



NABFAM's guidelines for obtaining the views and wishes of the child in mediation and other ADR processes

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PREAMBLE

Children are one of the most vulnerable population groups in our society and are therefore deserving of protection. Since there is a legal imperative, in certain circumstances, to obtain the views and wishes of the child, these guidelines drafted by representatives of the South African Association of Mediators (SAAM), the KwaZulu-Natal Society of Mediators (KZN Society), the Family Mediators' Association of the Cape (FAMAC) and the Social Justice Association of ADR Practitioners (SJA), describe the manner in which such views and wishes are to be obtained as well as who should obtain the views and wishes of the child.

The guidelines will also assist mediators, parenting coordinators, psychologists and social workers to understand their role when ascertaining a child's views and wishes, and to ensure good practice and adherence to appropriate ethical standards.

CHAPTER 1

LEGAL IMPERATIVE TO HEAR THE VOICE OF THE CHILD AND PURPOSE OF THE GUIDELINES

1.1 Point of departure

In terms of section 10 of the Children's Act, the child-participation clause, "[e]very child that is of such an age, maturity and stage of development as to be able to participate in any matter concerning that child has the right to participate in an appropriate way and views expressed by the child must be given due consideration". Other provisions of the Children's Act echo section 10, and specifically give the child an opportunity to participate in any decision-making affecting him or her upon divorce or family separation. Section 31(1), for example, determines that before a person holding parental responsibilities and rights in respect of a child takes any decisions concerning the guardianship, care of, and contact with the child, that person must give due consideration to any views and wishes expressed by the child, bearing in mind the child's age, maturity and stage of development. In the same manner, section 61(1)(a) provides that the presiding officer in a matter before a children's court must allow a child involved in the matter to express a view and preference in the matter if the court finds that the child, given his or her age, maturity and stage of development and any special needs that the child may have, is able to participate in the proceedings and the child chooses to do so. Furthermore, section 69(3) provides that a child involved in a matter may attend and may participate in a court-ordered pre-hearing conference. The regulations under the Act also contain several provisions that emphasise the important notion of child participation. Regulations 8(3)(a) and 11(1) provide that due consideration must be given to the views and wishes of the child or children in the development of a parental responsibilities and rights agreement or a parenting plan, bearing in mind the child's or children's age, maturity and stage of development.

A child also has the right to be informed of any action or decision taken in matters affecting the child. In the first place, section 6(5) of the Act provides that a child, having regard to his or her age, maturity and stage of development, must be informed of any action or decision taken in a matter concerning the child which significantly affects the child. Similarly, regulation 8(3)(b) and regulation 11(2) provide that children must be informed of the contents of a parental responsibilities and rights agreement or a parenting plan by the Family Advocate, the court, a social worker, social service professional, psychologist, suitably qualified person (mediator) or the child's legal representative.

It is therefore clear that children have a right to participate in matters that concern them, to express their views and wishes and to be kept informed at all stages of the process in a child-friendly manner.

1.2 Problems that arise in practice when it comes to obtaining the views and wishes of the child during the adversarial court process

Although children have a right to participate in matters that concern them, to express their views and wishes and to be kept informed at all stages of the process, it has proved difficult to translate the above provisions of the Children's Act into meaningful practice.

Despite the provisions of the Children's Act, children are still not consulted in all matters – either because they are not asked to provide any ideas or feedback regarding future parenting arrangements or because they are not informed about the changes happening to their families. Although in terms of standard operating procedure, the Office of the Family Advocate would not endorse a parenting plan or settlement agreement if such plan or agreement did not contain a statement to the effect that any children involved in the matter had been consulted in the process and informed of the agreed-upon parenting arrangements, there is no unanimity or certainty as to how and when children should be heard in the legal process.

There are five ways in which the child's voice can be heard in the adversarial process of litigation, namely:

- through an expert report prepared by a private psychologist or social worker who has interviewed the child (or done a forensic evaluation for the family);
- through the report and recommendations of the Office of the Family Advocate, who may have canvassed the child's views during an enquiry in terms of section 4 of the Mediation in Certain Divorce Matters Act 24 of 1987;
- through a separate legal representative appointed for the child in terms of section 29(6) of the Children's Act 38 of 2005, section 28(1)(h) of the Constitution of the Republic of South Africa, 1996, section 6(4) of the Divorce Act 70 of 1979 or section 33 of the Magistrates' Courts Act 32 of 1944;
- through a *curator ad litem* who is usually appointed to represent very young children who are unable to articulate their views and wishes in a legal matter; and
- through a judge or presiding officer who may have interviewed the child in chambers or heard the evidence of the child in open court either as a witness or as a party in the matter.

Although children's wishes may be invited and canvassed in all these processes, their voices are filtered through the adult lens of what is in the children's best interests and children unfortunately remain on the periphery of these participation processes. Furthermore, their voices are invited and canvassed "... primarily in the context of helping the court in its decision-making as opposed to having children contribute to the decision-making in concert with their parents".¹ In addition, the court-related participation processes inevitably take place in the adversarial environment of the court and as such are anchored in the adversarial system, which may have very negative repercussions for children. Another consideration is that children's voices may be heard at too late a stage, since conflict between their parents may already have become

¹ Dept of Justice (Canada) *The Voice of the Child in Separation/Divorce Mediation and Other Alternative Dispute Resolution Processes: A Literature Review* Research Report by Birnbaum 49.

entrenched by the time the court-related participation processes come into play. By the time children are afforded the opportunity to express their views, they have inadvertently been exposed to high levels of animosity and manipulation, leaving them confused and torn between warring parents.

1.3 Obtaining the views and wishes of the child in the mediation and parenting coordination processes

Because the available ways in which children's views and wishes can be obtained in the adversarial system of divorce are somewhat haphazard and often inadequate and/or inappropriate, it is proposed by proponents of mediation and parenting coordination that children should be included, and that their voices should be heard in these processes, which are less confrontational and more informal and conciliatory in nature than the adversarial system.

It is argued that mediation would be an appropriate avenue for children to participate in judicial matters that affect them, since it provides them with a suitable forum in which they can vent their feelings while telling their stories so that they feel that they are being heard and understood. It has been said that including children in the mediation process gives them a voice, it affords them rights, it gives them status and, most importantly, it gives them a forum in which to assert their personal and individual power.²

Whenever children are involved in a matter, a very specific form of mediation, namely child-informed mediation, is proposed. Child-informed mediation adds an explicit focus on the child in the mediation process and is designed to include children's perspectives and to motivate parents to focus on their children's needs. It includes two different sub-forms, namely child-focused mediation and child-inclusive mediation.

² Saposnek DT "The value of children in mediation: A cross-cultural perspective" (1990-1991) 8 *Mediation Quarterly* 331-332.

In the first sub-form, child-focused mediation, the children are not interviewed by the mediator, but the parents are assisted by the mediator to increase their focus on their children's developmental needs and to address those needs carefully within their negotiations about parenting arrangements. This form of child-informed mediation should be utilised in those cases where children are not of an age, maturity and stage of development that qualifies them to participate in the process, or where children refuse to be interviewed or specifically request not to be interviewed.

In the second sub-form, child-inclusive mediation, children are interviewed by a mediator, either by the one who is working with their parents or by one who is specifically trained to deal with children. From an ethical perspective, it is considered best if a child's views and wishes are not heard by the mediator who is working with the child's parents, but rather by another person who has been specifically trained to hear the child's voice. In this manner, the mediator's professional role boundaries will not become blurred and cause him or her to act in dual sequential roles or to wear two hats, which is not allowed in terms of the ethical code of conduct for mediators. Nonetheless, the information from the interview is then shared with the parents in the mediation process to assist them to better understand their children's views, wishes and needs.

Just as children would like to have a say in the parenting plans and living arrangements developed by their parents, they also express the wish to be able to talk more freely about how the arrangements are working for them, and to make suggestions for changes when they considered this necessary.³ Parenting coordination or dispute resolution clauses, which are widely used in parenting plans or settlement agreements in South Africa, therefore almost always includes a paragraph permitting the parenting coordinator (PC) to consult with the child or children involved. In practice, this can be done by the PC, if the PC is a suitably qualified mental health practitioner who has been

³ Kelly JB and Kisthardt MK "Helping parents tell their children about separation and divorce: Social science frameworks and the lawyer's counseling responsibility" 2009 *J of the American Academy of Matrimonial Lawyers* 323; De Jong M "Suggestions for a Divorce Process Truly in the Best Interests of Children (2)" 2018 *THRHR* 190.

trained to hear the voice of the child. Where the PC is a legal practitioner, they may appoint a suitably qualified person to obtain the views and wishes of the children.

1.4 Purpose of these guidelines

These guidelines do not purport to regulate the way in which children's voices are to be heard by judges in chambers or open court, by a separate legal representative for a child,⁴ or during investigations by the Office of the Family Advocate; although there is also a need for guidelines to assist courts in effecting child participation.⁵

However, since there is a serious need for standardised procedures with regard to the way in which children's views and wishes are to be ascertained and presented by mediators, psychologists and social workers,⁶ these guidelines seek to ensure that child participation consultations (also called voice of the child consultations) are conducted in accordance with recognised standards.

The guidelines are intended to provide greater clarity on who should undertake child participation or voice of the child consultations, when and how such consultations are to be conducted, and what form feedback to parents, the mediator or parenting coordinator, the parties' legal representatives and/or the court, should take.

⁴ Guidelines for Legal Representatives of Children in Civil Matters have already been drafted by the prepared by the Centre for Child Law, for consultation with Legal Aid SA at a colloquium held in Braamfontein on 10 and 11 March 2010.

⁵ Uys AM "South African courts' differing approaches to determining children's views in family law matters" 2023 *De Jure Law Journal* 312.

⁶ SALRC Issue Paper 31, Project 100D (2015) para 2.7.15. See also Uys AM "South African courts' differing approaches to determining children's views in family law matters" 2023 *De Jure Law Journal* 312 who indicates that "...the Children's Act is devoid of guidelines to assist courts in determining children's views and wishes".

CHAPTER 2

ACRONYMS AND DEFINITIONS

2.1 Acronyms

ADHD:	Attention deficit hyperactivity disorder
ADR:	Alternative dispute resolution
ASD:	Autistic spectrum disorders
PC:	Parenting coordinator
VOC:	Voice of the child

2.2 Definitions

Child

A child is defined as a person who is under the age of 18 years.

Conflict of interest

A conflict of interest occurs when an individual or entity is involved in multiple interests, financial or otherwise, that could potentially influence their decision-making or actions in a way that could be detrimental to their duty or responsibility to another party. In simpler terms, it is a situation where someone's personal interests or loyalties could clash with their professional obligations or responsibilities – such as fulfilling dual roles – or a lack of transparency in matters.

Informed Consent

Informed consent is a legal and ethical principle that requires a person to fully understand the potential risks, benefits, and consequences of intervention, protocols, procedures, or research before agreeing to participate.

Mandate

The term "mandate" implies a formal authorisation or agreement to perform certain duties, actions, or responsibilities within a defined scope and context.

Mediator

A mediator is a neutral third party who facilitates communication and negotiation between parties in conflict or dispute, aiming to help them reach a mutually acceptable agreement or resolution.

Parental responsibilities and rights agreement

A parental responsibilities and rights agreement is a written document that outlines how the biological father who does not have parental responsibilities and rights in respect of a child in terms of either sections 20 or 21 of the Children's Act, or any other person having an interest in the care, well-being and development of the child, obtains parental responsibilities and rights in respect of the child from the mother of a child or other person who has parental responsibilities and rights in respect of the child.

Parenting Coordination

Parenting coordination is a child-focused ADR process in which a mental health professional or legal professional with mediation training and experience assists high-conflict parties in implementing parenting plans and resolving pre- and post-divorce parenting disputes in an immediate non-adversarial, court-sanctioned, private forum, by:

- assessing the parties' compliance with parenting plans, settlement agreements and/or court orders and assisting them to correctly implement such plans, agreements and/or orders;
- educating both parties regarding the risk factors of family separation for their children;
- facilitating communication between the parties and with other persons involved with their children;
- monitoring and overseeing the case inter alia by referring the parties to other professionals;
- mediating disputes;
- making non-binding recommendations; and
- as a last resort, issuing directives where the parties cannot reach an agreement on parenting issues.

Parenting coordinator (PC)

A PC is a suitably qualified person appointed to fulfil the requirements of parenting coordination.

Parenting Plan

A parenting plan is a written document that outlines how separated or divorced parents will share the responsibilities of raising their children. It serves as a structured agreement to ensure consistency and clarity in co-parenting arrangements.

Suitably qualified

The term "suitably qualified" refers to an individual who possesses the necessary qualifications, skills, experience, or credentials required to perform a specific role, task, or job effectively. It implies that the person has relevant qualifications, has acquired skills and experience, meets specific criteria and is competent and capable.

Being "suitably qualified" implies that the individual or entity has the necessary attributes to meet the standards and expectations required for a given role, task, or responsibility.

Voice of the child (VOC)

The "voice of the child" refers to the principle and practice of considering and prioritising the views and wishes of a child in matters that affect them. It emphasises the importance of listening to children, understanding their perspectives, and ensuring that their voices are heard and respected in decisions that may impact their lives. Children's voices can be heard in a direct, indirect, verbal and non-verbal manner. This concept is often applied in legal, educational, social services, and family contexts to promote child rights, welfare, and development. The best interests of the child concerned underpin every aspect of hearing the voice of the child.

CHAPTER 3

CIRCUMSTANCES IN WHICH THE CHILD'S VIEWS AND WISHES ARE REQUIRED

3.1 The views and wishes of the child must be obtained in the following circumstances:

3.1.1 Whenever a parenting plan is being mediated

- In circumstances where the parents are divorced or separated, children should be consulted and granted an opportunity to express their views in terms of section 10 of and regulation 11(1) under the Children's Act during the development of a parenting plan.
- In circumstances where the Family Advocate mediates a parenting plan upon or after a divorce or separation between parents, children should be consulted and granted an opportunity to express their views in terms of section 10 of and regulation 11(1) under the Children's Act during the development of a parenting plan.

3.1.2 Whenever a parental responsibilities and rights agreement is being mediated

- In terms of section 10 of and regulation 8(3)(a) under the Children's Act, consideration must be given to the views and wishes of the child or children in the development of a parental responsibilities and rights agreement.

3.1.3 Whenever major decisions in respect of a child are to be made

- In terms of section 31(1) of the Children's Act, children should be included in decision-making, including but not limited to choice of schooling, residency and contact.
- Where there is a dispute between parents, the child's opinion should be obtained and given due consideration in the resolution of the dispute.

3.1.4 Whenever a comprehensive assessment, such as a care and contact assessment or a relocation assessment, is being conducted, the child's views need to be obtained and thoroughly investigated.

3.1.5 In the parenting coordination process

- Any issue where the PC is of the view that the child's opinions should be considered or included.

3.2 In the event that allegations of abuse are raised within a mediation or a parenting coordination process, the matter must be referred to a forensic specialist who is trained in the assessment of abuse to avoid contamination of the child's voice.

3.3 It is further important to recognise that children should be interviewed at an early stage in the mediation process in order to integrate their views in decision-making by the parents. Within the parenting coordination process, it may be necessary to obtain the child's views and wishes at different times to assist the PC.

CHAPTER 4

WHO SHOULD UNDERTAKE CHILD PARTICIPATION OR VOICE OF THE CHILD CONSULTATIONS

- 4.1 Legal representatives and curators *ad litem* often consult with children within a legal context. However, this should not be confused with the process of obtaining the child's voice and opinions in mediation and other ADR processes. Obtaining and ascertaining the child's views and wishes is a complex process, requiring a very specific skill set.
- 4.2 To provide competent services, a VOC practitioner needs adequate training and supervision to engage with children and their families effectively.
- 4.3 **Knowledge and skills essential in obtaining the views and wishes of the child include:**
 - 4.3.1 Knowing how to communicate with children and develop competencies in interviewing children. Child-friendly interviewing skills require the practitioner to interact with the children at a level that is appropriate to their age, maturity and stage of development. This will facilitate the development of a relationship in which children feel safe and have the confidence to share their thoughts, feelings and concerns.
 - 4.3.2 An understanding of the level of education and schooling including the educational needs of the child. This includes a basic awareness of common psychiatric and psychological disorders that affect children and their learning (e.g. ADHD / Learning & Intellectual Disability / Anxiety / Depression / ASD) and the implications of such psychiatric and psychological disorders for appropriate schooling and educational needs. Referral to a psychologist for a psychoeducational evaluation may be indicated when special schooling is envisaged. This may be necessary, for example, when relocation to a different city/country is contemplated and different schooling options need to be considered.

- 4.3.3 Knowledge and awareness of parental alienation, and the indicators to look out for should this be suspected.
 - 4.3.4 Thorough knowledge of child development at the cognitive, linguistic and psychosocial levels.
 - 4.3.5 An understanding of the various contexts and systems within which the child develops (e.g., school, religion, family, community). (See chapter 5 for stages of development.)
 - 4.3.6 Up-to-date knowledge of research and development in the areas of children's participation in divorce, family mediation, parenting plans, and legal aspects relevant to divorce.
- 4.5 Only mediators or PCs who have such knowledge and skills can conduct child participation or voice of the child consultations. NABFAM foresees that, in practice, only social workers registered with the South African Council for Social Service Professions or psychologists registered with the Health Professions Council of South Africa will have the required knowledge and skills to conduct child participation or voice of the child consultations.

CHAPTER 5

THE PROCESS OF OBTAINING THE VIEWS AND WISHES OF THE CHILD

5.1 Background

- 5.1.1 A child's voice is not necessarily their spoken word and, depending on the issue in dispute, the child's opinion or voice can be obtained from birth to adulthood in different ways. These include interviewing a child, observing a child with each parent at home, observing the child in the classroom and doing an interactional analysis of the child with each parent. The most appropriate way of obtaining the views and wishes of the child is informed by the developmental stage of the child.
- 5.1.2 Children must be interviewed individually and, where practically possible, in their mother tongue.
- 5.1.3 They must be assured that they will not be required to make any decisions themselves.
- 5.1.4 While children's voices must be heard, it is imperative that their spoken voice should not be heard in isolation. A child's views must include an understanding of the context in which those views are being voiced.
- 5.1.5 Different situations (e.g. care and contact disputes, or educational decisions) may require different approaches and interpretations of the child's input.

5.2 Cognisance should be taken of the following factors which may have an influence on the views and wishes of the child:

5.2.1 Developmental age of the child

The developmental ages of a child can be roughly classified as follows:

- Infancy: 0-2 years
- The preschool child: 2-6 years
- Middle childhood: 6-12 years
- Adolescence: 12-18 years⁷

Younger children may express themselves differently from older children or teenagers. The suitably qualified practitioner undertaking the work of obtaining the voice of the child needs to ensure that children's communication is interpreted appropriately for their age and level of understanding.

At the same time, it must be borne in mind that not all children develop in the same way or at the same rate.

5.2.2 Psychological / psychiatric diagnosis, medical conditions influencing capacity, medication

A psychological or psychiatric diagnosis such as a specific learning disorder, ADHD, ASD, depression, anxiety, substance abuse or an eating disorder is likely to influence the normal development of a child as well as the child's presentation during a consultation.

A suitably qualified practitioner should therefore establish whether there are any psychological or psychiatric diagnoses, whether medication has been prescribed and whether the child is compliant with medication and/or therapy. For example, medication prescribed for ADHD may have

⁷ Craig GJ *Human Development* 7th ed (1996) 147 and further.

diminished efficacy by the end of the day and the child may present as restless and distracted.

The extra-curricular programme of the school-going child or the sleep routine of a pre-school child must be taken into consideration when establishing the timing of the interview to avoid consulting with a tired or exhausted child who may present as lethargic and listless.

5.2.3 Parental Alienation

If there is any suggestion or indication that a child has been alienated or is in the process of being alienated from a parent, the person consulting with the child needs to be made aware of this and needs to do sufficient research or consult with an expert in this field before consulting with the child.

An alienated child may present as entirely unambivalent with regard to the alienated parent and may present as confident and unwavering in their views about both the alienated and alienating parent.

5.2.4 Cultural and religious background

The suitably qualified practitioner consulting with the child needs to have an understanding of the child's cultural and religious background.

There are significant cultural differences with regard to making eye contact, showing subservience towards authority and being allowed to disagree with an adult.

5.2.5 Level of education

Before consulting with a child, the child's academic performance and abilities need to be ascertained. This is also, but not always, linked to a child's cognitive development.

5.2.6 *Socio-economic background*

Prior to consulting with a child, there has to be an understanding of the child's socio-economic background. A hungry child cannot concentrate.

5.2.7 *Consultation environment*

The environment in which the child is consulted must be child-friendly and the child must be given time to explore the environment, use the bathroom if necessary, and be comfortable about speaking to the professional.

To quote Joan Kelly on the topic of consulting with children, “[it is] more effective if they [are conducted by someone who] like[s] children, finds them interesting and is comfortable and relaxed in their presence .”⁸

5.3 **Questioning techniques**

Although these guidelines do not purport to be a training manual in obtaining the views and wishes of children, it should be noted that the Rules Board for Courts of Law proposed Children's Court Rules and Forms in terms of the Children's Act 38 of 2005. Rule 3 of the proposed rules deals with child participation in the children's court and rules 6 and 7 make provision for questioning techniques for children, and additional questioning techniques for very young children.

In terms of rule 6(1),

“[a]ll questions to children during proceedings must —

⁸ Kelly JB, ‘Including Children in the Parenting Coordination Process: A Specialized Role’ in Higuchi SA and Lally SJ (eds) *Parenting Coordination in Postseparation Disputes: A Comprehensive Guide for Practitioners*, APA (2014) p151.

- a) be amicable and in plain and age-appropriate language, taking into consideration the child's age, maturity and stage of development;
- b) be short, precise and must not consist of more than one question at a time;
- c) not be posed in the negative;
- d) not contain legal terminology;
- e) be free of adversity or undue influence.”

In its comments on the proposed Children’s Court Rules, NABFAM has added an additional requirement, namely that all questions to children during proceedings must not be repeated once the child has given an answer.

In terms of rule 6(6), the children’s court must disallow questions that are misleading, irrelevant, ambiguous, annoying, harassing, inappropriate, intimidating, offensive, aggressive or repetitive, or in a form that is unlikely to be understood by the child.

Rules 6(7) and 6(8) further provide that the child must be allowed time to process the information before responding to a question, and that the child should be questioned for the shortest time possible.

Rule 7(1) provides that the court may use any mode of communication to facilitate the participation of a very young child and request a suitably qualified expert to assist the court with the observations and conclusion of such communication before the court evaluates and considers the non-verbal communication.

In terms of rule 7(2), when a very young child is unable to respond, the court may allow the child to do so in any manner, including play, body language, facial expression, drawing or painting, gestures, demonstrations, and picture or symbol cards.

CHAPTER 6

PRESENTING THE FINDINGS

- 6.1 Findings pertaining to the VOC can be presented, either in writing or orally, to the mediator or PC, the parents, the parents' legal teams or to the court.
- 6.2 Agreement needs to be obtained from the child as to what can be shared with parents and other practitioners, unless there is a duty to report risk of potential harm to the child.
- 6.3 Priority should be given to the safety and emotional well-being of the child. Obtaining the child's views and wishes should not place them at risk of harm, retribution, or undue stress.

6.4 Template for reporting the voice of the child

1. **Introduction:** Voice of the child consultation requested byx..... This could be in terms of a Court Order issued in the X Court ondate..... under Case No.: , or a request from the parents if they are in a mediation or parenting coordination process, or a request from any other organisation having the authority to request a voice of the child consultation
2. **Reasons** for obtaining the voice of the child: brief description
3. List relevant **documents** e.g. Court order (if applicable), assessment reports, school reports, medical reports, psychologist's reports, etc.
4. List **consultations** with the child including the venue: Ondate..... theprofessional... met withx..... andy..... for x hours atz..... venue.

5. **Child's details**, e.g. age, gender, Grade, school, socio-economic background, etc.
6. **Child's presentation** during the consultation(s), e.g. relaxed, confident, anxious lethargic, etc.
7. **Summary** of the consultation(s): list the views and wishes of the child.
8. **Practitioner's concerns**: Concerns/observations made by the practitioner which do not fall under the previous headings, whether positive or negative, can be listed here, e.g. an observation that the child appears to be alienated from one or both parents.

CHAPTER 7

CONCLUDING REMARKS

When obtaining the views and wishes of the child in mediation or any other setting, it is crucial to approach the matter with sensitivity and caution. Not any practitioner who has completed a VOC workshop would be able to accurately and sensitively obtain and ascertain a child's views and wishes.

Ensuring that a child's views and wishes are heard correctly and interpreted and presented in a sensitive and accurate manner, is a very complex process. It requires very specific training and knowledge in order to serve a population that is viewed as among the most vulnerable in our society.

Hearing the voices of children is a crucial aspect of respecting their rights and promoting their welfare. By approaching it with caution, sensitivity and respect for their individuality, we can ensure that children's perspectives contribute meaningfully to decisions that affect their lives.

Research has shown that children whose voices have been obtained in the mediation process experience less inter-parental conflict and feel less "caught in the middle" of their parents' disagreements.⁹ Having their voices heard in a child-friendly manner in an amicable process has proved to be therapeutic for children. Children involved in child-inclusive mediation felt that their strong need for a voice and for information from within the familial context was satisfied by this process. Both children and their parents independently reported that the children were more relaxed and had adapted significantly better to the rearranged family situation after having been given the opportunity to have a voice, and having been listened to by their parents.

⁹ De Jong M "Child-informed Mediation and Parenting Coordination" in Boezaart T *Child Law in South Africa* 2nd ed (2017) 156-157.