

PRACTICE INSIGHTS

Valuing Children's Voice After Separation

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Introduction

'There can be no keener revelation of a society's soul than the way in which it treats its children.'
Nelson Mandela, Former President of South Africa

Parental separation and divorce are significant life events that can deeply impact children's wellbeing and development. Over time, processes and practices have been adopted by the family law sector to protect children, many with the goal of shielding children from the damaging effects of relationship breakdown. However, sometimes the desire to protect or shield children has resulted in silencing them. What we do not realise is that by ignoring children's voices, the damage is already done.

This paper describes how Penguin Parent Education Network gives children a voice within the context of its Children's Contact Service (CCS)¹, using trauma-informed practices that aim to reduce children's anxiety.

These practices are delivered via a child-centred 4-step process that focuses on valuing their voices and minimising trauma and anxiety surrounding a contact visit. Children often arrive at contact centres feeling disempowered, and untrusting of any adults (including Penguin supervisors) who are involved in their parents' family law matter, which can lead to a high level of anxiety. The Penguin Method addresses these presenting issues with the ultimate aim of reducing anxiety in the children prior to their first contact visit. This in turn reduces the parents' anxiety, thus setting all up for a confident and successful visit.

Over a period of 9 months, 21 families and 34 children participated in orientation that included the Penguin Method prior to starting contact visits. Penguin found that by following this process, children self-reported a significant reduction in anxiety from pre- to post-orientation. By following the Penguin Method we are setting the children up for success, setting the visit up for success and supporting both parents and children on their journey.

¹ Children's Contact Services provide a safe environment for children to have contact with parents and other family members that they do not live with.

About Penguin

During my 26 years as an educator both in early childhood settings and schools, I saw my share of the impact of separation and divorce on children. When I moved to the Human Services setting in 2023, I assumed that my role would be principally supporting parents through the separation and divorce process and helping them to navigate co-parenting. I also assumed that my clients' children would be mainly those in early childhood (under 8 years of age).

Penguin Parent Education Network supports parents with education and resources to help them be the best parents they can be regardless of the circumstances. Located at Southport on the Gold Coast, children and their parents can visit together in a safe and supported environment. Being close to the Broadwater Parklands lends itself to a variety of excursions that can take place during supported visits once trust is established. A strengths-based approach at Penguin aims to upskill parents to assist them in achieving their goals. While all aspects of parenting are supported, it is Penguin's services for parents and children of separated families that are most highly sought after. Practitioners from the family law sector frequently refer clients to Penguin as a CCS, however any families in need of support are welcome to use the service. A demand for services that supported parents or children with additional needs saw Penguin complete a NDIS Provider Application in 2023 and they are awaiting certification. This was a natural fit with a strong background of educating and caring for children with additional needs. Penguin looks forward to introducing a range of activities such as sensory playgroups, to support parents and children with additional needs.

While I was new to Human Services and the Family Law Sector, I was not new to children and the consequences of failing to support them to have a sense of agency. A sense of agency is the ability to make choices and decisions, to influence events and to have an impact on one's world (Hilppö et al., 2016). The United Nations Convention on the Rights of the Child (CRC) states that all children have a right to be active participants in all matters affecting their lives (United Nations Convention on the Rights of the Child, 1989). Supporting children's agency is about providing an environment that enables them to have a voice and recognising that children have a right to make choices and decisions.

Following yet another encounter with a tween-aged ball of anger who felt unheard and lacking in control, I discovered that it was the children who needed my support. By helping them – and importantly, by giving them a voice through the Penguin method discussed below – I was able to then help their parents and reduce some of the impact of separation and divorce. Setting the child up for success helped to set the parents up for success, which resulted in better relationship building between parent and child.

Where are the Rights of the Child?

There is a tension between protecting children from harm and ensuring their voices are heard in family law proceedings in Australia. There is an 'ingrained dichotomy between protection and participation' (Dimopolous, 2023, p.89). This is despite the Conventions on the Rights of the Child (CRC) outlining the rights of children to participate in decisions that affect them (CRC, 1989). For many years, concerns have been raised that judges are not fully considering children's rights when making decisions about parenting arrangements (Australian Child Rights Taskforce, 2011; Kaspiw et al., 2014). The research suggests that while there are legitimate concerns about child wellbeing, safety, and the potential for parental manipulation, children should have a meaningful voice in decisions about their lives (Dimopolous, 2023; Carson et al., 2018).

Overall, this research highlights the need to find a balance between protecting children and respecting their right to participate in decisions that affect them. The research further supports a child-inclusive approach, which gives children 'a bigger voice, more of the time' (Carson, 2018, p. ix).

Characteristics of an inclusive approach identified by children in the above research include professionals:

- providing space to speak and more effective listening to their views and experiences
- taking steps to build trust with the children and young people with whom they interact (including via qualities such as patience, empathy and respect)
- being more mindful of children and young people's needs
- engaging in open communication by providing more information relevant to the decision-making process in children and young people's cases
- acting protectively and addressing and responding to children and young people's concerns
- keeping children and young people informed about issues affecting them.

Penguin has embedded these characteristics in its child inclusive approach.

Setting Up for Success: The Penguin Method

To implement a genuinely child-inclusive approach, it is paramount that services accord children due value and recognition. At Penguin, this ethos is epitomised through the adoption of a strengths-based perspective. Children undergoing the experiences of

separation and divorce are inherently vulnerable. Nonetheless, it is imperative to afford them a sense of agency, acknowledging their capacity as conscious and competent decision-makers. Within the framework of Penguin's approach, children are central. The realm of separation and divorce presents formidable challenges for children, often leaving them feeling unheard and devoid of control, as evidenced by their expressions during orientation visits. Integrating a framework that combines agency with a trauma-informed approach to service provision holds promise in mitigating the adverse impacts of stress and anxiety experienced by children in such circumstances. At Penguin this is considered in the following areas:

Environment – a sense of calm is created by providing a setting that has trauma-informed design. This involves soft furnishings, curved edges, lack of clutter, warmth and homeliness, a sense of familiarity, light (preferably a good amount of natural light), and the ability for service users to immerse themselves in, or connect with, nature such as a garden or outdoor play area. Nature play is vital as it allows the child to remain connected to their parent while having the ability to control the level of space between them. It can also help children develop resilience and support them in coping with the uncertainty and stress of family breakdown (Faber & Wittenborn, 2010).

Intake – each parent is required to participate in a separate intake process involving the completion of an intake form for themselves and each child. This provides Penguin with a comprehensive picture of the child, their likes and dislikes, their current routine and their relationship with each parent. Following this, parents are required to attend the centre for an interview. This is an integral part of the process as there are many preconceived ideas that parents have about contact centres – for example, that they are going to be like a jail with closed-in spaces and intense scrutiny. Visiting the centre and participating in the intake process where connections are made, concerns can be shared, and plans are put in place helps ensure the parent is ready to attend the visit confidently. Children are extremely perceptive and will pick up on a parent's anxiety, which can jeopardise the success of the visit. Consistency breeds calm. The younger the child, the more important it is that the visiting parent brings all the care items that the child needs and is used to, right down to the brand and type of nappies, sippy cup, and food. Penguin staff communicate this shopping list to the visiting parent well before the visit.

Orientation – the final step is for the child to have an orientation visit to the centre. The residential parent brings the child to visit and build an initial rapport with the supervisor. The children will learn where the bathroom is, what resources are available and where they are located, so they can confidently select activities to play with. From the outset, children are told that the 'kids rule' at Penguin. The goal is wherever possible to give them choice and a sense of agency.

The relevance of choice theory to the condition of children of separated parents is supported by research on childhood attachment. This research suggests unexpected separation or disconnection from loved ones can cause emotional distress for children and exacerbate dissatisfaction and unfulfilled needs (Edwards, 2009; Belsky & Pasco Fearon, 2002). In 1998, Glasser proposed that people's feelings (and physiological responses like fear and shaking) play a significant role in how they choose to behave to establish control over their environment (Johnson, 1989). Choice Theory may be seen as an empowering (strength-based) philosophy as it is the individual alone who may create the world they desire (Walter et al., 2008). It also acknowledges the significant power of the need for belonging. Children from separated parents may feel unwanted and a lack of belonging (Faber & Wittenborn, 2010).

Experiencing belonging is integral to human existence and helps define children's identities. It is a basic human need. As children, we all have an innate desire to form and maintain secure relationships with others through play, friendship, and the support of family members. Belonging develops a child's ability to build trust and confidence in others. When children feel that they belong, they are better able to:

- cultivate trusting relationships
- manage their emotions in healthy and adaptive ways
- know that they are important and valuable
- feel safe and secure
- feel confident and valued in their own identity
- understand that there are other children, adults and community members that care about them and are there for them when they need support (Department of Education, 2022).

Penguin supports a sense of belonging via their Penguin Plateau (belonging board). Children can choose whether they would like to create a fingerprint penguin on the board with their parent. They can personalise them and select a fictional name if they wish. Many allied practitioners who have visited Penguin have created a penguin on the plateau, demonstrating to children and parents that there is a supportive team around them.

The Penguin Method – 4 Steps

During orientation, where children have the capacity, they take part in a floor activity that helps them identify factors concerning their visit to Penguin that are out of their control and those they can control. Penguin has been achieving success by using this method for nearly 12 months. Children are invited to contribute with markers on a large sheet of paper so they can co-construct the plan for their impending visit.

1. **Out of their control** (we call these non-negotiables) – for example, court-ordered items, the time, day, and duration they must see their non-residential parent, and how their parent will respond to them.
2. **In their control** – for example, what they play with, how long they play with a resource, where their parent should sit at the table, deciding whether to have a good day (how they show up on the day – think mindset), what their supervised parent should bring for them to eat within our healthy food policy, when they will eat, if they wish to take artwork home or give it to their parent or place it in the Penguin Art Gallery.

By clearly and visually identifying these factors, a child's sense of agency is strengthened. It also outlines from the outset the non-negotiables. Clarity brings calm. Once a rapport has been established and a level of trust built, the 'Worst Thing That Can Happen' game is played.

3. **The Worst Thing That Can Happen Game** – The child identifies the worst thing they believe could happen during a visit. This allows them to identify and articulate the main source of their anxiety. Once mentioned it can be managed. When parents are asked independently what concerns they think their children will raise, they often identify a parent absconding with the child, physical, verbal or emotional abuse or intimidation. However, the issues the children raise are quite different. They can include my parent will hug me, my parent will call me a nickname I don't like, my parent will talk about my other parent. These issues can be easy to manage, by discussing them with the parent before their first visit. These responses are another sign of children grasping for things they can control. Many of the items raised are then listed in their no-go topics (see step 4 below) or are covered within a safety plan. The safety plan ensures the children feel physically and emotionally safe. It may involve discussing the Penguin centre service agreement that parents and children adhere to and provisions that include not talking about the other parent's family, being respectful to each other including supervisors, or showing children where cameras are and reassuring them that parents agree that a supervisor will be with the children at all times. The children are also

introduced to the code phrase 'Can I have a Penguin biscuit?' Each supervisor carries a Penguin biscuit in case there is a need for a child to access time out, reassurance or just to talk.

4. **No-go topics/actions** – Lastly, the children are encouraged to raise any topics or actions they do not want their supervised parent to broach or do. The Penguin service agreement requires parents to avoid discussing the other parent or 'adult' topics to do with the separation. We talk about remaining in the here and now, and not discussing uncertainties. The aim is to have fun and remain safe. Some children identify things that are painful for them such as past experiences. These are never questioned as to why but are always respected, further fostering a sense of agency. Examples of 'no-go' topics include the high school they are going to next year, their old pets, their mum's boyfriend, use of their nickname, etc. It is discussed with the children that these things can change over time. These may be their rules for now, but often, down the track, they bring up things when they are ready, and they know the supervisor is there to support them. When we are in the precariousness of the relationship rebuilding phase, this approach has been found to greatly reduce their anxiety and give children back some sense of control (sense of agency). The relevant information can then be relayed to the supervised parent, so they know what to avoid, what to bring and how to help set the visit up for success. Respecting their child helps to re-build trust.

Outcomes of the Penguin Method

In the past 9 months, Penguin has completed this process with 21 families and 34 children ranging in age from 6-15. Penguin found that on average, children self-reported a reduction in anxiety from a rating of 9 or 10 out of a possible 10 before orientation (with 10 being extremely anxious), to 6 or 7 post orientation. Self-rating was then followed by a discussion with children about how it is natural to be anxious, especially before the first visit and even their parents may be anxious because they are all new to Penguin.

Quotes from parents following orientation (names withheld for privacy reasons):

'Thank you for having us for orientation, prior to coming to Penguin I had 2 panic attacks so it is certainly reassuring now to know the children are comfortable', Parent A.

'I could see from Orientation you had <my child's> best interests at heart. I held off contact centres thinking they were awful and not something I wanted to subject <my child> to when in reality what a fun way to enable safe relationship building', Parent B.

Quotes from Children following orientation (names withheld for privacy reasons):

'I am still nervous but now know Miss Lucy is there if I need', Child A, 9 yrs.

'I was 100 but now I am negative 10', Child B, 13 yrs.

'I like that kids rule at Penguin, I am sick of people telling me where to go and what to do', Child C, 12 yrs.

'It's good that Mum is not going to try to hug me or ask me what high school I am going to next year', Child D, 11 yrs.

Early outcomes indicate that by following the Penguin Method we are setting the children up for success, setting the visit up for success and supporting both parents and children on their journey.

Lessons learnt

Several lessons were learnt along this journey. Firstly, there is a lower age limit to successful implementation of the Penguin Method than we originally anticipated. While it does depend on the developmental age of the child as well as their capacity to engage with the process, we found that typically developing children were able to participate from around 6 years of age.

Secondly, younger children in orientation are often excited and over-stimulated by the range and quantity of resources. It is still important to check in with these children, however, this is best done while the child is engaged in play and/or the supervisor is also playing parallel with the child. For example, we have taken 'butchers' paper outside with active children and completed the columns while they were swinging on the swing. We can also talk about a funny feeling in our tummy sometimes and how we can help. The danger is that you can create anxiety, where it did not previously exist, by asking too many questions or suggesting things they may be worried about, especially if the child does not have the emotional maturity to process this. It is important that the children understand the basics, the supervisor's role (to help them have fun and keep safe), that they are going to come back and play at Penguin and that their parent will be there.

Thirdly, it is important to ask the child if they prefer to have their residential parent there while we complete the paper exercise or not. One 12-year-old preferred Dad not to be in the room because she knew he worried about her, and she didn't want him to be reminded of the other parent's past behaviour that was causing her anxiety.

Fourthly, extra attention also needed to be given to children with additional needs. While their developmental and socio-emotional age and stage are important, they often needed other adjustments

such as a column for "when I need time out I..." or "you can tell when I need time out because I..." or "you can help me when I feel overwhelmed by...".

Some children take a while to process this activity and may have things they want to add at home, or they may be too shy to contribute at the time. We offer to the child to take their worksheet home and their parent can text us if their child updates it. We also take a photo of it for our reference which is stored on the family record to ensure any supervisors that support the family are aware and maintain a high level of consistency.

Conclusion

Parental separation and divorce can undoubtedly be distressing for children. Effective support interventions should be trauma-informed and child inclusive to mitigate the long-term impact on children's wellbeing and development. At Penguin, we see the Penguin Method as an effective approach to enabling the child agency and reducing the child's anxiety. We hope that in the future the broader family law system better upholds the rights of children through child inclusive practices. Our little people are amazing, they are tolerant, compassionate, and understanding when they are given the grace to be heard. When they are given a sense of agency, we can reduce the negative impact of divorce and separation.

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