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WHEN SHOULD THE COURT TALK TO THE CHILD?

The Judicial Interview in Divorce Proceedings

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When parties divorce and cannot agree on issues of custody, care and control, the court may sometimes interview the child, to get her perspective on the family situation, as well as her views on her preferred post-divorce arrangements. It is not necessary or appropriate, however, for the court to interview the child in all cases. A judicial interview could be intimidating for the child, or make the child feel that she is under pressure to choose between her parents. The child may also not be intellectually or emotionally mature enough to make the interview meaningful. This article examines relevant legislation and recent case law on judicial interviews, and discusses the factors to be considered when deciding when it would be useful and appropriate to conduct a judicial interview.

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I. Introduction

> You should know that we get sad sometimes. When we're the messenger. When we have to listen to the things you say about each other. …
>
> We feel trapped between you, the two people whom we love the most. We feel guilty when we're having fun with one of you, and choose not to tell the other how great our weekend was. We feel responsible for your happiness. …
>
> …

1 The views expressed in this article are the author's own, and not representative of the views of the Ministry of Law or the Legal Aid Bureau.

> A divorce feels like someone decides to renovate your family home with a sledgehammer. Everything is a big mess at first. And then, slowly, as we lay the floor and paint the walls, something beautiful can appear. Invite us to that process, ask us what we think of the colors. We can help paint, you know.

1 The above is an extract from an open letter to divorcing parents published by Villa Pinedo, a Dutch organisation providing support for children of divorce.[2]

2 As the extract above shows, there is much that a child of divorcing parents would think and feel about the family situation, about each of her parents, and what she would like to see happen after the divorce. The information and insights the child could give might not only be relevant to the court's decision on custody and access issues, but it is also the child's right under Art 12 of the United Nations Convention on the Rights of the Child[3] to have her views heard and be given due weight in any judicial proceedings affecting her.[4]

3 One of the ways for the voice of the child to surface and be given due weight during divorce or other family proceedings involving custody and access would be in the form of a judicial interview.

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2 Villa Pinedo, *Dear Divorced Parents* <https://www.villapinedo.nl/api/files/3a1931e8-2a84-4f36-59cf-6d2b6f1ddcfe> (accessed 27 March 2026). The letter was crafted by Villa Pinedo together with a group of young people who were the children of divorce. See the link to the Villa Pinedo website at <https://volwassenen.villapinedo.nl/english/> (accessed 27 March 2026).

3 Convention on the Rights of the Child (20 November 1989), GA Res 44/25 (entered into force 2 September 1990) ("Convention").

4 Article 12 of the Convention states:

> 1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
>
> 2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

II. Basis of court's power to conduct judicial interviews

4 The court's power to conduct judicial interviews of children stems from s 125(2)(*b*) of the Women's Charter 1961,[5] which states:

> (2) In deciding in whose custody, or in whose care and control, a child should be placed, the paramount consideration is to be the welfare of the child and subject to this, the court is to have regard —
>
> …
>
> (*b*) to the wishes of the child, where he or she is of an age to express an independent opinion.

5 Part 8 r 2(2)(*f*) of the Family Justice (General) Rules 2024 ("FJR 2024") operationalises this by providing that the court may "make any order or give any direction" on a matter "where a child is the subject of or a party to the proceedings — that the child be interviewed by a Judge separately and apart from the parties to the proceedings or any other person".

6 Should a party want the court to interview the child, she need not take out a formal application but can request the judge directly to consider doing so. The court can also direct for this to be done during the course of the proceedings. The judge will usually talk to the child together with a court family specialist from the Court Counselling and Psychological Services.[6]

III. Framework in *WKM v WKN*

7 When would it be appropriate to conduct a judicial interview? The most recent and authoritative case which sets out the framework to answer this question is the case of *WKM v WKN*[7] ("*WKM*"). In this case, the parties divorced, and the

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5 2020 Rev Ed.

6 See *Emily's Day in the Family Justice Courts*, a video intended for a child who needs to attend the Family Justice Courts at <https://www.youtube.com/watch?v=mp29ardCOro> (accessed 27 March 2026); in *XUL v XUM* [2025] SGFC 123, *eg*, the court specifically stated that it had conducted an interview with the child with a court family specialist present.

7 [2024] 1 SLR 158.

ancillary matters court awarded the father care and control of the child, who was four years old at the time of the ancillary matters hearing. The mother was given liberal access. This arrangement went on for five years, and then the mother alleged that the child had been emotionally abused and neglected by the father, and from 9 November 2021 refused to return the child to him. The father then applied to enforce the care and control orders, whilst the mother applied to vary the care and control order so that she would have care and control. The mother had made a police report for the case, and the police had alerted the Child Protective Service ("CPS").[8] No action was eventually taken by the police or CPS for the case.

8 In the interim period (which was more than a year), the child continued to stay with the mother. On 6 January 2023, the district judge dismissed the mother's application and granted the father's application. The child then returned to live with the father. The mother appealed to the General Division of the High Court (Family Division) ("HCF") which heard the matter on 15 May 2023. After interviewing the child, the court ordered that care and control of the child be given to the mother, and liberal access to the father. The HCF said that it was not convinced that there was emotional abuse or neglect of the child by the father, as the mother had alleged. However, the court noted that the child was 11 years old, and sufficiently mature to decide which parent she wished to live with. The court stated that at the interview, she was initially shy, but calmly answered the court's questions, adding that: "She articulated her opinions with firmness and maturity. She made it clear that she prefers to live with the Mother. She seems clearly happier to be with her."[9] The HCF felt that she did not appear to be coached or under the

8 The Rehabilitation and Protection Group of the Ministry of Social and Family Development restructured with effect from 1 May 2025. As part of this restructuring, the Child Protective Service, Adult Protective Service and Children in Care unit are now collectively known as "Protective Service" (PSV), and the "Child Protection Officers" and "Adult Protection Officers" are now known as "Protection Officers". However, since the term "Child Protective Service" was in use at the time of this case, the author has continued to use this term in this article.

9 *WKN v WKM* [2023] SGHCF 25 at [8].

influence of either parent, and followed the child's wishes to live with the parent she was happiest living with.

9 The father subsequently filed an application for permission to appeal, which was granted. The areas which raised questions of public interest were: (a) what, if any, further guidance should be provided on the use of the judicial interview process, including its role *vis-à-vis* other sources of information available to the court; and (b) the significance and weight to be accorded to the contents of the reports prepared by child welfare professionals, which are confidential in nature such that they are provided to the court but not to the parties.[10]

10 The Court of Appeal held that the assessment of whether a judicial interview should be conducted would depend on a host of factors, including but not limited to:[11]

> (a) the age, emotional and intellectual maturity of the child, which would vary from child to child;
>
> (b) the relationship between the child's parents and whether there are concerns about excessive gatekeeping or the conduct of one parent alienating the child from the other parent. The latter would make it likely that the child might be coached on what to say. However, when there is some alienating behaviour, a judicial interview might be a good opportunity for the judge to explain to the child that the court's role is to make orders in the child's best interests, and this would, in many cases, include ensuring that each parent is able to play a part in the child's life;
>
> (c) the child's general well-being and the consequences for the child should such an interview be conducted (*eg*, whether the parents are likely to place pressure on the child to take a certain position during the interview; and whether the child has already participated in too many interviews with different professionals or has expressed concerns about having to choose one parent over the other);

10 *WKM v WKN* [2024] 1 SLR 158 at [22].
11 *WKM v WKN* [2024] 1 SLR 158 at [45].

(d) the nature of the dispute and the stage of the proceedings, including the specific matters in issue (*eg*, if the dispute is on a narrow issue like relocation, a judicial interview might be appropriate; if the proceedings are at an early stage, there may be little information on the child's wishes, and hence a judicial interview might be more useful; at a later stage, not only might there be more materials for the court to refer to, the child might also have already been in too many interviews, and it would be prudent to avoid another); and

(e) the availability of other relevant materials, such as reports by social workers and mental health professionals.

11 The Court of Appeal allowed the appeal, reversing the order on care and control from the mother to the father.[12] The court held that[13] it was not clear that the High Court judge had considered the various welfare reports made available to him, as he had not directed updated reports to be submitted. Rather than a judicial interview, the court relied on the various welfare reports originally submitted for the case as well as an updated set of the reports ordered by the court in coming to its decision.[14] The court noted that given the level of conflict and instability surrounding the child in the previous two years, during which the *de facto* care had been shifting between the parties, it would have been clear that the child's answers in the judicial interview were strongly influenced by the mother.[15] The welfare reports showed that the mother's conduct went far beyond gatekeeping to wilfully carrying out a campaign to damage the child's relationship with her father,[16] *eg*, by encouraging the child to

12 *WKM v WKN* [2024] 1 SLR 158 at [45]. In addition, the court ordered phased arrangements which included no interaction between the mother and child for at least four weeks from the handover, followed by video calls and subsequently supervised access with access arrangements to be reviewed by the Family Court in six months, and both parents and child to undergo mandatory individual or/or joint counselling. The court even ordered that the child was not to have a mobile phone and her access to a computer should be monitored and supervised by the father.

13 *WKM v WKN* [2024] 1 SLR 158 at [79].

14 See *WKM v WKN* [2024] 1 SLR 158 at [80]–[85].

15 See *WKM v WKN* [2024] 1 SLR 158 at [80]–[85].

16 *WKM v WKN* [2024] 1 SLR 158 at [82].

make disrespectful remarks about the father, and lodging a slew of reports alleging child abuse against the father and his helper. The child even ended up self-harming during this period.

12 After *WKM*, there were several High Court cases that touched on the topic of judicial interviews and applied the principles in *WKM*.

13 In *TTZ v TTY*,[17] which involved a contempt of court application relating to the mother's alleged failure to facilitate access to the child (a 14-year-old boy), the HCF noted that the district judge in the court below had the benefit of interviewing the child, with the assistance of a specialist counsellor, and had concluded that the child had "a mind of his own", which was "no surprise, given that [the child] is at an age where he can come to a view and form an opinion on the relationships he shares with his family members".[18]

14 In *XOY v XOZ*,[19] which dealt with the ancillary matters after divorce, the care and control of the younger child of the marriage, aged 19, was an issue. She had filed an affidavit in support of the mother, at the mother's request. However, the father clarified with the court that the child had done so only because she was under the impression that she had to choose which parent to stay with. When the father informed her that it was possible to stay with both parents, she said that she would prefer not to choose either parent. The court decided to hold a judicial interview with the child rather than getting her to file a supplementary affidavit, to which both parties were agreeable. It is submitted that the court's decision was influenced by the child's age (she was practically an adult, being 19 years old), the parties' agreement regarding the interview, and the desire to avoid the additional time, costs, and stress on the part of the parties and the child in filing a supplementary affidavit.

17 [2024] SGHCF 46.
18 *TTZ v TTY* [2024] SGHCF 46 at [43], *per* Teh Hwee Hwee J.
19 [2025] SGHCF 49.

15 In *XLK v XLJ*,[20] the father had applied for permission to appeal against the decision of the HCF, which affirmed the Family Court's order granting custody, care and control of the parties' five-year-old son to the mother. The father tried to buttress his position by pointing out that the High Court judge had failed to conduct a child interview. The Appellate Division of the High Court dismissed the father's application for permission to appeal. It stated that the fact that the judge did not conduct a child interview did not disclose any error of law, and that whether to conduct a judicial interview was a matter for the court's discretion, and that the High Court judge (and the district judge from the Family Court, who also did not conduct a child interview) did not exercise this discretion wrongly. It is submitted that the young age of the child involved was a factor in the decision by all three courts that there was no need to conduct a judicial interview.

16 *WRU v WRT*[21] was an appeal against the Family Court's decision on a relocation application by the mother of two children, aged 12 and ten. The mother had requested for the district judge to interview the children during the proceedings in the Family Court. However, the district judge decided that since the father alleged that the children had been negatively influenced by the mother, a specific issues report prepared by a court family specialist would be more helpful in giving a fuller picture of the family. In coming to its decision, the HCF was content to rely on the specific issues report and other materials regarding the wishes of the children, noting that there was "ample evidence"[22] that the children were in favour of relocation. The High Court judge did not require the children to be interviewed. It is submitted that this was because the available material on the children's wishes and the family was sufficient for the judge to make a decision on the matter.

17 There are also two Family Court cases that discussed whether to conduct a judicial interview. In the case of *WYV v*

20 [2025] 2 SLR 317.
21 [2024] SGHCF 23.
22 *WRU v WRT* [2024] SGHCF 23 at [32], *per* Mavis Chionh Sze Chyi J.

WYW,[23] the mother had applied to vary certain access orders to, amongst other things, cease overnight access between the father and the children, aged nine and ten. The father then filed an application to strike out the mother's variation application. The mother requested a judicial interview to ascertain the children's wishes, but the judge declined to interview the children. This was because the interview was not necessary to decide the applications – the mother appeared to be trying to use the interview to plug gaps in her case. In addition, the children had already been interviewed by professionals, and there was a child protection social report ("Report") which shed light on the situation and the relationship between both the parties and the children. Finally, the parents had an acrimonious relationship, and there was a risk of triangulating the children, who were still in their developmental years. This was a risk that the Report had highlighted.

18 In *XUL v XUM*,[24] the court had to decide on whether to allow a mother to relocate her 12-year-old son to the UK to attend boarding school, while both parents remained in Singapore. There was a dispute as to whether the idea to attend boarding school emanated from the child himself. The judge conducted a judicial interview to ascertain the child's views on the relocation, and his level of maturity and understanding of its implications.

19 Gleaning principles from the cases above, the following framework (in the order as set out below) is suggested when considering the question of whether to conduct a judicial interview.

A. Age and maturity of child

20 To ascertain whether the child is capable of meaningful participation in the judicial interview, age is used as a filtering factor.

23 [2024] SGFC 44.
24 [2025] SGFC 123.

21 If the child is ten and above, generally she should be mature enough to participate meaningfully in a judicial interview, unless there is evidence to the contrary.[25]

22 If the child is younger (*ie*, between seven and nine years old), clear evidence of the child's maturity would be required. It is suggested that, in assessing what "maturity" is, reference be taken from what is required of a credible witness in court proceedings, *ie*, that the witness who was present at the scene of an event is able to perceive that event with reasonable accuracy; that the witness can communicate this successfully to the judge who was not present; that the witness can report the perceptions in such a way that personal judgment will not excessively distort the report; and that the witness' memory suffices to provide a complete report of the event even after a delay. These assumptions are problematic even in relation to adults.[26] Hence, it is submitted that a professional's view on the child's maturity would be helpful, covering areas connected with the assumptions stated above, such as the child's level of understanding; her communication skills; the length of her concentration span; her ability to provide rational and independent answers; whether she grasps the importance of telling the truth; her ability to remember and recount events with accuracy; and her emotional stability.

23 Generally, interviews should not be conducted for children younger than seven years old.[27] There could always be exceptional circumstances, but none of the cases examined involved a judicial interview of a child younger than seven years old.

25 Judicial interviews were conducted in *TTZ v TTY* [2024] SGHCF 46 – for a 14-year-old child; *XOY v XOZ* [2025] SGHCF 49 – for a 19-year-old child; and *XUL v XUM* [2025] SGFC 123 – for a 12-year-old child.

26 See David Bedingfield, *Advocacy in Family Proceedings: Theory and Practice* (LexisNexis, 2nd Ed, 2013) at pp 2–3.

27 A judicial interview was not conducted in *XLK v XLJ* [2025] 2 SLR 317, for a five-year-old child.

B. Real need for the child's input?

24 If the purpose of the interview is just to fish for information or plug gaps in a party's case (as in *WYV v WYW*[28]), or there are already recent, adequate professional reports covering the child's views (as in *WRU v WRT*[29]), then the interview is probably not necessary. However, if there is a specific, discrete issue requiring the child's perspective, such as relocation for boarding school (as in *XUL v XUM*[30]), or where existing reports are outdated or inadequate, then this would lean in favour of a judicial interview. If the proceedings are at an early stage and there is not much information on the child, then there would be more need for the child's input – *versus* a later stage of the proceedings, where there may be considerably more materials on the child.

C. Risk assessment – would an interview cause more harm than benefit to the child?

25 Factors which would lean against conducting an interview would be: if there is high parental conflict, with evidence of coaching by one parent or parental alienation;[31] and if the child has already been interviewed by professionals. It is submitted that if the child has expressed extreme reluctance to be interviewed (showing clear distress rather than just normal nervousness, as certified by a professional), the court should also be more cautious in conducting the interview. If both parents are agreeable to having the judicial interview[32] and there are no concerns about either or both placing any pressure on the child, then this would lean in favour of conducting the interview. However, the decision should not be for the parents to

28 [2024] SGFC 44.
29 [2024] SGHCF 23.
30 [2025] SGFC 123.
31 This was the case in *WYV v WYW* [2024] SGFC 44, where the parents had an extremely acrimonious relationship, as well as *WRU v WRT* [2024] SGHCF 23, where the father alleged that the children had been negatively influenced by the mother.
32 This was the case in *XOY v XOZ* [2025] SGHCF 49, where both parties were agreeable to the child being interviewed rather than filing a supplementary affidavit.

make, but the court – so the parents' agreement is helpful, but not necessary.

26 It can be seen from the foregoing that judicial interviews are not intended to be conducted as a matter of course, and not even as a default option.[33] It is very much a matter of judicial discretion, using the above framework and factors as a guide. Whether or not a judicial interview is conducted depends very much on the facts and circumstances of each case, and there is no formula set out in any of the cases to weight the different factors against each other.

27 One question that might arise is: At what stage of the proceedings should the judicial interview take place? It is submitted that unless there is an urgent and specific issue to be dealt with, it would be better to defer conducting a judicial interview at the early stage of the proceedings, since there is a possibility that child reports might be ordered, and the children would have to be interviewed by professionals for this. There might thus eventually be sufficient materials to decide on the children's issues, without running the risk of the children being over-interviewed. Thus, judicial interviews might be more appropriate at the ancillary matters hearing itself, rather than for interlocutory applications.

IV. Conclusion

28 The *WKM* framework, while providing comprehensive guidance, leaves various questions unanswered. For example, how should competing factors be weighted when they point in different directions in a case involving a mature, articulate 14-year-old child whose parents are in high conflict? What

33 This is in contrast to the practice of the Syariah Court where a child above seven years old will usually be interviewed in the course of divorce proceedings, if issues relating to that child are in dispute. This is likely because under Muslim law, a child who attains the age of seven years is regarded as a *mumaiyiz*, *ie*, a child who is old enough to have the capacity to choose which parent he wants to live with (see Ahmad Nizam Abbas, Istyana Putri Ibrahim & Maryam Hasanah Rozlan, *Muslim Family Law in Singapore* (Academy Publishing 2022) at para 5.92).

constitutes exceptional circumstances that might lean in favour of interviewing a child under seven years old? What exactly constitutes sufficient evidence of maturity for younger children who are between seven and nine years old? Also, when should the courts proactively consider judicial interviews, rather than waiting for the parties to request for one?

29 It is hoped that future cases will actively seek to answer these questions. Until then, the courts will have to carefully balance the various factors elaborated on above, in deciding whether the benefits of a judicial interview will outweigh any possible harm to the child. In doing so, the court should keep in mind the observations made in *XOY v XOZ*,[34] that the child (whom the court interviewed) "loves both her parents and prefers not to choose between them".[35] This is likely true of all children of divorce, or who are caught in custody and access disputes. The judicial interview process must be alive to this reality, and create a safe space for the child to speak honestly, without feeling like she is placed into the role of a decision-maker in her parents' conflict. The key principle to keep in mind is not whether the child could participate in the interview, but whether and to what extent that participation would serve her welfare.

34 [2025] SGHCF 49.
35 *XOY v XOZ* [2025] SGHCF 49 at [127], *per* Kwek Mean Luck J.