



FAMILY GROUP DECISION MAKING IN SCOTLAND



“The social worker has stepped back now that we have our family plan. It’s a good thing, it means she trusts us to get on with it.”

PARENT*

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A letter from a family
to decision makers

Dear key decision makers and people in power,

Our family's experience of family group decision making (FGDM) was wonderful. It took a lot of the grey away during a hard time for our family. The workers were nothing but respectful of our children, us and our extended family who were all part of the FGDM process.

FGDM made a difference to our family because we made a plan with all the bottom lines met, which meant for us there was no doubt, we had confidence in our plan, which took away a lot of the unknown from the situation we were in.

The plan made with the help of FGDM was solid. All black and white, no grey areas. This was important to us as a family, because everyone in the extended family was included and we all knew what was possible, what each person offered and our contingency plans. We all had a say and were included which made everyone feel secure in our family's plan. Our three year old was even included, he was asked his opinion and was a part of the process which made him feel included in the family plan, which he loved because he wasn't watching things unfold but being part of it.

We would like this to be available to other families in future because FGDM became involved due to an obvious tough time for our family, not just our children. Through FGDM we had lots of helpful information, resources and our whole extended family (a large family) were really listened to and we got help to create the best possible plan.

We cannot thank Children First enough for the support they gave us and continue to give us. The biggest was allowing us to feel confident in our plan and the general approach of FGDM. Our workers were strangers to our family and it's a scary concept bringing in an outside party to help our family, which turned out not scary at all. We are very grateful for them being available to our family at a time when we needed this support the most to keep our family together with a solid plan.

From,
a family with recent experience of FGDM

INTRODUCTION

This report sets out a summary of findings based on research undertaken by Children First, supported by the Promise Partnership, Keep the Promise Fund, on the background, current practice and options for future development of family group decision making (FGDM) in Scotland.

FGDM¹ is a decision-making model, otherwise known as family group conferencing (FGC). It is designed to empower children and families, help them share their views and play an active part in decisions that affect them. It is a distinct approach, as set out in the National Standards and Practice Guidance.² FGDM is made unique by elements such as an independent coordinator, a preparation phase in which the views of each person involved are gathered and shared and private family time, which are essential to its effectiveness.

FGDM has been available in Scotland for more than twenty years and involves in-depth work with children and their network of family and friends, to understand their experience, identify what needs to be addressed and while the child's safety is the paramount consideration, find solutions to take forward through what's known as a "family plan" which will be agreed by the family network and social work.

Children should be able to grow up feeling safe, loved and happy. Many families can experience challenging times and those that love and care for children should be at the very heart of decision making for their care and protection.

However, decision making processes around children and young people's wellbeing are difficult to get right. When questions of care, protection and potential interventions are involved, they can involve high levels of emotion and stress, while also feeling complicated, bureaucratic and risk averse when they are driven more by processes than by people. In amongst all of this, the voices of children and families can be lost and opportunities to stay together can be missed.

This was recognised when Scotland's Independent Care Review, known as the Promise, was published in 2020. The Promise said that:

“The Care Review has heard stories where a powerful voice from a range of professional backgrounds has dominated, crowding out of the voices of children and alternative perspectives, leading to decisions that have not been in the best interests of the child. Scotland must challenge power dynamics within all decision-making processes to achieve a balance which ensures all decisions taken are in the best interests of the child.”³

¹ Mitchell (2018), Reimagining Family Group Conferencing 'outcomes'; CELCIS (2023), Children's Services Reform Research: The views and Experiences of the children's Services Workforce.; Taylor et al. (2023), Randomised controlled trial of Family Group Conferencing at Pre-proceedings stage.

² These Standards were developed in partnership by the National FGDM Steering Group and published in 2023: Family Group Decision Making (FGDM) Scotland.

³ Independent Care Review (2020), The Promise, p. 14.

The Independent Care Review also said it “heard from care experienced young adults where kinship opportunities were missed because of lack of exploration of available family willing to care.”⁴ Recent research into the children’s hearing system asked “whether opportunities were missed to enable them (families) to stay together after the child had been born”⁵.

FGDM works to uncover strengths and build resilience in the family network, helping families to communicate, resolve conflict and work together to keep children safe. Importantly, it holds children and families’ voices at the centre and empowers them to play an active role in decision-making that affects them. Evidence has shown that FGDM leads to a statistically significant reduction in children becoming ‘looked after’ when offered before court proceedings.⁶

Children First have delivered and advocated for FGDM since first practicing it in Scotland in the late 1990s. Now, Scotland has a collaborative community of practice, including a National Steering Group that plays a central role in supporting practice development. While progress has been made, as an organisation working directly with families, Children First have seen firsthand that gaps in national policy and inconsistent funding have led to missed opportunities for children and families depending on where they are in Scotland.

FGDM is now in around two thirds of local authority areas. There is a significant commitment from practitioners and some areas, where FGDM has been practised for many years, have shown profound impacts for children and young people. In spite of this, FGDM does not have a secure or stable place in policy and is not practised consistently nationally. There is a lack of clarity about the legal entitlement children currently have to FGDM and how it should synchronise alongside other child protection processes, such as children’s hearings which continue to be a key decision-making forum for children and young people’s care and protection.

This report considers the legal, policy and practice context of FGDM, seeking to understand its past and present to better inform how it might be improved in the future.

In chapter one, the origins of family group conferencing, as FGDM is known internationally, are outlined alongside the background to Scotland’s children’s hearing system. This chapter also sets out how FGDM, as it is now known in Scotland, came to be included in Scotland’s law and what this means in practice.

Chapter two sets out findings from an online survey that was shared amongst Scottish FGDM and children’s care and protection networks during summer 2024. The survey aimed to gather the views and experiences from colleagues across the country, investigate current FGDM provision and understand more about where it is available and where it is not, to what extent it is available (and the reasons for this) as well as the strengths and challenges of current approaches.

⁴ Independent Care Review, (2020) The Promise, P74.

⁵ Cusworth et al. (2022) Born into care in Scotland: Circumstances, recurrence and pathways (www.gov.scot).

⁶ Taylor et al. (2023), Randomised controlled trial of Family Group Conferencing at Pre-proceedings stage, p. 44.

Finally, chapter three looks beyond Scotland to gather learning from other countries and options for incorporating this model into care and protection frameworks, to better understand steps that might be taken moving forward for the future of FGDM in Scotland.

This report was produced by Children First, in partnership with the Promise Scotland and a range of key leaders in the wider FGDM community including the National FGDM Steering Group, the Scottish Children's Reporter Administration, Children's Hearings Scotland, the Scottish Government and international experts, including Paul Nixon and the European FGC Network.



**As well as sharing quotes from respondents to the research, this report includes quotes from children, young people and families with experience of FGDM. These have been gathered by Children First FGDM coordinators through the course of their work.*

Family group decision making in Scotland

SUMMARY OF KEY FINDINGS

**“If this had been
around sooner, we
might never have
got to crisis”**

Parent*

FGDM IN SCOTLAND

WHERE DID WE COME FROM?

- In principle FGDM and children's hearings should have a deep compatibility in terms of shared purpose and values. While they developed separately, the origins of FGDM resonate with the children's hearings system and the findings of the Promise. Each respectively had a strong focus on empowering families to support children's best interests, strengthening the opportunities for children to live happily and healthily without the need for intervention.
- The legislative and policy framework in relation to FGDM creates responsibilities for local authorities to offer FGDM services. However, the journey to legislation was relatively complicated and may have lacked impetus on implementation.
- On the basis of Part 12 of the Children and Young People (Scotland) Act 2014, FGDM should be available in all local authority areas however, there are "hurdles" to children and families' entitlement to this service and a lack of ways to "enforce" the requirement where it is not on offer. The existing legislative basis for FGDM means there is a foundation to work from but there is a clear legislative weakness and room for improvement in terms of clarity, specificity, profiling and resourcing.
- FGDM helps public authorities to demonstrate that they have taken steps to respect, protect and fulfil rights obligations under the European Convention on Human Rights and the United Nations Convention on the Rights of the Child.



WHERE ARE WE NOW?

- FGDM is not consistently available across Scotland, despite having existed in some form for more than 25 years. Only two thirds of local authorities currently have services available and many of these offers are limited, which creates unequal opportunities for children and families. There are strong examples where FGDM has been embedded for a number of years and delivered powerful outcomes, but many services are relatively new with a handful of coordinators in place, reflecting vulnerability in current provision.
- The number of families FGDM services are working with varies significantly, with most services taking referrals from social work.
- FGDM services offer a real flexibility working at a range of referral points, including early intervention and post care, with children of all ages including pre-birth work with parents.
- There is a limited amount of information for practitioners and for families about FGDM.
- Survey respondents indicated a level of buy-in and commitment to the principles of FGDM by placing value on voice and restorative approaches. They also recognised clear practical drivers for FGDM, for example reducing the number of children being accommodated.
- From practitioners' perspectives, FGDM offers families real benefit, in particular helping families to feel empowered and have their voices heard. The "distinctness" of the model, and the "independence" of the coordinator help the experience feel meaningfully different to other child protection processes.
- The strong presence of the third sector in delivering FGDM services can help families who feel a distrust towards statutory services engage with the model.
- In areas where FGDM is currently practised, there was a firm view that it helps keep children safe, happy and well and that it could help improve outcomes for children and families. FGDM is clearly valued for its ability to help children effectively share their views and empower families.
- Resources in terms of funding and staff are clear challenges. However, cultural and systemic challenges are also evident, that could be the result of the lack of a clear and secure place within the wider system. This creates challenges for practitioners with confusion around what FGDM is, why it should be considered and when it should be used.
- In areas where FGDM is not currently on offer the perceived strengths of the model are about improving relationships between families and workers, with professionals placing less emphasis on the benefits for children and families' voices.
- Resource is consistently recognised as the primary challenge to offering FGDM.
- FGDM is not yet being consistently prioritised within strategic planning across children's services.

WHERE TO NEXT?

- The mandate for mainstreaming of FGDM within a country can take up to three different forms legislation, procedure and good practice.
- Analysis of the extent of FGDM in other countries suggests that where there is a stronger level of mandate for FGDM, through clearly defined legislation, this generally leads to a higher level of provision.
- Where the mandate for FGDM is rooted in good practice “there is no appeal against a failure to apply the principles in day-to-day practice.” This means there is a lower level of impetus for FGDM and appears to result in a lower level of provision of services.
- New Zealand clearly has the strongest mandate in favour of FGDM and as a result has a high level of consistent use.
- Where other countries have taken different approaches to legislation, there is generally a high degree of clarity about when and how FGDM is to be used. As examples such as Australia and the Republic of Ireland suggest, placing FGDM within legislation strengthens the position of FGDM within children’s care and protection systems.
- The 2014 Act suggests that Scotland has a legislative mandate for FGDM, but the issues highlighted by a legal opinion, relating to lack of enforcement and accountability mechanisms, suggest that the mandate for FGDM in Scotland arises from good practice. This type of mandate results in the lowest level of impetus for FGDM and the most vulnerability of service provision.
- There are opportunities to move forward with FGDM through guidance, local direction and legislation. Regions or local authorities with a procedural mandate can often be effective within the area concerned however, a lack of national mandate can have limitations on the impact beyond the region.
- FGDM's existing place in Scots law and policy mean that steps can be taken quickly to grow the beneficial impact, but it needs a clear and certain place in legislation and policy, so children facing life changing decisions have the best opportunity to ensure their families and communities are involved.

RECOMMENDATIONS:

- 1** **FGDM, in line with the National Standards, needs a clear and certain place in legislation and policy, so children facing life changing decisions have the best opportunity to ensure their families and communities are involved.** A clear legislative mandate should be pursued, which ensures FGDM is consistently offered to families before compulsory interventions like children's hearings. This should be supported by statutory guidance (which clearly sets out the core components in line with the National Standards and Practice Guidance).
- 2** **Opportunities to build on the existing work in areas where FGDM is already offered should be explored simultaneously, to support effective implementation.** Learning from children, families and professionals should be built into a national development plan. "Show and Tell" sites, that can help national learning should be established, so that services can better learn from one another.
- 3** **Steps should be taken to address the fact that one third of local authorities in Scotland do not offer FGDM, based on existing policy and legislation.** National and local government resources should prioritise ensuring FGDM services are available to families across Scotland when Children's Service Plans are updated, in 2025.
- 4** **A sustainable funding model or central fund for FGDM in Scotland should be put in place to support implementation of the recommendations above.** Regardless of whether they currently offer FGDM services, resource is consistently recognised as the primary challenge to offering FGDM by practitioners.

Chapter One

WHERE DID WE COME FROM?



1.1 COMMON ORIGINS

To understand FGDM in its Scottish context, it is helpful to look back to its origins in New Zealand and more specifically within the Māori community.

In 1985, New Zealand's Minister of Social Welfare commissioned a report on the Māori perspective on the Department of Social Welfare. The Pūao-te-Āta-tū, or Daybreak, report, published in September 1988, led to the Oranga Tamariki Act (or the Children and Young People's Wellbeing Act) 1989.⁸ This enshrined family group conferencing as the primary forum for decision-making around children's care and protection needs in New Zealand. To this day, it remains the key decision-making process around children's care and protection in New Zealand.

Before this, Scotland had its own radical overhaul of decision-making for children and young people's care and protection. The Kilbrandon Report, published in 1964, led to the Social Work (Scotland) Act 1968 which established new social work departments, followed by the implementation of the children's hearing system in 1971.⁹ This is Scotland's primary decision-making forum for children and young people. Now Scotland is considering its next overhaul, the Promise, based on Scotland's Independent Care Review, which is intended to lead to radical reform with an aspiration to 'Keep the Promise' by 2030. The Promise will include a review of current decision-making structures. This drew on the views and experiences of 5,500 babies, infants, young people and adults who called on leaders to make "a fundamental shift [...] in how decisions are made about children and families."¹⁰

The Kilbrandon, Daybreak and Promise reports were developed in response to a perceived crisis in children's experiences of care and protection and each proposed a set of radical reforms. Each report advocates for an approach that puts the child's needs at the centre and recognises the importance of family and community in addressing those needs. While Scotland's Kilbrandon report led to the children's hearing system, New Zealand's Daybreak report led to the development of family group conferencing. The full scale of reforms that will be sparked by the Promise are yet to be determined.

Understanding the common origins behind each of these respective systems may, however, help to understand how these decision-making models can work alongside each other.

“They asked what I thought about things, and I got to say that I wanted to spend more time with my wee brother.”

YOUNG PERSON*

⁸ New Zealand Māori Perspective Advisory Committee (1988), Pūao-te-Āta-tū.; Oranga Tamariki Act 1989.

⁹ HMSO (1964), The Kilbrandon Report.

¹⁰ Independent Care Review (2020), The Promise, p. 7.

IMPORTANCE OF FAMILY AND COMMUNITY

The Kilbrandon report speaks about “regarding the child as an individual within a system of family relationships in a particular context” and states that “the whole basis must be persuasive and co-operative”.¹¹ Sparked by particular concerns about “juvenile delinquency” as well as children in need of care and protection, the report said that “these problems must in our view be tackled at local level and must be clearly seen to be a local community responsibility.”¹²

The Daybreak report similarly recognised that: “The Māori child is not to be viewed in isolation, or even as part of nuclear family, but as a member of a wider kin group or hapu community”.¹³ The vision of collaboration and cooperation does not only include the immediate family network of parent and child, but also considers how this might extend to include the wider family network and community.

Family is one of the five “foundations” of the Promise and, like the Kilbrandon report before it, the Promise recognises the vital role families play in finding solutions for children and young people’s need for care and protection.¹⁴

EMPOWERMENT AND RESPECT FOR CHILDREN AND FAMILIES

The Promise says “The scaffolding of the system must shift from managing risks and needs to supporting families to find their own solutions”.¹⁵ The idea of “fundamentally shifting the power balance and treating children and families with respect, as equal and never “othering,”¹⁶ set out in the Promise, connects with a desire to rebalance the system in both Kilbrandon and Daybreak.

Kilbrandon discusses working with families rather than for them and “helping others to help themselves”.¹⁷ Children’s hearing measures are “not to supersede the natural beneficial influences of the home and the family, but wherever practicable to strengthen, support and supplement them in situations in which for whatever reason they have been weakened or have failed in their effect.”¹⁸ The recommendations are grounded in the concept of “social education”, so that “the individual parent and child can be assisted towards a fuller insight and understanding of their situation and problems and the means of solution which lie to their hands”.¹⁹ It goes on to say that: “The underlying aim of all such measures must always be, wherever possible, to strengthen and further those natural influences for good which will assist the child’s development into a mature and useful member of society. The most powerful and direct of these influences lies in the home.”²⁰

¹¹ HMSO (1964), The Kilbrandon Report, pp. 10-11.

¹² HMSO (1964), The Kilbrandon Report, p. 85.

¹³ New Zealand Māori Perspective Advisory Committee (1988), Pūao-te-Āta-tū, p. 29.

¹⁴ Independent Care Review (2020), The Promise, p. 9.

¹⁵ Independent Care Review (2020), The Promise, p. 55.

¹⁶ Independent Care Review (2020), The Promise, p. 103.

¹⁷ HMSO (1964), The Kilbrandon Report, p. 32.

¹⁸ HMSO (1964), The Kilbrandon Report, p. 14.

¹⁹ HMSO (1964), The Kilbrandon Report, p. 14.

²⁰ HMSO (1964), The Kilbrandon Report, p. 9.

The context of the Daybreak report, which named historic and institutional racism as driving factors behind inequalities experienced by the Maori people, sets the scene for the drive towards a new way of working through empowerment, as opposed to by force. It says that: “The history of New Zealand since colonisation has been the history of institutional decisions being made for, rather than by, Maori people.”²¹ This leads to the conclusion that: “The solutions to social problems lie in a co-ordinated attack on the problems, involving the resources of the private sector as well as the public and particularly of the people themselves.”²² There is also recognition that just as children cannot be understood outwith the context of their families, communities must be understood in their national setting. The Daybreak report says that:

“The Committee believes strongly that problems in the community must be addressed by the whole community. However, Government must provide the leadership and expertise to co-ordinate resources for the community. It is not enough for departments and agencies to meet around conference tables.”²³

The theme of family and community empowerment does not undermine the focus on the child’s needs. The Kilbrandon Report is clear that the needs of the child are the primary consideration.²⁴ Legislation predating Daybreak also confirms this position in New Zealand and the report helpfully clarifies:

“The guiding principle in the current legislation is that the welfare of the child shall be regarded as the first and paramount consideration. There need be no inherent conflict between that and the customary preference for the maintenance of children within the hapu.”²⁵

This speaks to the habit and practice of seeing families and communities in conflict with children’s needs and rights, by emphasising risk and overlooking strengths.

Key Finding

In principle FGDM and children’s hearings should have a deep compatibility in terms of shared purpose and values. While they developed separately, the origins of FGDM resonate with the children’s hearings system and the findings of the Promise. Each respectively had a strong focus on empowering families to support children’s best interests, strengthening the opportunities for children to live happily and healthily without the need for intervention.

²¹ New Zealand Māori Perspective Advisory Committee (1988), Pūao-te-Āta-tū, p. 18.

²² New Zealand Māori Perspective Advisory Committee (1988), Pūao-te-Āta-tū, p. 44.

²³ New Zealand Māori Perspective Advisory Committee (1988), Pūao-te-Āta-tū, p. 29.

²⁴ HMSO (1964), The Kilbrandon Report, p. 28.

²⁵ New Zealand Māori Perspective Advisory Committee (1988), Pūao-te-Āta-tū, p. 29.

1.2 FGDM IN SCOTLAND'S LAW AND POLICY

While children's hearings are the primary decision-making forum in Scotland for children in need of compulsory interventions by the state,²⁶ FGDM does also have a place in Scotland's law and policy as it stands.

Scotland's care and protection system rests on a number of different laws. It has been recognised that the layers of legislation create a level of complexity and can cause confusion.²⁷ This includes the Children (Scotland) Act 1995, which says that a child's welfare must be the paramount consideration and sets out a "no order" principle of minimum intervention, so that interventions are proportionate, justified and do not go beyond what is necessary.²⁸ This is supported by the overarching "Getting it Right for Every Child" framework, which is the national approach to supporting children and young people.²⁹

The legislation relating to FGDM came through a debate about the provision of early help and support for families when the Children and Young People (Scotland) Act 2014 passed through parliament.

The original draft referred to an offer of "counselling services". The Education and Culture Committee, who examined the Bill, pointed out in their Stage 1 report that there was "minimal detail", but after questioning it was understood that the counselling services would act as "an early and effective intervention to support parents".³⁰

While the intention was to provide early intervention services, the wording was changed to "relevant services" at Stage 2 with the option for later clarification through secondary legislation.³¹

Part 12 of the Children and Young People (Scotland) Act 2014 provides that "a local authority must make arrangements to secure that relevant services, as described by the Scottish Ministers, by order, are made available for each eligible child residing in its area..."³²



²⁶ It should be noted that some decisions about children's care and protection remain in civil law court proceedings, and do not proceed without recourse to children's hearings.

²⁷ Independent Care Review (2020), The Promise, p. 24.

²⁸ Children (Scotland) Act 1995.

²⁹ Scottish Government, Getting it Right for Every Child.

³⁰ Scottish Parliament, Education and Culture Committee (2013), Stage 1 Report on the Children and Young People (Scotland)

³¹ Scottish Parliament, Education and Culture Committee (2014), Children and Young People (Scotland) Bill: Stage 2 meeting note.

³² Children and Young People (Scotland) Act 2014, Part 12.

When the secondary legislation followed, the policy memorandum attached stated that:

“The policy objective behind this instrument and Part 12 of the 2014 Act is to ensure that families in the early stages of distress who seek help are provided with appropriate forms of support to address preventable reception of children into care by introducing a legal underpinning to early intervention. This will be available in circumstances where a child is considered to be at risk of becoming looked after and is intended to act as an early and effective support mechanism.”³³

An “eligible child” is defined as a child who the “local authority considers to be at risk of becoming looked after” or as Scottish Ministers specify. Secondary legislation later described “relevant services” as “family group decision-making services and support services in relation to parenting.”³⁴

This was followed by guidance, published by the Scottish Government and produced in collaboration with the Centre for Excellence for Looked after Children in Scotland (CELCIS). This guidance states that: “There are a variety of family group decision-making service models” and that the “family group conference” model (FGC) is “the most commonly known”, this is then set out in detail.³⁵

This sets the legislative provision for FGDM firmly in the field of early help and preventative support for families.

However, it also places the provision in the context of complex reform and change carried through by the 2014 Act. This was a weighty piece of legislation that contained many new obligations and ways of working for local authorities and public bodies. In a crowded space, it is therefore likely that the provisions in relation to FGDM went relatively “under the radar”. This is supported by evidence gathered in a 2019 review of the implementation of Part 12, which shows that awareness of this provision was low.³⁶

Key Finding

The legislative and policy framework in relation to FGDM creates responsibilities for local authorities to offer FGDM services. However, the journey to legislation was relatively complicated and may have lacked impetus on implementation.

³³ Children and Young People (Scotland) Act 2014 (Relevant Services in relation to Children at Risk of Becoming Looked After etc.) Order 2016, Policy Note.

³⁴ Children and Young People (Scotland) Act 2014 (Relevant Services in relation to Children at Risk of Becoming Looked After etc.) Order 2016.

³⁵ Scottish Government (2016), Children and Young People (Scotland) Act 2014: National Guidance on Part 12: Services in Relation to Children At Risk of Becoming Looked After, etc., p. 7.

³⁶ Hill et al. (2019), Supporting Families: A review of the implementation of Part 12: Children at risk of becoming looked after as set out in the Children and Young People (Scotland) Act 2014, pp. 13-16.

“HURDLES” AND A LACK OF ENFORCEMENT MECHANISMS

While the journey to legislation may explain some gaps in provision, there is a lack of understanding of what this should mean, both in terms of the definition and what this obliges local authorities to do in practice.

On this basis Children First sought a legal opinion to better understand the technical obligations created by the legislation and the extent to which children and young people are entitled to FGDM in law. This was drafted by Janys Scott KC in November 2024 and has offered a number of insights and shows that the legislation itself may also be a limiting factor. The opinion found that:

“While Family Group Decision Making should be available in all local authority areas, the duty to give access to a particular child or family is therefore qualified by a series of hurdles:

- The local authority will determine eligibility, albeit against statutory criteria.
- It may be up to the family to seek access to Family Group Decision Making, rather than for the local authority to volunteer or promote this service
- The local authority may rule out Family Group Decision Making on grounds of ‘wellbeing’ of the child.”³⁷

In addition, the opinion found that the legislation “lacks both imperative and specificity”. While local authorities do have some responsibilities to make arrangements “if the local authority fails to do any of these things (as many in fact do fail) there are no obvious remedies for the individual child and family affected by the failure.”³⁸

One conclusion of the opinion is that:

“The restricted availability and restricted use of Family Group Decision Making may in part be explained by the lack of any clear mechanism for enforcement. It is also likely to be associated with the scope conferred on the local authority in deciding how and when it is to be used.”³⁹

It goes on to say that: “The framework for provision is there, if there is a commitment to use it and resources available for implementation.” This means there is a strong basis to work from. However, in the context of immense pressure on public services offered by local authorities and the longstanding difficulties in resourcing consistent early help and support for families,⁴⁰ the lack of clear impetus within the legislation helps explain why... {FGDM}... has been deprioritised in some places.

³⁷ Legal Opinion, drafted by Janys Scott KC in November 2024 (unpublished).

³⁸ Legal Opinion, drafted by Janys Scott KC in November 2024 (unpublished).

³⁹ Legal Opinion, drafted by Janys Scott KC in November 2024 (unpublished).

⁴⁰ As set out almost 15 years ago in the Christie Commission: Christie (2011), Commission on the Future Delivery of Public Services.

Key Finding

On the basis of Part 12 of the Children and Young People (Scotland) Act 2014, FGDM should be available in all local authority areas however, there are “hurdles” to children and families’ entitlement to this service and a lack of ways to “enforce” the requirement where it is not on offer. The existing legislative basis for FGDM means there is a foundation to work from but there is a clear legislative weakness and room for improvement in terms of clarity, specificity, profiling and resourcing.



HUMAN RIGHTS AND CHILDREN'S RIGHTS

Another aspect considered in the legal opinion was the extent to which Scotland's human rights and children's rights framework supports FGDM's place in law.

The legal opinion discusses the "proportionality and necessity test" as set out in Article 8 of the ECHR.⁴¹ The opinion sets out that this is explained in case law, when Baroness Hale of Richmond said: "It is quite clear that the test for severing the relationship between parent and child is very strict: only in exceptional circumstances and where motivated by overriding requirements pertaining to the child's welfare, in short, where nothing else will do."⁴² Scottish case law continues this rationale, stating "that necessity implies the presence of a 'pressing social need' and that the court should adopt the 'least interventionist' approach."⁴³

"It gives families and kids a voice"

DAD*



The point made here is not that an absence of FGDM would immediately lead to the conclusion that there was a breach of the ECHR, but rather that: "It can be said that Family Group Decision Making is a means to explore issues of this type, and to demonstrate to a court, should it be necessary to do so, that the family options have been considered."⁴⁴

The purpose of FGDM, which is to involve and empower families while examining opportunities to look after a child within their community context, means that it is a positive demonstration that can help public bodies and practitioners to support children's human rights and defend authorities' actions if this is subject to challenge.

⁴¹ Legal Opinion, drafted by Janys Scott KC in November 2024 (unpublished).

⁴² In re B (A child) [2013] UKSC 33(at §198).

⁴³ Quoted from the Legal Opinion, drafted by Janys Scott KC in November 2024 citing the case of S v L [2012] UKSC 20 (at paras 39–41).

⁴⁴ Legal Opinion, drafted by Janys Scott KC in November 2024 (unpublished).



Similarly, the legal opinion considers that FGDM will support demonstration of compliance with the UNCRC, as:

“It recognises the imperative in article 18 to render appropriate assistance to parents in the performance of their child-rearing responsibilities. Family Group Decision Making is an effective mechanism through which the best interests of the child are given (at least) a primary consideration under article 3 and through which children are enabled [sic.] to express views for the purposes of article 12. While the UNCRC specifies objectives, but not the means for accomplishing those objectives, it can be said that Family Group Decision Making promotes the objectives of the UNCRC.”⁴⁵

In the context of the UNCRC (Incorporation) (Scotland) Act 2024, which places public bodies in Scotland under a duty to do this and report on their actions, FGDM’s demonstration of a rights-respecting approach should be an incentive for delivery.⁴⁶

Key Finding

FGDM helps public authorities to demonstrate that they have taken steps to respect, protect and fulfil rights obligations under the European Convention on Human Rights and the United Nations Convention on the Rights of the Child.

⁴⁵ Legal Opinion, drafted by Janys Scott KC in November 2024 (unpublished).

⁴⁶ United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024.



Chapter Two

WHERE ARE WE NOW?

In June 2024, Children First launched an online survey that was shared amongst Scottish FGDM and children's care and protection networks. The survey aimed to gather the views and experiences from colleagues across the country and investigate current FGDM provision – where it is available and where it is not, to what extent and the reasons for this – as well as the strengths and challenges of current approaches.⁴⁷

The survey was circulated as an online form amongst FGDM and children's services networks. Multiple responses were allowed from each local authority to gather a full picture of current FGDM provision in Scotland. However, responses were limited to practitioners only and do not therefore include the views of children and families.

At the time of reporting, FGDM is available in approximately two-thirds of Scotland's local authorities (21 of 32).⁴⁸ Eleven FGDM services are provided by the local authorities themselves and 10 are delivered by the third sector.

The third sector continues to deliver a significant proportion of FGDM currently on offer in Scotland (48%), which reflects the role the sector has played in advocating for this model with local authority partners. This has enabled local authorities and the third sector to come together for challenging conversations about children's rights and how to better realise them.

RESPONSES

The survey closed on 30 August 2024. All responses were given with informed consent and have been anonymised accordingly. Children First received 39 total responses across 27 local authorities. Five responses were discounted due to consent or anomaly, meaning that the sample referred to in this report is drawn from 34 responses across 24 local authorities. For some areas, multiple responses were received.

Responses came from a mix of local authority workers (62%) and third sector workers (38%). The most common role of the responder was service manager (41%), followed by FGDM coordinator (23.5%) and team leader (21%).

The analysis is split between responses from the 27 respondents who actively deliver FGDM and the seven who do not. Of the services who actively deliver FGDM, 59% had this delivered by the third sector and 37% had local authority provision. One response reported both.



⁴⁷ The findings of this survey are not the only source of information in this area and do not reflect the internal data of all local authorities, including those that have had embedded FGDM services for a significant period, which can provide further insights into the whole picture of FGDM in Scotland as it stands.

⁴⁸ Aberdeen City, Aberdeenshire, Clackmannanshire, East Ayrshire, East Lothian, East Renfrewshire, Edinburgh, Falkirk, Glasgow, Highlands and Islands, Inverclyde, Midlothian, Moray, North Lanarkshire, Perth and Kinross, Scottish Borders, Stirling, Shetland Islands, South Lanarkshire, West Dunbartonshire and West Lothian.

AREAS WITH FGDM

SERVICE STRUCTURES

Whilst some local authorities have longstanding services integrated in local practice and procedure, survey responses reported that most services (78%) had been in place for five years or less. Most services reported three coordinators, though the number of full time equivalent (FTE) FGDM coordinator posts reported ranged from one to 18. ⁴⁹ The most common response was two FTE (26%). The FTE figure was lower than the numbers of overall staff in almost half of responses, suggesting that part time roles are common.

MEETINGS

Questions were asked about FGDM meetings reported to have taken place between April 2023 and March 2024.

- The number of family group meetings ranged from 0 to 360 (which was reported by a larger authority and was significantly higher than the second highest of 140). The average was 38.2 overall, but the median was 11.
- The number of emergency meetings was significantly lower, ranging from 0 to 15. Most services reported 0 emergency meetings taking place in this time.
- The number of review meetings ranged from 0 to 100, with an average of 13.95 and a median of five. Again, the highest number of review meetings reported (100) was significantly higher than the second highest (51).
- The instances of significant work reported ranged from one to 120, with an average of 21.11 and a median of 11. Once again, the highest number of significant work reported (120) was significantly higher than the second highest (61). This shows a wide variation across FGDM services. Not all respondents provided information about the number of meetings held within this one-year period. Reports of emergency meetings and significant work were significantly lower than reports of family group meetings. This may reflect limitations on access to information, recording or types of work taking place.

96%

of routes to FGDM
came through
social work

**“It feels
different to
other supports.”**

Survey Respondent

FGDM is available
in approximately

two-thirds

of Scotland’s
local authorities

ROUTES TO FGDM

The most common route to FGDM was through social work (96%), followed by school (26%) and third sector organisation (22%).⁵⁰

The most common referral pathway was early intervention (67%), though it should be noted that there are questions around what is meant by “early intervention” and an acknowledgement that many services are working at a high threshold of risk even when intervention is categorised as “early”. This was followed by pre-birth (63%), rehabilitation home (63%), edge of care (59%) and child protection registration (56%).

Most services worked with a wide age range, with almost all (96%) working with young people aged 12 – 17 but many (85%) working with children aged between five and 11. Children under five (59%) and pre-birth (70%) were also common.

INFORMATION AVAILABLE

Most respondents reported that their local authority or service published information for families on the FGDM services available (63%). Twenty-two percent said they did not and 15% did not know. Just over half reported that FGDM was mentioned in practice guidance or policy within the local authority or service.

Key Findings

- FGDM is not consistently available across Scotland, despite having existed in some form for more than 25 years. Only two thirds of local authorities currently have services available and many of these offers are limited, which creates unequal opportunities for children and families. There are strong examples where FGDM has been embedded for a number of years and delivered powerful outcomes, but many services are relatively new with a handful of coordinators in place, reflecting vulnerability in current provision.
- The number of families FGDM services are working with varies significantly, with most services taking referrals from social work
- FGDM services offer a real flexibility working at a range of referral points, including early intervention and post care, with children of all ages including pre-birth work with parents.
- There is a limited amount of information for practitioners and for families about FGDM.

⁴⁹ Some respondents reported notably high numbers of coordinators (19, 16, 11 respectively) in comparison. One reported 0 FGDM coordinators, despite having FGDM provision, which could suggest that the service has no dedicated FGDM coordinator role and potentially instead had staff who are involved in some facilitation of FGDM alongside their other work.

⁵⁰ Values here do not equal 100% as these reflect responses to a multiple-choice question in which respondents were asked to select all that apply.

ROLE AND PURPOSE

When asked about what they perceived to be the key purpose of FGDM in their local authority or service, the most common response was “to ensure children and families’ voices are heard during decision-making processes” (37%). Other popular responses were “to promote a restorative approach to decision-making and family support” (30%) and “to reduce the number of children & young people becoming accommodated” (15%).

PRACTITIONER VIEWS OF FAMILY EXPERIENCES

The majority of respondents (78%) agreed that the families they worked with engaged positively with FGDM. Eighteen-point-five percent strongly agreed and four percent neither agreed nor disagreed. No one disagreed. However, as this survey was filled out by workers and not family members, these responses may not represent the views or experiences of family members.

The most common reason for families’ engagement with FGDM services was “desire to have their voice heard” (93%), echoing the value placed on voice as the “key purpose” of FGDM as perceived by practitioners. This was followed by “desire to create a family plan” (81.5%), reflecting the importance of families’ agency and empowerment within FGDM.

Responses also highlighted “time spent with coordinator” (63%), “resolution of family conflict” (59%) and “positive relationships with services” (52%). Further responses highlighted: safety and wellbeing; independence from social work; motivation for families of unborn babies/infants to create a family plan to keep their baby safely at home and/or in their care and motivation for families of older children to resolve longstanding issues through working together.

When asked what they felt children and families valued most about FGDM, the most common theme was being listened to (77%). There was a significance placed on being meaningfully listened to in a number of responses, with respondents highlighting that children and families feel that their voice was valued and really mattered. As one respondent said: “It feels different to other supports.”

This was followed by the importance of children and families’ empowerment and their ability to play a role in decision-making (50%). One respondent said: “...{FGDM gives

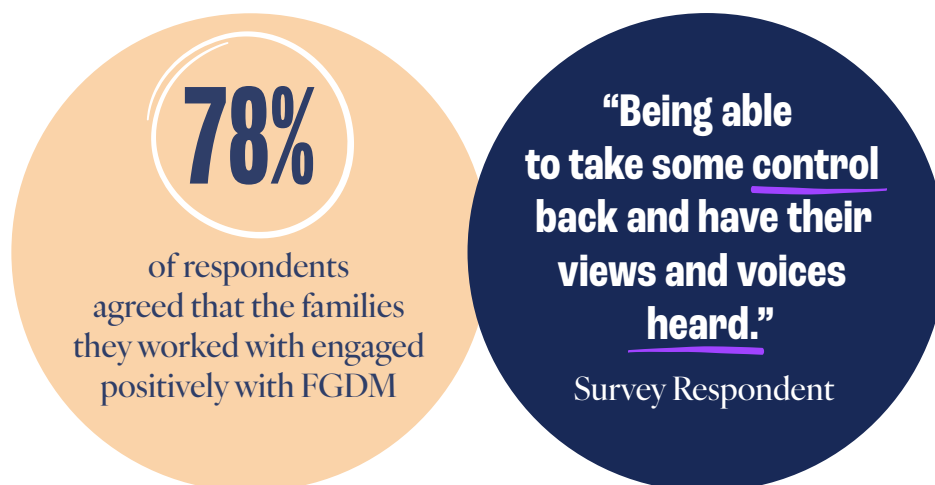
“Families and children feel supported, valued and listened to make decisions about their family, and are encouraged to shape plans for their children that recognises the strength within the family unit.”

SURVEY RESPONDENT

families}... ownership and autonomy over their own plans. The families are more familiar and knowledgeable about the content of their family plan.” Another said: “They feel empowered to be more transparent about their challenges and support needs as they feel this is not going to be recorded in written reports or used against them.”

The process was noted to have a positive impact on confidence building, increasing independence and agency and reducing reliance on professionals. Some respondents also noted the significance of the FGDM model itself and its distinctness from other forms of decision-making (27%) and value was placed on the independence of the coordinator. Another theme was the importance of the restorative nature of FGDM (27%), with references made to support, safety, inclusivity, trust and reduced stress and isolation.

The most common reason cited for families’ lack of engagement in FGDM, where this was the case, was “ongoing family conflict” (64%). This was followed by “distrust of services” (56%) and “emergency/ escalation of situation” (56%), “inappropriate referral” (52%) and “lack of understanding of the FGDM process” (36%). Other responses highlighted a lack of historical reparative work within the family, mental health and trauma implications, feeling “overloaded by professionals and interventions,” lack of motivation, potentially due to the voluntary nature of FGDM, safety concerns and FGDM simply not being the support the family were looking for at that time.



Key Findings

- Survey respondents indicated a level of buy in and commitment to the principles of FGDM by placing value on voice and restorative approaches. They also recognised clear practical drivers for FGDM, for example reducing the number of children being accommodated.
- From practitioners’ perspectives, FGDM offers families real benefit, in particular helping families to feel empowered and have their voices heard. The “distinctness” of the model and the “independence” of the coordinator help the experience feel meaningfully different to other child protection processes.
- The strong presence of the third sector in delivering FGDM services can help families who feel a distrust towards statutory services engage with the model.

PRACTITIONER'S EXPERIENCES

A hundred percent of respondents reported that they found FGDM helpful in keeping children safe, happy and well to some degree. 52% found it somewhat helpful and 48% found it very helpful. No one was neutral or said that it was unhelpful, suggesting a level of buy-in amongst those working with FGDM.

STRENGTHS

“Empowering families and showing that change is possible.”

When practitioners were asked what they themselves perceived to be the strengths of using FGDM, the most common theme was FGDM's ability to improve outcomes for children and families (60%). This included diversion from care, kinship solutions, improved school attendance, removal from child protection register, preventing families returning to request for assistance, rehabilitating children home and more. These positive outcomes were associated with less social work intervention and keeping more families together as far as possible.

“Objectivity and independence is helpful to support engagement in discussion about the creation of a family plan that meets needs and minimises risks to children and young people.”

SURVEY RESPONDENT

Another key theme emerged around empowerment and the family's ability to play a role in decision-making (42%), echoing responses about what practitioners believed to be of most value to children and families within the FGDM process. The importance of families being able to identify their own support needs as well as building on their strengths to find solutions was noted.

Voice (42%) was also a significant theme. The importance of children, family and the wider network being listened to and respected was emphasised. The way in which participation in FGDM can better enable families to share their views at other statutory meetings was also noted.

100%

of respondents reported that they found FGDM helpful in keeping children safe, happy and well to some degree.

60%

of respondents said FGDM can improve outcomes for children and families.

“Families have been able to remain together and build on their own qualities, value and strengths as identified through the FGDM process.”

SURVEY RESPONDENT

Other responses highlighted the following strengths:

- The restorative nature of FGDM with reference made to its safety, neutrality and supportiveness (27%).
- Maintaining or rebuilding family relationships (27%).
- Improved relationships between families and workers (23%). FGDM was viewed as offering a direct link with workers that enabled consultation and communication and helped to build trust. It was noted that FGDM had to preserve relationships between families and social workers and it was thought that families valued having an independent FGDM coordinator.
- Improved partnership working by improving relationships and understanding of differing workloads and pressures between agencies and fostering a more collective approach (15%).
- The child-centred nature with a focus on children's rights and safety and ultimately placing children at the heart of decision-making (15%).
- Respondents also said that FGDM was valued for being future focused, for being flexible and as a useful form of early help, providing a “good starting point for support” for families (8%). Overall, the responses suggested that FGDM could provide children and families with a source of hope, “empowering families and showing that change is possible.”

Key Findings

- In areas where FGDM is currently practised, there was a firm view that it helps keep children safe, happy and well and that it could help improve outcomes for children and families.
- FGDM is clearly valued for its ability to help children effectively share their views and empower families.

CHALLENGES

“Yearly funded contracts have led to near-annual staff turnover.”

When asked about the challenges of using FGDM, the most common theme related to limitations on resource such as staffing and funding (46%).

Limited staff across both FGDM and statutory services, such as social workers, coupled with practical limitations, such as travel time and cost, particularly in rural areas meant there was an awareness that there were challenges in reaching children and families across Scotland. Issues with temporary or time-limited funding and funding siloes, which can limit FGDM within a local authority or confine provision to a single referral criterion, also meant the reach was understood to be limited.

Another key challenge noted was a lack of buy-in and commitment to the FGDM model, from both families and other professionals (35%). Responses relating to professionals noted the potential resistance to FGDM as part of entrenched working culture and the established way of doing things, which at times acted as a barrier to achieving buy-in and uptake of FGDM services. In terms of families, where there were any issues with buy-in or commitment to the model, respondents noted issues at first point of contact with getting consent to involve the family and their wider network, a lack of engagement throughout the FGDM process and difficulties following the family plan once created.

Responses were, however, largely constructive, with some respondents commenting on their aims of building more supportive working relationships across agencies and raising awareness of FGDM and its uses. Other respondents shared how they had successfully worked to overcome these challenges.

Other challenges included:

- Issues with families and workers understanding what FGDM is and what it aims to do (35%). A lack of understanding in the workforce was noted as having the potential for a knock-on effect, limiting referrals and hindering families' engagement once referred. One respondent said: “we are still working to support our social work colleagues in understanding what it is and why it is important.”
- Issues around referral specifically (27%). In some cases, this was attributed to a limited understanding of FGDM. In other cases, it was related to inappropriate referrals, including those made too late or at crisis point. Another issue was simply a lack of referrals, which could be for many reasons including limitations of referral pathways and funding siloes or possible “gatekeeping” by referrers.



46%

of respondents identified
limitations on resources
as the most common
challenge to FGDM

- Timing, or more specifically the point at which FGDM is offered within the wider journey (23%). When offered at the point of early help, it was reported that a lack of resources or support had an impact on families' engagement with or completion of the process as well as setting bottom lines. However, in other cases, services that intended to offer FGDM at the point of early help instead became more focused on crisis prevention due to the demands of the system.
- It was also reported that it wasn't always clear or understood how FGDM fitted in with child protection processes.
- System readiness (19%). Respondents reported a lack of support for establishing and embedding services and referral pathways as well as for ongoing implementation.
- Sharing power in decision-making (11.5%). Some responses reported difficulties in encouraging some workers to let go of decision-making to enable families to make their own plan. Alternately, it was also noted that, for some families, feeling able to make their own decisions was perhaps unfamiliar to them: "With some families, the challenge has related to their experiences of always being "told" what to do and for some families coming up with solutions has been more difficult."
- Families becoming overwhelmed with multiple service involvements, particularly at point of crisis (8%). Respondents related situations where there were challenges coordinating support. As one responder shared: "At times of crisis families can be overwhelmed by expectations and offers of support from a range of services and can find it challenging to accept additional supports in the form of FGDM."

Two responses noted professional detachment, treating FGDM as a tick box exercise or means of money-saving without enough regard for the real children and families involved. One response highlighted family circumstances, including relationships, conflict and mental health, one response noted insufficient support for families to carry out their plan and one response noted a lack of policy or legislation around FGDM.

Key Findings

Resources in terms of funding and staff are clear challenges. However, cultural and systemic challenges are also evident, that could be the result of the lack of a clear and secure place within the wider system. This creates challenges for practitioners with confusion around what FGDM is, why it should be considered and when it should be used.



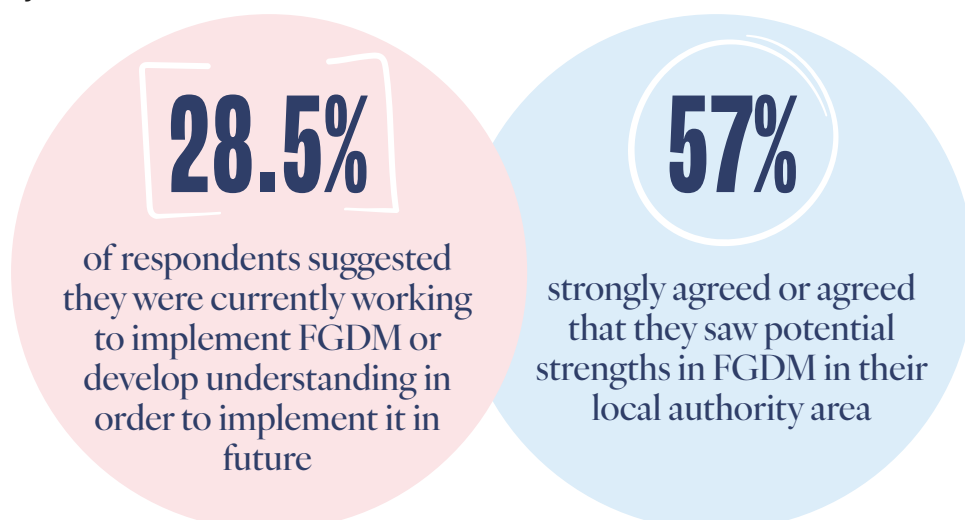
AREAS WITHOUT FGDM

Children First also sampled local authorities where there is currently no FGDM provision. Analysis of these responses may be limited due to a small sample size. The number of responses representing areas without current FGDM provision was seven, but their feedback is nonetheless valuable and has been included to understand their perspective.

SERVICE BACKGROUND AND DESIGN

The most common reason reported to explain why FGDM was not currently provided in a local authority was due to the availability of alternative forms of decision-making (57%).

However, 28.5% of respondents suggested that they were currently working to implement FGDM or develop understanding in order to implement it in future. Other responses included a lack of funding (29%), capacity (14%), that FGDM was seen as non-essential or an extra (14%) and that the application of FGDM was seen as “highly rigid” (14%). One respondent did not know the reasons for the lack of FGDM provision in their local authority.



ALTERNATIVES TO FGDM

Over half of respondents reported that they have other forms of decision-making in place. This included two reports of Signs of Safety, one report of the Safe and Together model, one report of safety network meetings and one report of the local authority's own model. It should be noted that some of these, including Signs of Safety, may better be understood as a tool that supports assessment and decision-making rather than a decision-making process in and of itself, which perhaps highlights some confusion surrounding what FGDM is.

Respondents had mixed views about how helpful these other processes were. Half of respondents reported that they were somewhat helpful. 25% said they were very helpful and another 25% said they were very unhelpful.

When asked how existing forms of decision-making could be improved:

- Half of respondents were committed to continuing and expanding their existing approaches and did not consider them in need of improvement.
- A quarter of respondents said upskilling staff to improve existing processes would be beneficial.
- A quarter of respondents noted the potential of FGDM implementation as a means of improvement.

POTENTIAL STRENGTHS

“Working together with families.”

When asked whether they saw any potential strengths in using FGDM in their local authority area 43% of respondents strongly agreed, 14% agreed and 43% neither agreed nor disagreed. No one disagreed. This shows that the potential value of FGDM is recognised by practitioners even in local authorities where it is not currently available.

One of the key potential strengths identified was improved relationships between families and workers as a result of the FGDM process (33%). Responses noted the importance of “working together with families” and building scaffolding around them. Support was recognised as equally important (33%) and it was noted that this support must be appropriate and sufficient and available alongside FGDM.

Individual responses noted family relationships with a focus on the importance of expanding the family network, empowering children and families, its child-centred nature, ensuring the voices of children and families are heard in decision making and its preventative approach as strengths of FGDM.

In responses to the question about strengths, a third of respondents noted potential issues with FGDM, which are detailed in potential challenges, below.

Half of respondents indicated that they would be open to FGDM provision in their local authority in future.

“Scaffolds the child and family, develops a network for the family, identifies local support that is more likely to be sustainable...”

SURVEY RESPONDENT

43%

noted the limitations on staffing, funding and resources as a challenge to implementing FGDM

POTENTIAL CHALLENGES

“A lack of funding available.”

Similar to the challenges noted by areas that have FGDM services, the most common potential challenges in these responses were the limitations on staffing, funding and resources (43%) and workforce buy-in (43%).

Where resource was raised, responses said there was simply “a lack of funding available” to support the implementation of FGDM in their local authority areas. Responses also highlighted a lack of staff, expressing concern that the potential need for workers to take on a dual role to carry out FGDM could impact on their independence.

Issues identified around workforce buy-in were about the challenge of changing established working cultures.

Other potential challenges were raised around the limitations of the FGDM model itself (14%) in terms of its efficacy and sustainability and difficulties with maintaining independence (14%).

The biggest potential challenge highlighted in response to the question about the potential strengths of using FGDM was time pressures (29%), both in terms of the time needed for successful implementation, including in developing workers' skills, as well as in terms of the FGDM process itself. Risk (14%) and the need to upskill staff (14%) were also flagged as potential challenges in response to this question. One respondent highlighted: “Buy-in and convincing staff/agencies who have worked in a certain way for so long.” Another respondent said: “Our previous experience of FGC is that it is a long process. Whilst we appreciate the need for time in these processes, it became difficult when there were high levels of risk.”

Twenty-nine percent of respondents reported that they saw no significant issues with the potential implementation of FGDM.



“What’s critical to support such a model is the longer term investment required in establishing underpinning skills frontline workers need to develop effective plans for families.”

SURVEY RESPONDENT

Key Findings

- In areas where FGDM is not currently on offer the perceived strengths of the model are about improving relationships between families and workers, with professionals placing less emphasis on the benefits for children and families’ voices
- Resource is consistently recognised as the primary challenge to offering FGDM.

CHILDREN'S SERVICES PLANS

Children First reviewed each Scottish local authority's Children's Services Plans to inform the findings of this research. Scotland's 32 local authorities are required by Section 8(1) of the Children and Young People (Scotland) Act 2014 to create a Children's Services Plan alongside the relevant health board every three years.⁵¹ These documents are publicly available.

A review of Children's Services Plans for the period 2023 – 2026, found that 10 Children's Service Plans referenced FGDM, while 22 did not. However, around 21 local authorities provide FGDM at time of reporting, meaning that 11 authorities offer FGDM but do not currently reference this in their plan, showing significant under-reporting in local authority strategic planning.

In comparison, all Children's Services Plans referenced the Promise and 30 referenced the United Nations Convention on the Rights of the Child (UNCRC) or children's rights.

11

authorities offer FGDM but do not currently reference this in their plan, showing significant under-reporting in local authority strategic planning

“Changing hearts and minds.”

SURVEY RESPONDENT

Key Finding

- FGDM is not yet being consistently prioritised within strategic planning across children's services.

⁵¹ Children and Young People (Scotland) Act 2014, Part 3, S 8(1).



Chapter Three

WHERE TO NEXT?

The question remaining is whether steps can be taken to address the limitations that have been identified in the legal and policy framework to help ensure more consistent access to FGDM and resolve some of the issues highlighted by practitioners who responded to Children First's survey.

Scotland is not the only country considering this question. The evidence that FGDM has capacity to improve outcomes for children, families and professionals is recognised across the world and FGDM is now available in some form in Australia, America and many countries in Europe.⁵² Across these countries, there have been a range of approaches to incorporating it into care, protection and justice systems. With this, comes learning that can help Scotland.

Former Chief Social Worker of New Zealand, Mike Doolan, has argued that: "Social workers will not mainstream family group conference practice until there is an explicit mandate for them to do so."⁵³ He describes a "mandate" as something that can take three different forms – legislation, procedure and good practice and defines each of these areas:

“Legislation. The principles of empowerment practice are enshrined in law, and there is procedural law to ensure these principles guide practice. The law conveys rights and obligations, powers and entitlements. Any action is subject to judicial review. The law, and not the professionals, sets the rules.

Procedure. The principles of empowerment are contained in guidance, and there is procedural requirement to act in certain ways. There are review mechanisms and failure to follow the procedures or apply the principles can be challenged.

Good practice. The principles of empowerment practice are introduced to staff who are encouraged to work within a refocused practice paradigm. Professionals set the rules by and large and control the gateway to this different practice approach. There is no appeal against a failure to apply the principles in day-to-day practice.”⁵⁴

Doolan's definitions suggest that the greatest impetus for mainstreaming FGDM arises where there is a legislative mandate for the model and that the lowest level of impetus arises where the mandate arises out of good practice. Although the 2014 Act suggests that Scotland has a legislative mandate for FGDM, the issues highlighted in the legal opinion, relating to lack of enforcement and accountability mechanisms, suggest that the mandate for FGDM in Scotland arises from good practice, which has the lowest level of impetus for mainstreaming.

If FGDM is to be more effectively incorporated in Scotland, further steps need to be taken to clarify the mandate, building on learning about how the different levels of mandate have worked elsewhere.

⁵² The European FGC Network is currently comprised of 19 countries with active FGC provision.

⁵³ Doolan (2004), The Family Group Conference: A mainstream approach in child welfare decision-making.

⁵⁴ Doolan (2004), The Family Group Conference: A mainstream approach in child welfare decision-making.

COUNTRIES OR REGIONS WITH A LEGISLATIVE MANDATE

NEW ZEALAND

In New Zealand, family group conferencing has been legally mandated through the Oranga Tamariki Act (1989), or the Children's and Young People's Well-being Act, for over 25 years. This means that FGC is the central form of decision-making for children's care and protection. It also means that New Zealand holds significantly more FGCs than other countries. From March 2022 to March 2023, 6,550 family group conferences were held in New Zealand involving 4,700 individual children and young people.⁵⁵



REPUBLIC OF IRELAND

In Ireland, there is a legislative mandate for what is referred to as a “family welfare conference” (FWC) under the Children Act 2001, defined as equivalent to the model recognised internationally as FGC.⁵⁶ Under Irish legislation, a FWC is convened both for offence grounds and/or where a child or young person is seen to be in need of special care and protection and would be eligible for court proceedings. In this case, court proceedings can be adjourned for an FWC to take place, or pending the outcome of a FWC and courts can make an emergency care order or a supervision order under the Act of 1991 in respect of the child. The presence of FWC in legislation has led to its mainstream use across Ireland.

There is some evidence of the impact and outcomes of using FWC in Ireland, but much of this is potentially outdated and information is largely limited.



⁵⁵ Oranga Tamariki (2023), Overview: March 2023 Quarterly Report.

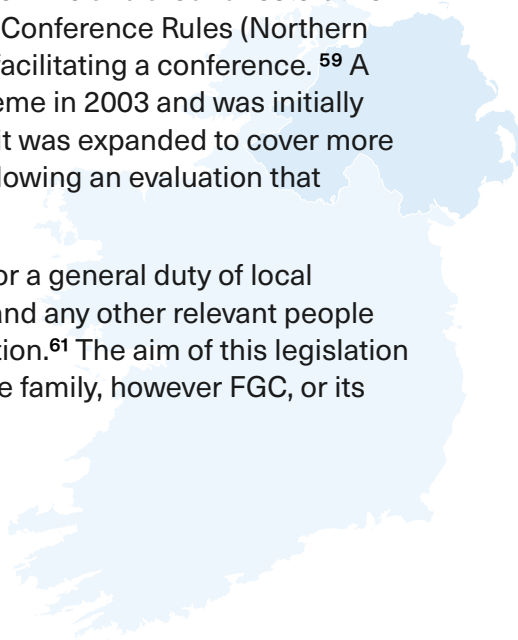
⁵⁶ Children Act, 2001, Part 2.; Berzin, Thomas & Cohen (2007), Assessing model fidelity in two family group decision-making programs: Is this child welfare intervention being implemented as intended?

NORTHERN IRELAND

FGC in Northern Ireland was initially established in 2000 as a pilot funded by Barnardo's Northern Ireland alongside two statutory agencies. This pilot was later developed to incorporate FGC in a school environment.⁵⁷ However, there is no legislative mandate in this context.

A legislative mandate for FGC does however exist in Northern Ireland around restorative youth justice within the Justice (NI) Act 2002.⁵⁸ The Youth Conference Rules (Northern Ireland) 2003 establish the procedures for convening and facilitating a conference.⁵⁹ A Youth Conferencing Service was introduced as a pilot scheme in 2003 and was initially available for all 10 to 16-year-olds living in Belfast. In 2004 it was expanded to cover more rural areas, before being rolled out more widely in 2005 following an evaluation that deemed the process largely positive.⁶⁰

The Children (Northern Ireland) Order 1995 also accords for a general duty of local authorities to understand the wishes of the child, parents and any other relevant people before decisions are made about a child's care and protection.⁶¹ The aim of this legislation was to moderate the relationship between the state and the family, however FGC, or its equivalent, is not directly addressed within the Order.



“I had a choice and felt in control about what we talked about.”

CHILD*



⁵⁷ Barnsdale & Walker (2007), Examining the Use and Impact of Family Group Conferencing, p. 20.

⁵⁸ Justice (Northern Ireland) Act 2002.

⁵⁹ Youth Conference Rules (Northern Ireland) 2003.

⁶⁰ Barnsdale & Walker (2007), Examining the Use and Impact of Family Group Conferencing, p. 21.

⁶¹ Children (Northern Ireland) Order 1995.

QUEENSLAND, AUSTRALIA

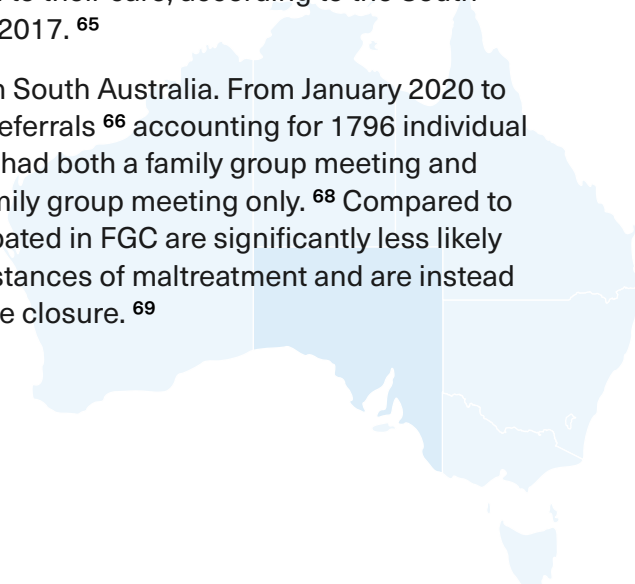
In Queensland, Australia, family group meetings are held at critical planning and decision-making points along the child protection continuum. The provision of family group conferences is upheld by the state of Queensland's Child Protection Act 1999.⁶² The Act states that: "The chief executive must convene a family group meeting, or have a private convenor convene a family group meeting, to develop a case plan for a child." A family group meeting may also be convened "to review a case plan under division 5 and prepare a revised case plan" or "to consider, make recommendations about, or otherwise deal with, another matter relating to the child's wellbeing and protection and care needs".⁶³ Guidance and standards for the use of FGC in Queensland are laid out in their Family Group Meeting Convenor Handbook.⁶⁴



SOUTH AUSTRALIA, AUSTRALIA

Similarly, in South Australia, FGCs are convened when a child or young person is at risk and arrangements should be made in relation to their care, according to the South Australia Children and Young People (Safety) Act 2017.⁶⁵

Recent research has shown FGC to be effective in South Australia. From January 2020 to February 2024, the DCP received a total of 1074 referrals⁶⁶ accounting for 1796 individual children.⁶⁷ Twenty-point-five percent of referrals had both a family group meeting and review meeting and an additional 32.8% had a family group meeting only.⁶⁸ Compared to the comparison group, children who have participated in FGC are significantly less likely to be placed in out of home care or face future instances of maltreatment and are instead significantly more likely to have a subsequent case closure.⁶⁹



⁶² Child Protection Act 1999.

⁶³ Child Protection Act 1999.

⁶⁴ Department for Children, Youth Justice and Multicultural Affairs (2022), Family Group Meeting Convenor Handbook.

⁶⁵ South Australia: Children and Young People (Safety) Act 2017.

⁶⁶ Some families were referred to more than one FGC service and therefore may have been counted more than once.

⁶⁷ Krakouer et al. (2024), Evaluation of SA Family Group Conferencing, p. 18.

⁶⁸ Krakouer et al. (2024), Evaluation of SA Family Group Conferencing, p. 20.

⁶⁹ Krakouer et al. (2024), Evaluation of SA Family Group Conferencing, p. 37.

COUNTRIES OR REGIONS WITH A PROCEDURAL MANDATE

LEEDS, ENGLAND

England does not yet have a legislative mandate for FGC, though the recently published Children's Wellbeing and Schools Bill sets out an intention to rectify this. This introduces a responsibility for local authorities to offer FGDM before applications are made to court for care and supervision orders. If the offer is accepted, the local authority will have a responsibility to convene a meeting.⁷⁰

This will build on a range of locally driven initiatives, that support this model at either a procedural or good practice level. In Leeds, the Family Valued programme implemented between March 2015 and December 2016 trialled a procedural mandate. The programme aimed to expand FGC provision to an extent not previously seen in the UK, including to families affected by domestic abuse, as part of a drive to embed restorative practice across services. The programme included a new pathway offering an FGC to families referred for an Initial Child Protection Conference (ICPC). Although an ICPC was still held if an FGC was unsuccessful, this offered a way to divert children and families from statutory decision-making and manage risk prior to an ICPC.⁷¹

The results of the programme were positive, finding statistically significant reductions in the number of looked after children, the rate of children looked after per 10,000 population, the number of Child Protections Plans (CPPs) and number of children in need. It was also found that the programmes produced savings of approximately £755 per family, as a result of FGC's influence in diverting children from care proceedings, which meant they spent less time in the social care system.⁷² High levels of confidence were reported by coordinators and high levels of satisfaction were reported by families. Amongst other reasons, the positive impact of this programme is often attributed to the influence of the local authority's leadership at the time.⁷³

⁷⁰ Section 1, Children's Wellbeing and Schools Bill, introduced 17 December 2024.

⁷¹ Department of Education (2017), Leeds Family Valued: Evaluation Report, p. 63.

⁷² Department of Education (2017), Leeds Family Valued: Evaluation Report, p. 65.

⁷³ Department of Education (2017), Leeds Family Valued: Evaluation Report, p. 72.

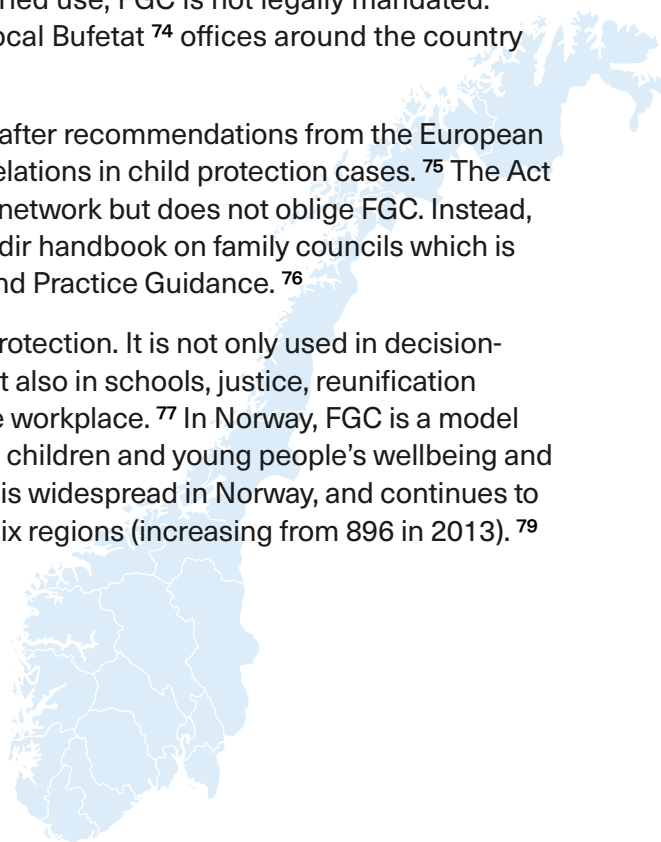
COUNTRIES OR REGIONS WITH A GOOD PRACTICE MANDATE

NORWAY

FGC has been used in Norway since the 1990s and there is extensive provision throughout the country. Despite its wide and varied use, FGC is not legally mandated. Coordinators are employed at all regional and local Bufetat ⁷⁴ offices around the country and in the largest cities.

A new Child Welfare Act was developed in 2022 after recommendations from the European Court of Human Rights to improve child/family relations in child protection cases. ⁷⁵ The Act strengthens the involvement of children's family network but does not oblige FGC. Instead, this is suggested in guidelines, including the Bufdir handbook on family councils which is akin to the FGDM Scottish National Standards and Practice Guidance. ⁷⁶

FGC can be - and is - used at all stages of child protection. It is not only used in decision-making around children's care and wellbeing, but also in schools, justice, reunification planning, for adults and, very occasionally, in the workplace. ⁷⁷ In Norway, FGC is a model that has been shown to be effective in improving children and young people's wellbeing and improving outcomes for families. ⁷⁸ Use of FGCs is widespread in Norway, and continues to grow, with 2262 FGCs recorded in 2023 across six regions (increasing from 896 in 2013). ⁷⁹



⁷⁴ The Norwegian Directorate for Children, Youth and Family Affairs, known as the Bufetat, is an agency under the Ministry of Children, Equality and Social Inclusion, which divided into five underlying regional organisations. It also has an overall executive body, known as the Bufdir, or the Office for Children, Youth and Family Affairs. The Bufdir and Bufetat are responsible for statutory children's care and protection services in Norway.

⁷⁵ Child Welfare Act 2023.

⁷⁶ Bufdir, Family Council - a handbook for municipal child welfare services.

⁷⁷ Skaale Havnen & Christiansen (2014), Knowledge Review on Family Group Conferencing: Experiences and Outcomes, p. 9.

⁷⁸ Skaale Havnen & Christiansen (2014), Knowledge Review on Family Group Conferencing: Experiences and Outcomes, p. 9.

⁷⁹ Statistics Norway, Child Welfare.

GERMANY

FGC is not currently enshrined in legislation in Germany. However, in 2021, the German government passed the Child and Youth Strengthening Act, an updated law demanding a general improvement in the youth welfare service and child protection and greater participation by children, young people and families in services like assistance planning.⁸⁰ This prompted increased interest in FGCs in Germany and there is some hope that FGCs may be included in law as a universal approach to youth welfare in the near future. The German Family Council network have renewed their national FGC Quality Standards to promote this.⁸¹

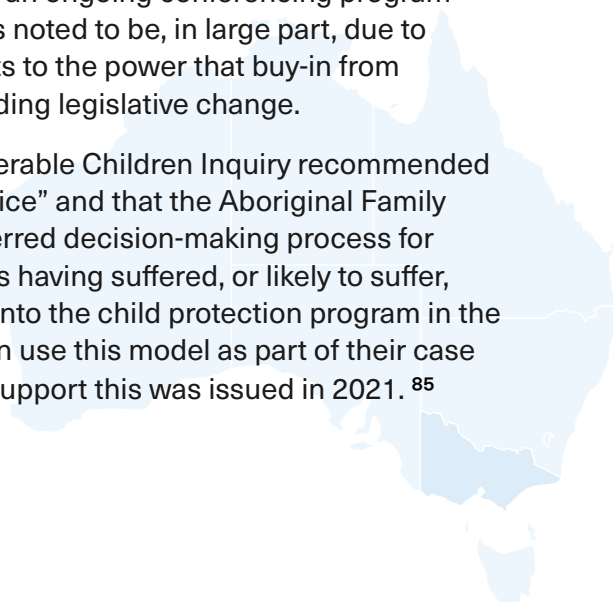
Research has shown FGC to be effective in the German context. A Berlin study found that for 96% of FGCs that took place a plan was developed. The capacity for support from within the family unlocked by the FGC was 61%, showing FGCs influence in empowering families and improving outcomes.⁸²



VICTORIA, AUSTRALIA

Family Group Conferencing has been a feature of Victoria's child protection decision-making and planning processes since 1994. A 2008 study showed Victoria was the only state in Australia that has developed and sustained an ongoing conferencing program without specific legislation.⁸³ Provision of FGC was noted to be, in large part, due to significant commitment on the ground, which points to the power that buy-in from practitioners and leadership can have, notwithstanding legislative change.

In 2012 the Report of the Protecting Victoria's Vulnerable Children Inquiry recommended voluntary FGC should be used "as a matter of practice" and that the Aboriginal Family Led Decision Making program be used as the preferred decision-making process for Aboriginal children who have been substantiated as having suffered, or likely to suffer, abuse or neglect.⁸⁴ In 2018 this was incorporated into the child protection program in the new role of Practice Leader Case Planning, who can use this model as part of their case planning where appropriate. Practice guidance to support this was issued in 2021.⁸⁵



⁸⁰ Act for the Strengthening of Children and Young People (Child and Youth Strengthening Act) 2021.

⁸¹ Family Council Standards – Germany.

⁸² Frutcher et al. (2010), referenced in Straub (2013), Family group conference in Europe: From margin to mainstream, p. 29.

⁸³ Harris (2008), Family group conferencing in Australia 15 years on, p. 9.

⁸⁴ Department of Premier and Cabinet (2012), Report of the Protecting Victoria's Vulnerable Children Inquiry: Volume 1, pp. 86, 104.

⁸⁵ Victoria State Government (2021), Family-led decision making (FLDM) model: Practice Guidance.

NETHERLANDS

Known as Eigen-kracht conferentie (EKC), FGC has had a basis in legislation since 2012, following a unanimous vote by the Dutch House of Commons to accept an amendment to the Civil Code which allows parents to work out their own plan first before any other care intervention takes place. However, this can be done via FGC or other methods.⁸⁶

The Child and Youth Act (2015), which came into effect 1 January 2015, included provisions for increased engagement of children, families and their network and for more strengths-based practice.⁸⁷ It also introduced the family group plan in law as a “care plan or action plan drawn up by the parents, together with blood relatives, relatives by marriage or others who belong to the social environment of the young person.”⁸⁸ However, the family group plan is not necessarily defined as the product of EKC/FGC in law and the law does not reference EKC/FGC explicitly, suggesting the law allows for other methods for reaching a family group plan. The Act gives children and families the right to their own plan, specifying that where a child or young person is in need of assistance, the “youth care provider or the certified institution shall first offer the opportunity to draw up a family group plan within a reasonable period of time”, if the family chooses to do so.⁸⁹ However, in practice, there has been some issues with implementation, as some municipalities have not implemented this.

The Eigen Kracht Centrale has supported children and families to develop family group plans since 2000. In this time, approximately 10,000 families in the Netherlands have created a plan through an EKC.⁹⁰

At a local level where the model has been used systematically, like in Amsterdam, systems have pivoted to make use of kinship care solutions in place of professional care. This has demonstrated annual savings in Amsterdam City of €1.7 million due to lower cost placements.⁹¹



⁸⁶ Dutch Civil Code.

⁸⁷ Children and Youth Act (2015).

⁸⁸ Children and Youth Act (2015).

⁸⁹ Children and Youth Act (2015).

⁹⁰ Eigen Kracht Centrale, What we do.

⁹¹ Eigen Kracht Centrale (2021), Opbrengst Eigen Kracht-conferenties: resultaten en baten (in translation).

Key Findings

- The mandate for mainstreaming of FGDM within a country can take up to three different forms legislation, procedure and good practice.
- Analysis of the extent of FGDM in other countries suggests that where there is a stronger level of mandate for FGDM, through clearly defined legislation, this generally leads to a higher level of provision.
- Where the mandate for FGDM is rooted in good practice, “there is no appeal against a failure to apply the principles in day-to-day practice.”⁹² This means there is a lower level of impetus for FGDM and appears to result in a lower level of provision of services.
- New Zealand clearly has the strongest mandate in favour of FGDM and as a result has a high level of consistent use.
- Where other countries have taken different approaches to legislation, there is generally a high degree of clarity about when and how FGDM is to be used. As examples such as Australia and the Republic of Ireland suggest, placing FGDM within legislation strengthens the position of FGDM within children’s care and protection systems.
- The 2014 Act suggests that Scotland has a legislative mandate for FGDM, but the issues highlighted by a legal opinion, relating to lack of enforcement and accountability mechanisms, suggest that the mandate for FGDM in Scotland arises from good practice. This type of mandate results in the lowest level of impetus for FGDM and the most vulnerability of service provision.
- There are opportunities to move forward with FGDM through guidance, local direction and legislation and regions or local authorities with a procedural mandate can often be effective within the area concerned. However, a lack of national mandate can have limitations on the impact beyond the region.
- FGDM’s existing place in Scots law and policy mean that steps can be taken quickly to grow the beneficial impact, but it needs a clear and certain place in legislation and policy, so children facing life changing decisions have the best opportunity to ensure their families and communities are involved.

⁹² Doolan (2004), The Family Group Conference: A mainstream approach in child welfare decision-making.



**“I feel like
we are all coping
better now, everyone
is clear about what the
plan is so there is less
arguing.”**

Gran

CONCLUSION

With around two thirds of local authorities offering FGDM, and references in both legislation and policy, there is a clear foundation to build on, with strong commitment from a range of professionals who are already helping families benefit from this model of practice.

However, there are also clear limitations in Scotland's framework that may act as barriers, leading to gaps in practice. This means that instead of acting as a support to Scotland's care and protection system, with a clear and consistent offer made to families where that is the right thing for them, these opportunities are sporadic and highly dependent on local champions who have interest, capacity and resource.

This means that there are unequal opportunities for families across Scotland to benefit from FGDM. This challenges a core idea at the heart of Scotland's Getting it Right for Every Child framework: that children and young people will be supported by offers of the right help at the right time from the right people.

FGDM and the children's hearing system are compatible and should be able to work effectively alongside each other. FGDM can work to strengthen family networks, improve communication and gather children's views, in line with work that should happen in advance of a children's hearing anyway. Compulsory measures of intervention may, of course, still be needed but many children and families across Scotland would benefit from consistent offers.

In some places, this already happens. In areas where FGDM is currently practised, there was a firm view that it helps keep children safe, happy and well, and that it could help improve outcomes for children and families. Empowering families and strengthening their voices are consistently referenced as key benefits.

However, the current legal and policy framework does not offer enough support to help these systems synchronise at a national scale. There is a missing mandate, which leaves current provision vulnerable, which is shown by consistent reports of resource challenges limiting offers.

"I would 100% recommend this as a way of working with other families, it has helped us hugely."

Family member*

"I didn't even know it was a thing... [FGDM service]..., I think that FGDM should be offered in school before it even reaches social work. It would have been good to have had this before it even got to this point, instead of after my son was taken away from me, people should know about this service, it might have stopped this from happening."

FAMILY MEMBER*

RECOMMENDATIONS:

- 1** **FGDM, in line with the National Standards, needs a clear and certain place in legislation and policy, so children facing life changing decisions have the best opportunity to ensure their families and communities are involved.** A clear legislative mandate should be pursued, which ensures FGDM is consistently offered to families before compulsory interventions like children's hearings. This should be supported by statutory guidance (which clearly sets out the core components in line with the National Standards and Practice Guidance) and a sustainable funding model or central fund.
- 2** **Steps should be taken to address the fact that one third of local authorities in Scotland do not offer FGDM, based on existing policy and legislation.** National and local government resources should prioritise ensuring FGDM services are available to families across Scotland when Children's Service Plans are updated, in 2025.
- 3** **Opportunities to build on the existing work in areas where FGDM is already offered should be explored simultaneously, to support effective implementation.** Learning from children, families and professionals should be built into a national development plan. 'Show and Tell' sites, that can help national learning should be established, so that services can better learn from one another.
- 4** **A sustainable funding model or central fund for FGDM in Scotland should be put in place to support implementation of the recommendations above.** Regardless of whether they currently offer FGDM services, resource is consistently recognised as the primary challenge to offering FGDM by practitioners.

FAMILY GROUP DECISION MAKING IN SCOTLAND

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