lessens
anxiety

‘I liked seeing [the mediator] because... with things... that I was worried about or didn't know about. It just made me feel a bit **more aware of what was going on.**’ (Chloe, young person who had experienced CIM)

YOUNG PEOPLE'S VIEWS ON CONSULTATION

It's my life!

'I think the child... should be involved as much as they can just because it's their life that's being decided about... you should [not]... let your parents decide... what's going to happen in your life when it's not their life that they are making decisions for!'
(Max, FJYPB focus group)

THE IMPACT OF CONSULTING A CHILD

Young people spoke of benefits that went beyond progress:

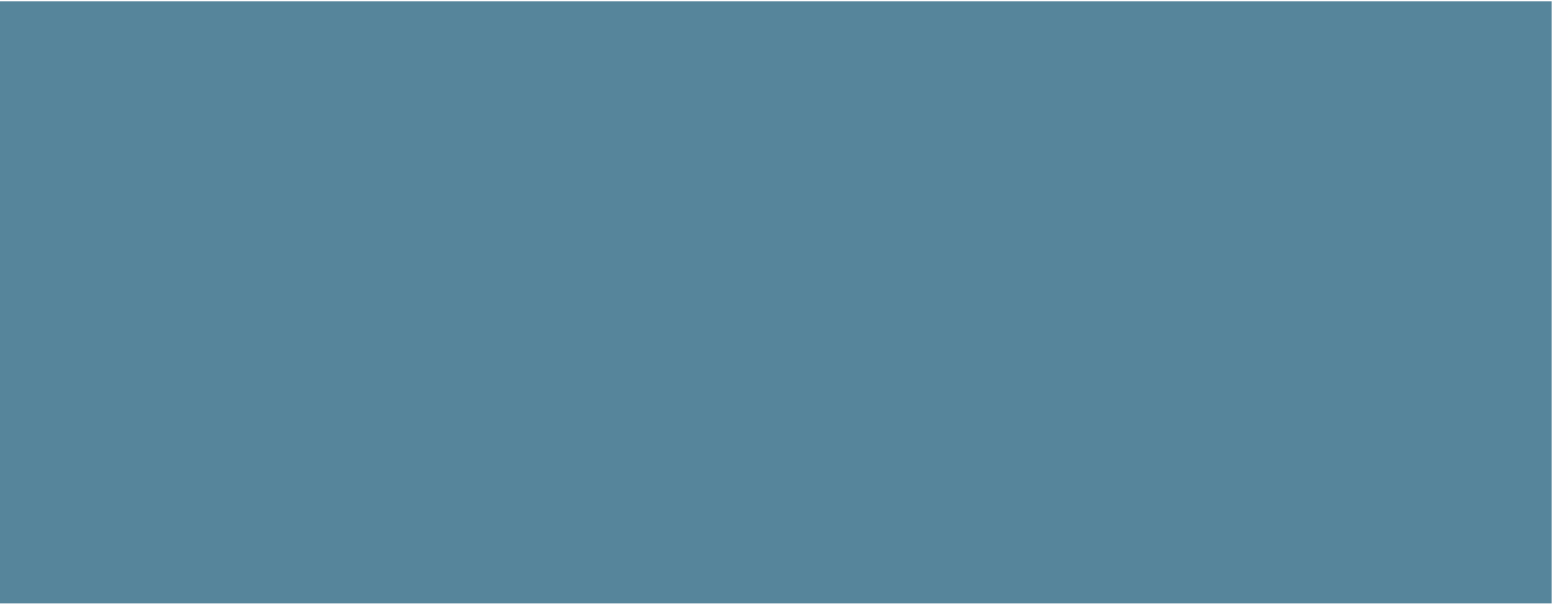
- 'It gives [young people] a chance to talk about their feelings and... a sense that **somebody is there for them**, that they have somebody to... talk to.' (Ellie)
- 'With mum or dad I want to make them both happy...so I change my own opinions but... if I wasn't personally telling them then **I could actually say what I meant.**' (Jonny)
- 'It opened me a lot more and made me a lot more confident to speak to my [parents] about things, which just made a lot of stuff much, much easier **and took a lot of stress off my chest.**' (Alfie)

THE IMPACT OF CONSULTING A CHILD

Feeling
heard is
cathartic

‘I think it helps [young people] in that... they have got a voice and they are being respected... somebody has heard them... I also feel like **it's actually quite cathartic** for children to be able to kind of explain what's going on to someone and someone to listen to them.’

(Anna, young person who had experienced CIM)



PARENTAL SEPARATION AND RELATIONSHIP EDUCATION IN SCHOOLS



PARENTAL SEPARATION AND PSHE

We learn
about
uncommon
things

‘We learn about more uncommon things that don't apply to everyone in PSHE whereas [parental separation is] so, so common, and I don't think it would be odd to talk about it to everyone... there's stuff like teen pregnancies and stuff like that, and the chance of that is only one or two that happen in your school.’

(Amara, FJYPB focus group)

UNIVERSITY OF EXETER nyas national youth advocacy service naccc

IS YOUR FAMILY CHANGING?

Lots of young people's parents separate each year. If your family is changing THIS might help you...

It's normal to feel sad, confused or angry if your parents separate. Talking to someone about how you are feeling can really help. Your family, friends or a teacher can help you.



Under the United Nations Convention on the Rights of the Child (UNCRC) **YOU HAVE THE RIGHT** to information and support to help you, and to say what you would like to happen if your parents go to mediation or court.



Sometimes parents don't agree, and the grown-ups must listen to and take children's views seriously when deciding arrangements for them.

CONTACT CENTRE



Not all parents go to court but if yours do, you will not need to go. Someone will ask you what you want and tell the judge. The judge will take your views into account. You can even have someone to speak on your behalf in court if needed.



<https://nyas.net>
 NYAS FREE HELPLINE: 0808 8081001
 help@nyas.net

PSHE Association Quality Assured Resource

<https://www.naccc.org.uk>
 NACCC HELPLINE: 01159 484557
 contact@naccc.org.uk

PSHE Association approved lesson plans for primary and secondary schools:

The Rights Idea?

and

Rosie's Story

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PARENTS SEPARATING? THE RIGHTS IDEA?

Lots of young people's parents separate each year. If your family is changing here's what might help you.

YOU HAVE THE RIGHT TO GIVE YOUR OPINION AND FOR ADULTS TO LISTEN AND TAKE IT SERIOUSLY.

Article 12 of the United Nations Convention on the Rights of the Child (UNCRC) says that even though the adults make the decisions...



INFORMATION

The National Youth Advocacy Service (NYAS) and the National Association of Child Contact Centres (NACCC) have information and support for young people whose parents have separated.

CONTACT CENTRE



YOU HAVE THE RIGHT TO INFORMATION WHEN YOUR PARENTS SEPARATE.



CONSULTATION

YOU HAVE THE RIGHT TO BE CONSULTED ON ARRANGEMENTS FOR YOUR CARE IF YOUR PARENTS GO TO MEDIATION OR COURT.



REPRESENTATION

Very few cases end up in court, but if your parents go to court, the professionals will ask you for your opinions and you have the right to be represented in court if necessary.



NYAS.net
 NYAS free helpline
 0808 8081001
 help@nyas.net

PSHE Association Quality Assured Resource

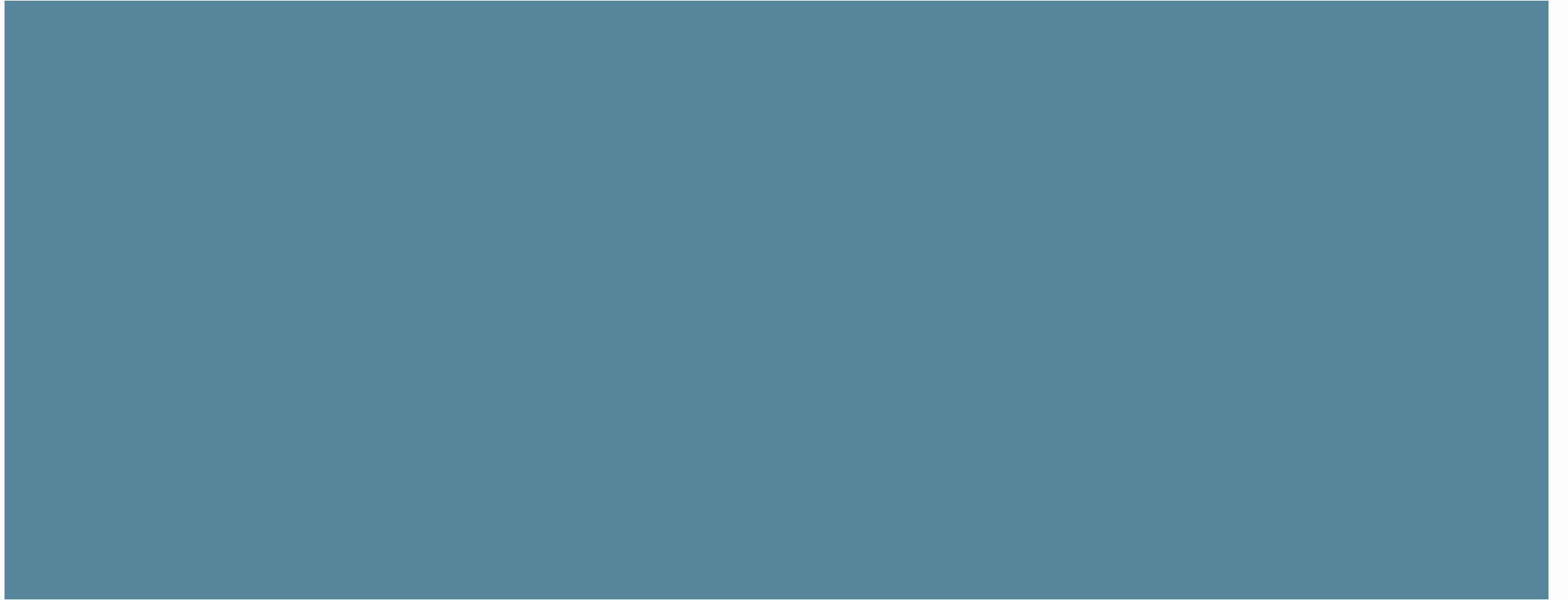
NACCC.org.uk
 NACCC helpline
 01159 484557
 contact@naccc.org.uk

Tom's Story: <https://bit.ly/TomsStoryCIM>



CONCLUSIONS

- Young people's Article 12 UNCRC rights to be heard are not routinely upheld
- Including rights on parental separation within RE teaching, and giving a voice to children in CIM, coincides with the evidence from the interviews and wider focus groups and would go some way to upholding young people's UNCRC rights
- The FMC and its mediators should reframe the offer of CIM within a rights framework – a Code of Practice for CIM is a necessary first step with consequential changes needed to the Terms of Engagement and Memorandum of Understanding.



ANY QUESTIONS?

