

Lay Advocate and Court Registry Handbook

Family Court

First Edition | June 2020



MINISTRY OF
JUSTICE
Tabu o te Ture

New Zealand Government

Contents

- Introduction to the Family Court** **4**
- Introduction to Care and Protection** **5**
 - The Family Group Conference 6
 - Outcomes of care and protection proceedings 6
 - Overview of process for care and protection proceedings 8
- Lay Advocates in the Family Court** **12**
 - Key Family Justice working partnerships12
 - Key functions of Lay Advocates in the Family Court13
 - Being assigned to a case13
 - Key activities14
 - Participation in Family Group Conferences 14
 - Attendance at Court 14
 - Report Writing 15
 - What to include in the report 15
 - Report timeframes 16
 - Meeting with child or young person and their family/whānau 16
 - Relationship management 16
 - The end of assignment17
 - The appointment process17
 - Police Vetting18
 - Review of appointments to the role18
 - Standards19
 - ID Card 20
 - Confidentiality20
 - Reporting privacy breaches 21
 - Complaints procedure22
 - Complaints referred to a panel for consideration 22

Complaints by Lay Advocates	23
Health and Safety	24
What the Health and Safety Work Act 2015 requires of a Lay Advocate	24
Keeping safe in the Lay Advocate role	24
Identifying and managing risks associated with the role	25
Stay alert throughout the meeting and continue to reassess for risk	25
Review and close-off after returning from the meeting	26
Assistance programme	26
Payment, expenses and invoicing.....	28
Extensions	29
Appendix 1: Report Template	31
About the Child / Young Person Genealogy (whakapapa)	31
Lay Advocate Signature	32
Appendix 2: Pre-visit Assessment Guide	33
Appendix 3: Health and Safety Checklist	34
While at the meeting, proceed with caution and continue to assess risk:	34
Appendix 4: Safe driving guide	36
Speed	36
Driver fatigue	36
Driver distraction	36
Appendix 5: Court etiquette guide	37
General courtroom etiquette	37
Etiquette outside the courtroom	37
Additional resources	38
Appendix 6: Lay Advocate claim template.....	39
Appendix 7: Roles of other Family Court professionals	40
Appendix 8: Family Justice terminology guide	41

Introduction to the Family Court

The Family Court is a division of the District Court and was established in 1981. There are 58 Family Courts in New Zealand. The Family Court helps New Zealanders with family problems. The Court deals with a wide range of family relationships, from children who have not yet been born through to older people who need care and protection.

One of the matters which the Family Court deals with involves cases where the State, through the Ministry for Children – Oranga Tamariki (Oranga Tamariki), forms the belief that a child is in need of care and protection. Family Court Judges have legal and other skills which enable them to comprehend the unique complexities of individual families and to decide whether Oranga Tamariki is entitled to intervene to the extent that it seeks in the private life of a family.

When the Family Court is deciding care and protection cases, children must have a lawyer to represent them. That lawyer will ensure the Court considers the relevant legal interests and principles.

A Lay Advocate will ensure the child and family receive cultural support. The Lay Advocate can also make sure the Court considers the interests of parents and family/whānau if they are not being represented in other ways.

Although the Family Court is essentially a private forum in that it deals with deeply personal and sensitive matters, the Family Court is still part of our justice system and its work must be as open and transparent as possible to be accountable to the public. However, its private nature means the Lay Advocate cannot share information received in the Court process without the Court's permission.

Advocates must ensure that the child, family/whānau, any other parties and the Court all hear the same information.

More information about the Family Court and the wide jurisdiction it exercises can be found at: www.districtcourts.govt.nz/family-court/

Introduction to Care and Protection

In 1989, New Zealand enacted the Children, Young Persons and Their Families Act 1989 which established new objectives and principles for both the care and protection of children and the response to young people who offend.

The Act is now called the Oranga Tamariki Act 1989 (OTA). The Family Court deals with the parts of the OTA that address the care and protection of young people (Parts 2, 3 and 3A of the OTA).

If a notification under section 15 OTA reporting the ill-treatment or neglect of a child or young person is made, or there is a referral under section 19 OTA that a child or young person is in need of care and protection, then an investigation will be commenced by Oranga Tamariki.

If they think a child or young person is being, or is at risk of being, harmed or neglected, Oranga Tamariki, the Police or any other person with the Court's permission can ask the Family Court to legally recognise that the child or young person is in need of care and protection. This is called an application for a care and protection order.

The Court can only make a care and protection order if there's no other way to look after the child's safety and best interests. The welfare and best interests of the child or young person are the first and most important principle of decision making in these cases.

The Court or person must apply the principle that children and young people must be protected from harm and have their rights upheld. Those principles in the OTA tie a child's wellbeing to the wellbeing of their family/whānau. Oranga Tamariki and the Court must help family/whānau to regain responsibility for the care and wellbeing of their children/tamariki. If this cannot happen because the child cannot be kept safe, the Court must enable a child to live in a family group where their wellbeing is assured. This includes psychological, spiritual and cultural wellbeing.

Several changes to the OTA have been introduced which came into force on 1 July 2019. Those changes include the introduction of three new principles:

- Mana tamaiti (Tamariki);
- Whānaungatanga;
- Whakapapa.

mana tamaiti (tamariki) means the intrinsic value and inherent dignity derived from a child's or young person's whakapapa (genealogy) and their belonging to a whānau, hapū, iwi or family group, in accordance with tikanga Māori or its equivalent in the culture of the child or young person.

whakapapa, in relation to a person, means the multi-generational kinship relationships that help to describe who the person is in terms of their mātua (parents), and tūpuna (ancestors), from whom they descend.

whānaungatanga, in relation to a person, means –

- (a) the purposeful carrying out of responsibilities based on obligations to whakapapa;
- (b) the kinship that provides the foundations for reciprocal obligations and responsibilities to be met;
- (c) the wider kinship ties that need to be protected and maintained to ensure the maintenance and protection of their sense of belonging, identity and connection.

These principles describe the existing principles of the OTA and widen and strengthen them. These principles are integral to the welfare and best interests of the child.

The Family Group Conference

A Family Group Conference (FGC) must happen before the Family Court decides if it will make a care and protection order. Oranga Tamariki usually calls an FGC before applying to the Court for an order.

(This doesn't happen where there is an immediate crisis and the social worker applies to the Court first. An urgent FGC must then be held afterwards)

The FGC is a formal meeting which involves the child's parents, guardians or caregivers, wider family/whānau, any agencies or others involved and the lawyer for child. Everyone talks about the concerns for the child. They then try to find a solution to the current issues and make a plan to ensure the child's welfare. Oranga Tamariki social workers, police, or any community, education, health or other agency can give information to the FGC, but the family group decides on the preferred solution. The social worker or lawyer for the child is then asked to agree.

The care and protection coordinator of the FGC must write down any decisions, recommendations and plans that are made at the conference. These may be included in a plan that is given to the Family Court Judge. This plan is intended to set realistic and achievable goals for the child's long-term care. It will outline the responsibilities of people involved in the child's life, including parents, guardians, members of the hapū or iwi and Oranga Tamariki. It may also include health, education or other social services.

The family group can discuss their plan in private and their conversations about it can't be disclosed in Court. The other members of the FGC aren't present. This ensures that the family can discuss the child's needs freely and frankly without the fear of having their words used against them later.

Attendance of family/whānau at the FGC is very important. Sometimes the social worker will not be able to trace or contact family/whānau or persuade them to attend. The lay advocate has an important role in encouraging whānau to attend, by explaining the importance, and the value which whānau can add to future plans.

Outcomes of care and protection proceedings

Determining outcomes of care and protection proceedings is a two-step process. First, the Court looks at past events to decide if it needs to intervene. Second, it will look at future plans, options and risks to decide on the plan for the child.

Because this is a two-step process, there may be some time between determining that a child needs care and protection and the orders being made which support a future plan. The Court can make temporary or interim orders for custody, support and services.

When the Court decides a child needs care and protection, it can make orders deciding where and with whom the child or young person will live and who their guardians will be. It may order Oranga Tamariki to provide the child's parents or guardians with support services. The orders will depend on the unique circumstances and individual needs of the child and their whānau.

Under some kinds of orders, the plan for the child is reviewed every 6 months (for children under 7) or every 12 months (for children 7 and over).

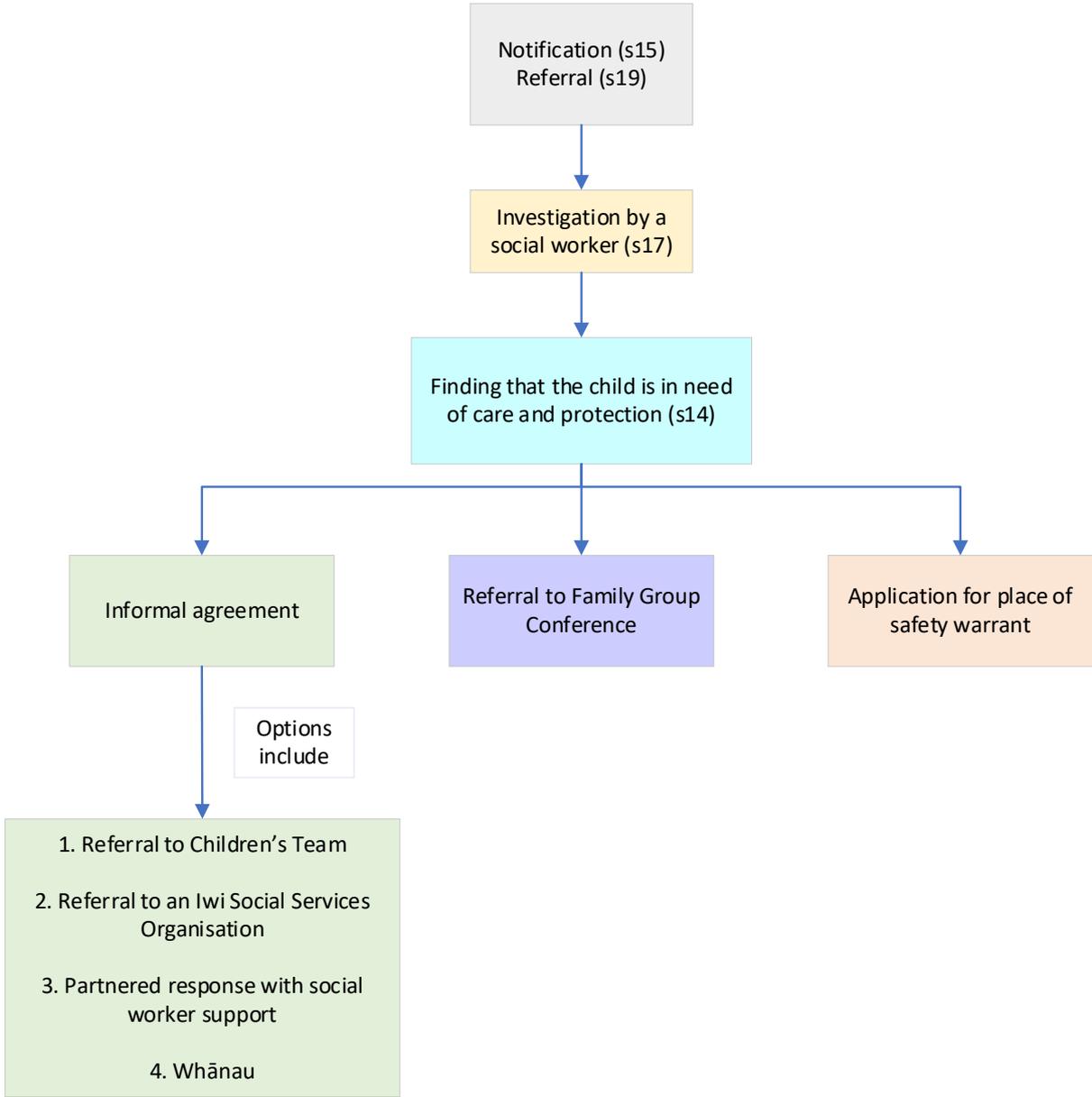
These orders are:

- custody orders
- guardianship orders;
- special guardianship orders;
- services orders; and
- support orders.

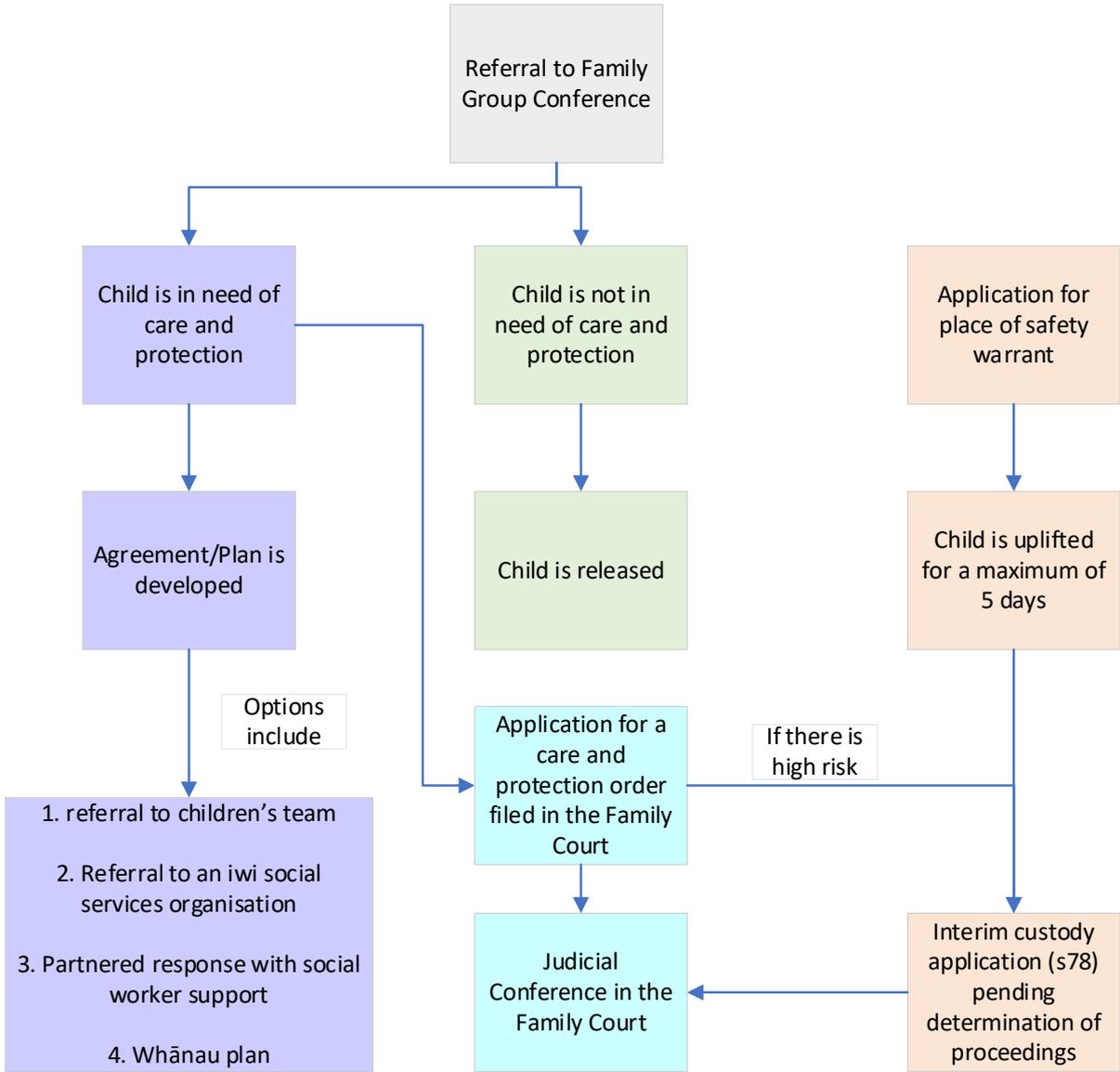
Overview of process for care and protection proceedings

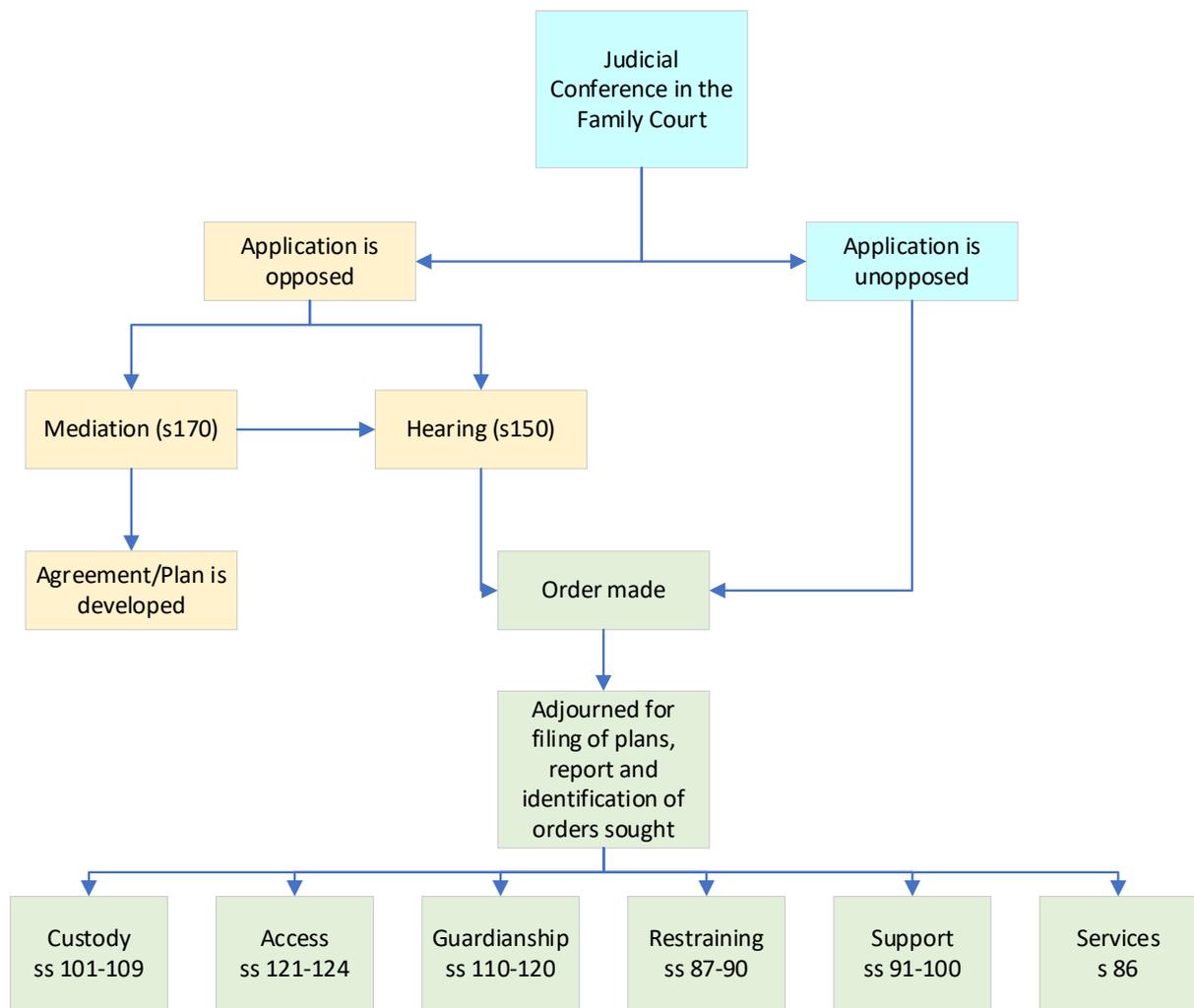
The following flowcharts detail the steps in the process for care and protection proceedings:

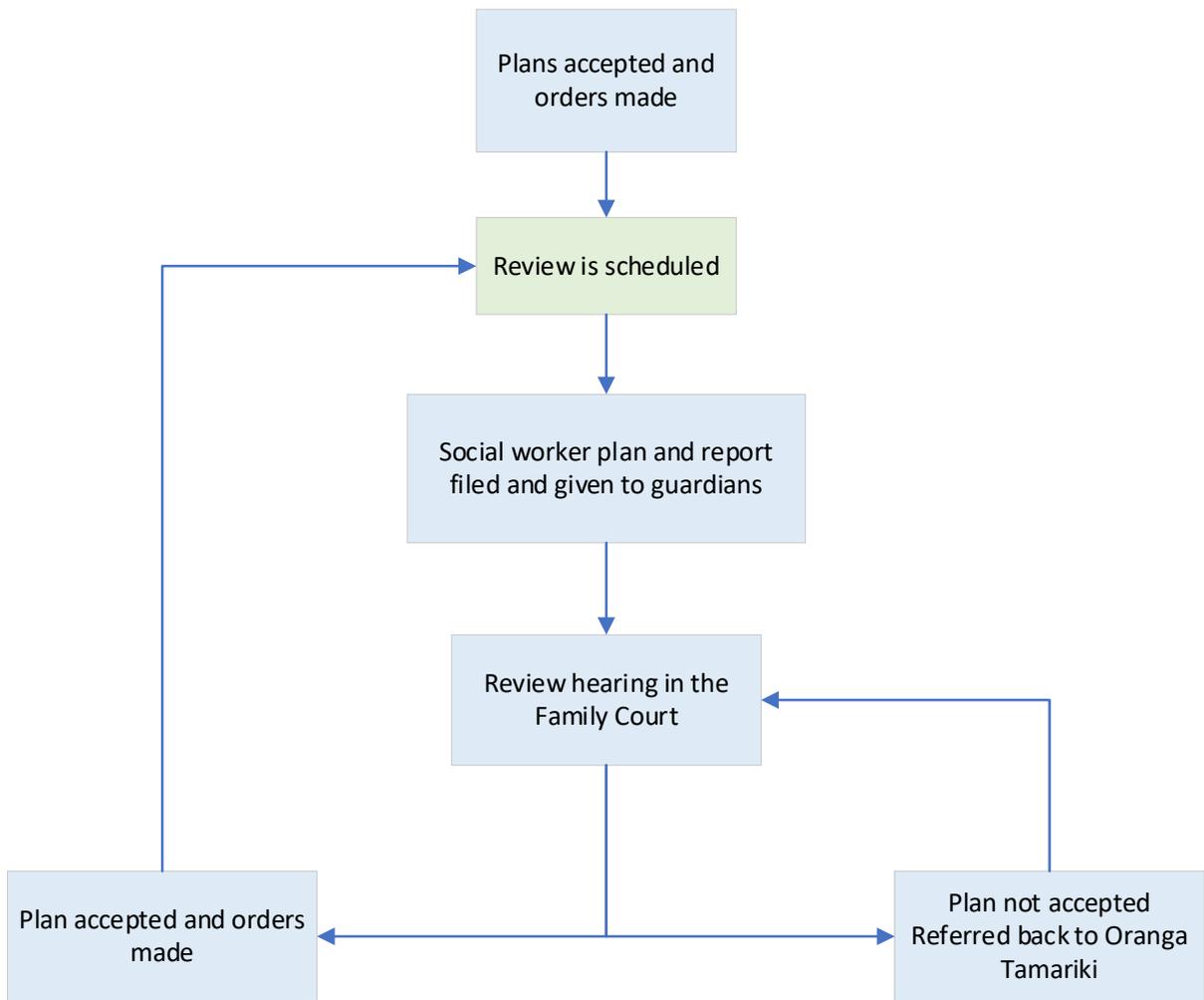
Steps for a report of ill-treatment or neglect of child or young person:



Steps of a referral of care or protection cases to care and protection co-ordinator:







Lay Advocates in the Family Court

Lay Advocates appear in support of a child or young person who is the subject of care and protection proceedings (see section 163 OTA). As a statutory appointment, Lay Advocates are not employed by or contracted to the Ministry of Justice or the Court.¹ Lay Advocates are independent service providers and are not covered by the Employment Relations Act 2000.

In part, section 163(2) OTA states, the Court shall, where practical, assign a Lay Advocate who has sufficient standing in the culture of the child or young person. That Lay Advocate shall have standing by reason of personality, cultural background, knowledge, and/or experience to enable that person to carry out their duties under the Act.

Lay Advocates will either be appointed to a particular Family Court or a group of courts in a defined area (known as a “Justice Services Area”). Once appointed, the Lay Advocate can be assigned to a case at any stage of the process.

Once you are assigned a case, you will be given specific instructions, which the Court calls the “brief”. Assignment to a case is usually managed by the Court Registry. If the Court asks you to act as Lay Advocate, and you know that you do not have the right expertise for this particular whānau, the Court will rely on you to say so.

Key Family Justice working partnerships

As a Lay Advocate, you’ll work with people from across the Family Justice sphere, including:

- Family Court Judges;
- Fellow Lay Advocates;
- Ministry of Justice – Court Registry staff, management and court security;
- Court appointed psychologists;
- Oranga Tamariki social workers and lawyers;
- Lawyer representing the child;
- New Zealand Police;
- Family/whānau including kaumatua/kuia, Pasifika elders and/or tribal members;
- Lawyers representing family and whānau;
- Hapū and iwi or equivalent.

Depending on the case, the team may also include a wider network of hapū, iwi, tribal or family/whānau members.

¹ Section 12 of the Interpretation Act 1999 sets out that the power to appoint includes the power to remove and suspend from office.

Key functions of Lay Advocates in the Family Court

A Lay Advocate has two functions set out in section 164 OTA:

1. To ensure that the Court [Judge] is made aware of all cultural matters that are relevant to the proceedings; and
2. To represent the interests of the child or young person's whānau, hapū and iwi (or their equivalents (if any) in the culture of the child or young person) to the extent that those interests are not otherwise represented in the proceedings.

The role of the Lay Advocate is not to duplicate the responsibilities of other Family Justice agencies (social workers, Police or health professionals) or to step in and fill a gap if those functions are not adequately performed.

The Lay Advocate role within the Family Court does not extend to:

- negotiating courses or education services for the child or young person;
- transporting a child or young person to and from counselling programmes or attending any appointments;
- transporting the child or young person to and from and/or watching sports events the child or young person is involved with;
- transporting the child or young person to and from the Family Court; or
- providing legal advice and interpreting services.

Note:

- Obligations agreed to by the Lay Advocate under a Family Group Conference Plan are considered voluntary and cannot be invoiced for.
- Advocating for, and attendance with, the child or young person and/or their family/whānau at Work and Income, with social workers, with Immigration New Zealand, or at other social service meetings on a voluntary basis cannot be invoiced for.

Being assigned to a case

The Lay Advocate role is self-managing. It requires you to manage your time commitment according to the Brief and under the express guidance of the Court.

The role of a Lay Advocate is not a full-time role, and the workload varies depending on the needs of the Court. There is no guarantee about the frequency of assignments and the Court has no obligation to provide ongoing and consistent assignment to cases. Lay Advocates are not assigned to every Family Court case.

A Judge can assign a Lay Advocate for a case at any point in the process. If the Judge doesn't request a specific Lay Advocate, the Court Registry will select one from the pool.

Where possible, the Judge or Court Registry will appoint a person who has sufficient standing in the culture of the child or young person. The Court will consider the personality, cultural background, knowledge, and experience of that person so they can carry out his or her duties. It is critical that the Lay Advocate appointed has "sufficient standing in the culture of the child or young person". The Court will therefore appoint someone who best suits that role in relation to the particular child. Other factors the Court may consider include the cultural match between the Lay Advocate and the child, their expertise/experience and current workloads.

There may be times when you are asked to work for a particular child and you feel you are not the best person to do the task. The Court will want you to express that concern before accepting the role.

When a case is assigned to you, the Court Registry will send an email to advise that you have been appointed. It will include the details of the child or young person, a work brief and the case's billable hours allowance. It will also ask for you to confirm by return email that you accept or do not accept the terms of the appointment. If the child or young person is aged 12 years or older, the Court Registry will also send a letter to the child or young person to let them know that you have been appointed. The letter will briefly explain the role of a Lay Advocate.

Key activities

There are some key activities that you will be involved with during your appointment as Lay Advocate, including:

- Participating in Family Group Conferences and mediation (either at Court or with the lawyers);
- Meeting with the child or young person and their family/whānau;
- Managing relationships to enable family/whānau to engage well with relevant social service agencies;
- Attending Court and calling and cross-examining witnesses;
- Writing reports for the Court about what action(s) you have taken.

Participation in Family Group Conferences

Lay Advocates are expected to attend Family Group Conferences (FGC). These happen before the court hearing. Oranga Tamariki will invite family/whānau members and professional people involved in the education and health of the tamariki.

The Lay Advocate will have an important role before the FGC to help the whānau understand that Oranga Tamariki needs to have a responsible plan, and to ensure they have whānau members they can rely on and liaise with. The Lay Advocate can contribute before the FGC by preparing whānau to be reliable, realistic, and committed to the future wellbeing of the tamariki.

It is the Lay Advocate's responsibility to make sure that cultural matters are discussed at the FGC, and to represent the interests of the child or young person, family/whānau, hapū and/or iwi (or cultural equivalent) who are not represented in the conference.

Above all, you must put the welfare and best interests of the child first.

Attendance at Court

Lay Advocates attend all court hearings involving the child or young person. Whether in Court or at the FGC, your role is to help family/whānau show how they will accept ongoing responsibility for their child's safety and wellbeing. You will also need to speak to the report you have prepared.

At subsequent court hearings, the Judge will ask you for an update on the work or progress made since the last appearance. This update should address the key points raised in the written report you submitted to the Court or any updates submitted between court appearances.

If there are barriers, especially cultural barriers, which may discourage whānau from working with or giving information to Oranga Tamariki and the Court, it is your role as Lay Advocate to explain these barriers to the Court. You should also help whānau to present useful information and demonstrate their ability to take responsibility for the safety and wellbeing of their child.

You will receive all documents that the child or young person's parents and other family/whānau receive. You can also call anyone as a witness and cross-examine witnesses during Court proceedings. You may ask the Court to obtain relevant reports, particularly to make the Court aware of cultural matters.

Lay Advocates usually cooperate with the Lawyer for the Child. The Lawyer can get useful advice from you about cultural matters and can advise you about evidence matters. You should build a good relationship with the Lawyer for the Child, but you do not have to do what they say.

When in Court, you should be aware of proper etiquette and court practices. Good practice includes consideration of how the courtroom operates, as well as knowing how to present yourself professionally, how to interact with the Judge and communicate with other people present.

Good court etiquette requires you to address the Judge and other professionals in the court appropriately. For example, address the Judge as "Your Honour", "Sir" or "Ma'am", and stand when you are speaking.

A tidy and professional style of dress is required in court. If you are not sure what is appropriate, speak to the court registry. Make sure your mobile phone is turned off or silent and do not use it in the courtroom. Do not take notes in the courtroom unless you get the Judge's approval first.

See appendix 5 (page 37) for a detailed court etiquette guide used by court registry staff.

Report Writing

It is important to record in writing what you have done and who you have spoken to. You should express your opinions about cultural issues, family/whānau strengths and issues relating to the child's safety and wellbeing.

What to include in the report

The report should provide information about the child's cultural heritage and/or community ties. It can also provide information relevant to the child's safety and welfare that Oranga Tamariki might not be aware of.

The Judge will often ask you to speak about the contents of your report in Court.

At a minimum, your report should:

- identify the child or young person's whakapapa/genealogy and their pepeha or equivalent. The pepeha or equivalent needs to have a prominent place at the beginning of the report;
- identify the child or young person's relevant hapū, iwi or equivalent, and any applicable iwi social service or other culturally appropriate community agency;
- explain the child or young person's family/whānau in a cultural context;

- address any other matters which you think will help represent the cultural interests of the child, young person and/or their family/whānau in the proceedings.

The information in these reports is vital – it helps the Judge to draw connections to the child or young person’s family/whānau; their best interests and cultural dynamics.

You may be required to provide the Court with updates to your report at later court hearings.

See appendix 1 for a suggested report template (page 30)

Report timeframes

All reports must be provided to the Court Registry at least **three working days** before the next court event. This allows the Judge to read the report prior to the hearing.

Lay Advocate reports will also be distributed to other entitled parties under the OTA. You should email your reports to the lawyers involved. If you are in doubt about who should receive the report, ask the Court Registrar.

Meeting with child or young person and their family/whānau

As a Lay Advocate, it is important to meet and develop a relationship with the child or young person, their family/whānau and hapū and iwi (where applicable). This will allow you to develop a good understanding of their interests.

You should encourage wider participation by family/whānau in the care and protection process and help them understand it. This will make it easier to produce a holistic and meaningful report and effectively represent them at Court and in the FGC.

It is up to you to organise these meetings and to decide how often you should get together after the first meeting. You should make an effort to meet the child or young person and their family/whānau in an environment where they will feel comfortable. Keep the Court in mind when you schedule these meetings, so that you can provide up-to-date information in your reports.

You should plan your meetings with family/whānau or caregivers. An appropriate parent/guardian/caregiver should be present during all meetings. Unannounced visits are discouraged and are usually not appropriate.

When attending these meetings, it is important to maintain professionalism and confidentiality. Keep the purpose of your role in mind.

Relationship management

Building relationships with stakeholders in the Family Justice sector is extremely important to your role as a Lay Advocate. You will need to listen carefully to everyone and synthesise information without misinterpreting it. You have to learn about the people you meet and help them understand what a Lay Advocate does.

In some circumstances, developing a key relationship may need you to talk to a range of cultural groups, iwi members and organisations linked to the child or young person’s ethnicity or cultural values. It is important to understand the child or young person’s cultural values and go into these discussions with an open mind.

The end of assignment

Your role as a Lay Advocate in a proceeding will end if any of the following circumstances occur:

- the Family Group Conference plan is complete;
- the child or young person indicates to the Court that they do not want or need the Lay Advocate to be involved;
- the case is transferred to another court, or another Lay Advocate is appointed; or
- the Judge directs that a Lay Advocate is no longer required.

Only a Judge can direct a Lay Advocate to continue an appointment even after proceedings end. If any other person asks you to do further work after the proceedings have ended, you must consult with the Family Court Registry.

The appointment process

From time to time, the Service Manager may advertise locally for new Lay Advocates. The Service Manager will organise the interviews for potential Lay Advocates after a shortlisting process has taken place. This is done in consultation with the relevant Family Court Liaison Judge (FCLJ).

A panel will be appointed to consider applications for the role of Lay Advocate. The selection panel may consist of a Family Court Judge, the Service Manager, an Oranga Tamariki representative, a Lawyer for the Child, an experienced Lay Advocate (where available), local kaumatua or another appropriate community representative. All shortlisted applicants will be interviewed by the panel.

The skills and attributes of the prospective Lay Advocate that the panel will consider include:

- ability to relate to a child or young person;
- ability to engage with family/whānau, hapū and iwi;
- knowledge of the OTA;
- knowledge of tikanga/culture;
- familiarity with the whānau, hapū and iwi structure (or equivalent), particularly in the Lay Advocate's local area;
- self-management skills;
- impartiality, open-mindedness and good judgment;
- professional and personal integrity;
- communication skills, both written and verbal; and
- any other skills and attributes considered relevant to the role.

A new Lay Advocate may have to participate in training and mentoring programmes.

Police Vetting

As part of the appointment process, a person is required to undertake a New Zealand Police Vetting Service check. The Police Vetting Service provides criminal history checks and other relevant information on people that provide care to children and vulnerable members of society.

Under the Vulnerable Children Act 2014, the Ministry of Justice is required to vet existing Lay Advocates every three years.

If a result is returned from a Police Vetting Service check, that information should be made available to the FCLJ who will make a decision on the appointment of that person as a Lay Advocate. The FCLJ will record their decision by way of a file note on the Lay Advocate's appointment file.

More information about the Police Vetting Service is available on their website:

- police.govt.nz/advice/businesses-and-organisations/vetting

Review of appointments to the role

Every three years, the Service Manager from the Court Registry organises a review of Lay Advocate lists with the relevant FCLJ. The Service Manager will notify all Lay Advocates of the proposed review.

The Service Manager will send a letter to all current Lay Advocates asking them if they want to be considered for reappointment. If you want to be reappointed, you should respond with a cover letter and a current CV within 25 days from the date of the letter.

The Service Manager may also advertise in the local newspaper calling for expressions of interest for the role. Interested persons are to provide an expression of interest covering letter, and a CV within 28 days.

The review panel will include:

- a local Family Court Judge;
- a Lawyer for the Child;
- a representative from Oranga Tamariki; and
- a kaumatua or kuia or another appropriate representative as determined by the FCLJ.

The Service Manager will send the list of all applicants to the review panel for consideration.

The review panel will consider:

- the recent performance of the Lay Advocate; and
- all skills and attributes listed above in relation to the initial appointment of a Lay Advocate.

The review panel will assess reappointment of candidates on the papers and may conduct interviews if necessary. Once they have decided, the panel will make a recommendation to the local FCLJ, who will approve or modify the list as needed.

Reappointment of existing Lay Advocates may be subject to conditions; for example, completing specific training and mentoring programmes. This will also apply to any new Lay Advocate.

The review panel is not bound by any presumption of reappointment of current Lay Advocates to the list. They may balance the need for experienced Lay Advocates against the need to refresh the list with new Lay Advocates from time to time.

Lay Advocates will be advised of the outcome of the application for reappointment in writing. If you are not reappointed, you may apply to the FCLJ to reconsider. You must apply within one month of the decision date and provide reasons why you believe your application should be reconsidered. The FCLJ will review their decision based on the information supplied, and either reconfirm or change the initial decision.

Note: Lay Advocates appointed within twelve months prior to the review may be excluded from this process.

Standards

Professional integrity and responsibility are central to the maintenance of public and government confidence in the Ministry of Justice and Courts in general.

While standards provide an outline of what is expected of Lay Advocates, they are not a substitute for care, consideration and common sense. Lay Advocates must exercise good judgment based on integrity and honesty whenever they represent the Court and, in all situations where their actions could reflect on the Court.

It is important for Lay Advocates to respect other professionals and their roles. If you disagree with another professional's decision, you should not debate it in public or in front of the child or young person and their family.

Standards also relate to actions and activities outside work. As a general principle, personal activities that do not interfere with the performance of official duties or reflect on the integrity or standing of the Court are of no concern. However, the Court has a legitimate interest where private activities have the potential to discredit the Court or otherwise harm its reputation.

Lay Advocates must preserve the confidentiality of judicial information and follow security requirements. Lay Advocates must not breach, interfere with or prejudice the independence of the judiciary by:

- attempting to involve, lobby or influence individual judges about decisions or matters that fall within the management responsibilities of the Ministry of Justice or the judiciary (except where such communication is required to deliver the services the Lay Advocate is providing); and
- behaving inappropriately with the judiciary, such as attempting to discuss with a Judge the details of a case that the Judge is or has been involved with, unless required to do so for work purposes.

There are formal mechanisms for consultation and protocols for communication. Lay Advocates must ensure that those are always observed.

If a situation arises where there could appear to be a conflict of interest (no matter how remote), the Lay Advocate should notify the Court Registry as soon as possible. The Service Manager will decide how to resolve or manage the situation. Similarly, Lay Advocates must advise the Service

Manager of personal circumstances that might (or might appear to) compromise their ability to meet responsibilities to the Court.

Lay Advocates must be open and honest about matters relevant to their appointment and must not withhold or misrepresent information about conduct or suitability for ongoing appointments. Lay Advocates are expected to always act lawfully, both in their role as Lay Advocates and in their private lives. Actions by Lay Advocates that infringe upon or break the law can harm the reputation of the Lay Advocate role.

If a Lay Advocate is subject to any Police investigation, charged with or convicted of any criminal offence (except an infringement offence), or becomes subject to any court order in relation to a criminal matter, they must inform the Service Manager at the earliest opportunity.

All breaches and alleged breaches of the law by Lay Advocates are of concern, particularly where they involve dishonesty, breaches of trust, or violence. Similarly, they may need to report any involvement in civil proceedings in a Court or Tribunal that could constitute a conflict of interest or other breach.

Lay Advocates are expected to foster and maintain effective working relationships with colleagues, Family Justice professionals, Court Registry staff and the judiciary.

If a Lay Advocate is unsure how to respond to an issue, they should contact their local Service Manager for guidance.

ID Card

Lay Advocates will soon be issued with an ID card. Lay Advocates are required to carry their ID card when performing the duties of the role. Lay Advocates should be prepared to provide the ID card as confirmation of their identity.

Any lost ID cards are to be reported to the local Service Manager.

All cards must be returned to the Court Registry upon termination or resignation from the Lay Advocate role.

Confidentiality

Confidentiality is a key aspect of Family Court proceedings. Anything that happens in court, including what people say or do, or reports that are given to the Lay Advocate, are **strictly confidential** and can't be shared or discussed with anyone outside the courtroom. This includes family/whānau or people close to the child or young person who are not involved in proceedings.

Confidentiality can also, however, hide important information which will protect the safety of a child. If the Lay Advocate is in doubt about whether information can be discussed they should ask for guidance from the Court Registry.

Lay Advocates have a duty to respect and protect information. This includes only using information for its intended purpose and complying with all legislative requirements, including those set out in the Privacy Act 1993 and the OTA.

Much of the information Lay Advocates have access to is confidential and sensitive. This includes, but is not limited to, court information and other agency reports. The Lay Advocate must take

proper care with the use, exchange, storage, disclosure, and disposal of all information (whether in electronic or written form) to ensure it remains secure always and is used only for its intended purpose. This includes any information which could make a link between the individual and the information.

Lay Advocates should observe others' rights to privacy and confidentiality and not breach these. This means only disclosing information held by the Court to people lawfully entitled to receive that information, and only disclosing information when authorised to make such disclosures. If a Lay Advocate is not sure whether a person requesting the information is lawfully entitled to receive that information, they should refer the matter to the Court Registry.

Information can be kept secure by:

- using a password or encryption on your computer;
- not leaving confidential documents where other people might see them;
- not discussing case details in public places such as court waiting rooms;
- making phone calls at a time and place where you will not be overheard; and
- being particularly watchful when travelling with court documents.

All hard copy documents must be returned directly to the Court Registry for secure destruction when a case has concluded. If sensitive information has been downloaded to a computer, ensure that it has been deleted securely. Documents that require destruction include:

- copies printed for reading off-line;
- duplicated documents attached to emails;
- copies saved in personal drives, laptops, personal computers, or removable storage devices;
- working files containing paper copies; and
- information stored in any other form or format.

Lay Advocates are entitled to receive specialist reports provided to the court relating to the case they are assigned, for example: psychologist, psychiatrist, social worker, health and education reports. This is subject to any direction made by a judge in a particular case.

Psychological or psychiatric reports may come with certain directions from a judge that specified parts may not be released to particular people. **It is critical that these restrictions are honoured by Lay Advocates.** The reports remain confidential and the content must not be disclosed to any party (including the young person or their family/whānau) without the consent of the court. Any disclosure could be detrimental to the physical or mental health or emotional well-being of the child or young person or other persons to whom the report relates.

Lay Advocates must ensure all reports are securely stored so they cannot be accessed or viewed by another person. In certain cases, it may be appropriate that the reports are viewed only at the court, and reports must be returned to the court for destruction when no longer required or the assignment has ended.

Reporting privacy breaches

If a Lay Advocate thinks someone else has seen documents or information relating to a case, they must:

- immediately report the issue to the Court Registry;
- do anything to get the documents or information back or stop the information spreading;

- work with the Court Registry and anyone they have notified (for example, Ministry of Justice National Office, the Police) to help them investigate the incident; and
- check with the Court Registry before letting the child or young person/people affected, and their family/whānau know what has happened.

Preserving confidentiality and adherence to privacy is one of the most important parts of the Lay Advocate role and there is an expectation to maintain very high standards. Failing to do so can result in a Lay Advocate being suspended or permanently removed from the pool/role.

More information about privacy can be found at: www.privacy.org.nz.

Complaints procedure

Concerns or complaints about the conduct of a Lay Advocate can be made to the relevant Court Registry. All complaints will be investigated and may result in removal from the Lay Advocate pool. A fair and transparent process will be undertaken when investigating such complaints.

The procedure below sets out what will happen if a complaint is received:

- The Service Manager will advise the Lay Advocate in writing that a complaint has been received as soon as practicable.
- The Service Manager may discuss the matter directly with the Lay Advocate, develop a written plan and recommendation to resolve the issue, and may inform the FCLJ
- If the Service Manager is unable to resolve the complaint, they may refer the matter to the FCLJ for their consideration and guidance; and
- If the complaint raises a substantial matter, the Judge may refer the complaint to a panel for consideration.

Complaints referred to a panel for consideration

The Service Manager or Manager of Justice Services will advise the Lay Advocate in writing that a complaint against them will be considered by the panel.

When a complaint is referred to the panel, the Lay Advocate has 21 days to make any submissions and representations in writing, after which point the panel will convene. The time period starts when the Lay Advocate is notified by the Court.

The FCLJ for the region may choose to suspend the Lay Advocate from the pool in the interim, pending investigation and resolution of the complaint. If this suspension occurs while appointed to a case, it will be necessary to cease the Lay Advocate's involvement for the period of the investigation. This will usually mean that another Lay Advocate is appointed to the case.

The panel is comprised of four representatives:

- a senior family lawyer;
- the Ministry of Justice Service Manager or delegate; and
- two of the following: Representative from Oranga Tamariki, or a Lawyer for the child, and if appropriate, local kaumātua or another cultural representative.

The panel must keep the Lay Advocate informed of the nature and details of the complaint and ensure that they are given the opportunity to be represented and heard by the panel.

Following deliberations, the panel may recommend to the FCLJ that the Lay Advocate be:

- suspended for a specified time from the Lay Advocate pool;
- retained in the Lay Advocate pool but subject to reasonable conditions for a specified period; or
- removed from the Lay Advocate pool.

The grounds upon which Lay Advocates can be removed or suspended from the pool include:

- Professional misconduct in carrying out duties as a Lay Advocate, such as breaking confidentiality and nonpublication obligations;
- Conduct which, in the opinion of the panel, is likely to bring the Court into disrepute;
- Failure to carry out duties of a Lay Advocate responsibly and competently;
- Promotion of illegal or inappropriate practices, such as physical discipline; and
- Conduct unbecoming of a Lay Advocate or inconsistent with the role description.

Once the FCLJ has reached their decision based on the panel's recommendation, the Service Manager or Manager of Justice Services will communicate the decision, and the reasons for it, to the Lay Advocate.

Complaints by Lay Advocates

If a Lay Advocate wishes to raise an issue or make a complaint, the first point of contact is the Court Registry. The Court Registry will try to resolve the issue themselves, or if they are unable to do so will refer the matter to the FCLJ.

Health and Safety

The Ministry of Justice (the Ministry) is committed to continuous improvement to achieve excellence in the management of health and safety. A Lay Advocate, while not a Ministry staff member, is considered a worker under the Health and Safety at Work Act 2015. The Ministry, therefore, recognises that it has a responsibility to ensure, as far as reasonably practicable, that the health and safety of a Lay Advocate is maintained while they are performing the functions of this Court-appointed role.

Prior to being appointed to the role, a Lay Advocate will be taken through the key elements of risk identification and management as part of their induction. The induction will cover the risks associated with the Lay Advocate role, what can be done to keep safe, and the tools the Ministry has in place to help Lay Advocates achieve this.

What the Health and Safety Work Act 2015 requires of a Lay Advocate

While carrying out the functions of the role, a Lay Advocate, as a worker under section 45 ('Duties of workers') of the Health and Safety at Work Act 2015 (HSWA), must:

- take reasonable care for their own health and safety;
- take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons;
- comply, as far as they are reasonably able, with any reasonable instruction that is given by the Ministry or Court Registry to allow the Ministry to comply with the HSWA or the Ministry's regulations; and
- co-operate with any reasonable policy or procedure of the Ministry relating to health or safety at the workplace that has been notified to them.

Keeping safe in the Lay Advocate role

Safety and wellbeing are paramount. A key focus for a Lay Advocate should always be on keeping themselves safe. As is the case with all roles, there are risks associated with the Lay Advocate role that need to be managed. The risks particularly relate to:

Working alone	<ul style="list-style-type: none">• Needing to manage stressful situations or behaviour (e.g. aggression, violence, intoxication) while unaccompanied
Driving	<ul style="list-style-type: none">• Driver fatigue• Driver distraction• An increased chance of accidents in extreme weather and/or due to poor road conditions

See appendix 4 for a detailed Safe Driving Guide (page 34)

Entering private properties	<ul style="list-style-type: none"> • Being confronted by unrestrained dogs • Visiting a property with a gang association • Being exposed to drug manufacturing • Being unfamiliar with the layout of the property in the event that they need to leave quickly
Working from remote locations	<ul style="list-style-type: none"> • Inability to access emergency services quickly if needed, due to the location of the property or property access issues

Identifying and managing risks associated with the role

To manage safety and wellbeing, a Lay Advocate should treat each meeting as unique and follow a process to identify and manage the associated risks. The following steps will help a Lay Advocate to identify any potential risks:

- ask the Court Registry to run a check in the HASARD database (system used by bailiffs to easily access alert information) for alerts or incidents relating to the address of the child/young person;
- check with the key contacts (Lawyer for Child and social worker) to see if there is any cause for concern at the address; and
- confirm with the Police that the address is not of concern to the Police.

Lay Advocates can carefully prepare for the meeting by completing the Pre-Visit Assessment Guide. See appendix 2 (page 33). The form prompts a Lay Advocate to identify actions that can be taken to reduce the likelihood and consequences of their safety and wellbeing being compromised.

The Pre-Visit Assessment Guide will also help to determine where the meeting needs to be held. If a box is ticked for any of the risk areas included on the Guide, then a Lay Advocate should consider if the meeting should be held in a public place.

Lay Advocates should consider completing the assessment if planning to meet with a child/young person and their family/whānau for the first time, or if they haven't visited within the past 28 days.

It is recommended that before setting out to a meeting a Lay Advocate should tell someone the destination and the time for return.

An additional Health and Safety Checklist has been designed to assist with other health and safety considerations upon arriving at a property. See appendix 3 (page 34).

Stay alert throughout the meeting and continue to reassess for risk

It is important to note that risk assessment responsibilities do not end once the Pre-Visit Risk Assessment and the Health and Safety Checklist have been completed. These resources help gather initial information to identify risks associated with a visit and the actions to take to mitigate those risks. However, situations can and do change quickly. For this reason, it is

essential that a Lay Advocate stays alert and continually reassesses the situation throughout the meeting.

***'If in doubt, get out' - Safety is paramount.
If feeling unsafe at any time, end the meeting and leave.***

Review and close-off after returning from the meeting

Lay Advocates should always review how the meeting went. If an incident occurred on the way to or from the meeting, or at the meeting itself (even if it did not result in an injury), the Lay Advocate must inform the Court Registry as soon as possible.

The types of incidents that need to be reported include, but are not limited to, harassment, threatening or aggressive behaviour, violence, intoxication, suspicious behaviour, unrestrained dogs, vehicle accidents or near misses, slips or trips etc. Incidents also include 'near misses'. The Registry will log any incidents in the Ministry's health and safety management tool, Haumaru.

Haumaru allows the Ministry and the Court to better understand our working environment through gathering information. Haumaru allows people to manage the current situation as well as allowing the Ministry and the Court to reduce the potential for further incidents and harm to Lay Advocates, people we work alongside, and members of the public.

Any issues or incidents relating to the address should be sent by the Court Registry to the National Service Delivery Operations Support (NSD) team to be entered into the HASARD database.

NSD can be contacted at: NSDOpsSupport@justice.govt.nz

Assistance programme

The Ministry recognises that there are often situations occurring at home and work that can be difficult to manage.

The Ministry offers an Employee Assistance Programme (EAP) that can be accessed 24 hours a day, 7 days a week. EAP provides confidential counselling that can help manage conflict, stress, anxiety, depression or any type of emotional difficulty resulting from the tasks a Lay Advocate undertakes on behalf of the Court. The service offers meetings with experienced, independent counsellors, and they have a range of counsellors and psychologists nationwide. Lay Advocates can access EAP and request counselling for matters that they need support in managing.

EAP can be contacted by phoning 0800 327 669; or booking online at: eapservices.co.nz/request-an-appointment

Attending counselling and any information disclosed during a counselling session is confidential and will not be disclosed to the Ministry. In some situations, information will be disclosed if there has been documented discussion, agreement, and consent given by the Lay Advocate before

attending counselling. Providers of counselling do have a duty to report concerns to the Ministry but only if they have cause to believe there is a risk of harm.

Up to three counselling sessions are available. In some instances, further sessions can be approved if required.

EAP does not include the provision for professional supervision.

Payment, expenses and invoicing

A Lay Advocate is required to invoice the Court for work completed monthly. The current fee payable is \$100 per half day (4 hours), \$200 per full day (8 hours), or on a pro-rata basis at \$25 per hour, including GST. Lay Advocates, as self-employed individuals, are responsible for their own tax. Lay Advocates may also be required to register for GST. If you are not sure about tax obligations, seek further guidance from Inland Revenue: ird.govt.nz

Lay Advocates will not be remunerated for work they undertake that is outside their role, the Court's brief and/or allocated hours for the duration of the case.

The letter of appointment from the Court will inform Lay Advocates that they have been allocated 30 hours of work at a total cost of \$750 and up to \$250 of reimbursements for parking (receipt required) and mileage.² This is a fixed amount for the duration of the case, approximately four months. Lay Advocates may claim up to 30 minutes per child or young person/per month for the preparation of invoices and extension requests.

It is important that Lay Advocates and the Court have a common understanding about what to do to reduce the likelihood of any unexpected costs. If the agreed 30 hours for the duration of the case needs to be extended due to complexities, this will need to be approved by the Court prior to undertaking additional tasks (see information on extensions on the next page).

Lay Advocates will be able to claim a one-off total payment of \$50 per case for administration costs. This is for photocopying, stationery, ink, accounts, using the home for business, and the costs associated with making phone calls (top-ups, use of minutes). For clarification on whether something is an administrative expense, please speak to the Court Registry.

Payments for the services of Lay Advocates to a case are met by the Ministry's non-departmental costs account (Crown funds). The management of this account is governed by the Public Finance Act 1989 which places strict obligations on those dealing with public money. The Ministry has a financial policy that sets out general administrative and oversight arrangements designed to maintain appropriate standards of integrity and responsible management for funds.

The Ministry will conduct invoicing audits. Lay Advocates will be contacted should any concerns arise.

The level of information that the Court requires for the purposes of approving an invoice is no different from that which is required from other professionals (lawyers, psychologists, psychiatrists, health professionals) who are appointed by the Judge. In line with IRD standards, the information a tax invoice must show is in accordance with standard invoice practices.

The Court Registry is responsible for approving invoices in accordance with the scope of the Lay Advocate role and within the brief of work provided.

All invoices must contain:

- a GST number if appropriate;

² Mileage rate is set by Inland Revenue and is subject to change. For more information please refer to: ird.govt.nz/business-income-tax/expenses/mileage-rates/

- the Lay Advocate’s name, address, and bank account details;
- the Court file number (FAM);
- a Court reference number (six-character reference number supplied by the Court Registry at the time of ordering. The reference number must start with either M, P or C followed by a five-digit number, for example M12345);
- the name of the child or young person (i.e. must be for one client/case only);
- dates for which the work was undertaken;
- itemised hours with details and a description of the work undertaken;
- tax receipts attached for all disbursements being claimed; and
- space for the Court to note their approval on the document.

It is important to note the following:

- invoices must be in PDF format, with only one invoice per PDF;
- no part of the invoice can be part of a previous invoice, dates cannot overlap;
- the invoice amount shall not exceed the total amount set out in the assignment or extension letter; and
- the Court will not approve payment for incorrect or incomplete invoices including services which are not part of Lay Advocate duties (Court staff will contact you if the invoice is incorrect or incomplete).

Invoices that have reference numbers starting with:

- M or P should be emailed directly to accounts.payable@justice.govt.nz for processing.
- C should be emailed directly to crownaccounts.payable@justice.govt.nz for processing.

An invoice template has been developed to use which covers all the details that the Court requires to approve payment. See appendix 6 (page 39). If claiming under a company, use this template as guide.

The Court Registry will not approve payment for incorrect or incomplete invoices including services which are not part of Lay Advocate duties. The Court Registry will contact the Lay Advocate by phone or email if there are any concerns.

Invoices must be sent in by the 20th of the month following the work that has been carried out. For example, work completed in January should be billed for by 20 February.

Extensions

If for any reason, due to the complexity or longevity of a case, it is identified that the work will exceed the 30 hours allocated, a request to the Court for an extension is required. The extension must be requested before the initial allocated amount has been fully used.

The request needs to be done in writing and must include: the case number, name of the child or young person, the reason for the extension, the number of estimated additional hours required and activities that the additional hours are required for. Please also include any administrative expenses and estimated mileage.

If additional work is undertaken without having an extension approved, any invoice(s) for that additional work will not be accepted or paid by the Court Registry. Utilise the activity guide on the next page for the level of detail required for the request.

Extension requests can be attached and emailed directly to the Court Registry key contact person (Case Manager). This will be considered on a pro-rata basis and you will be contacted if there are any questions.

Below is an example of the activities within the function of the Lay Advocate role which can also be used to populate information on an **invoice** or an **extension**:

Date	Description	Time (mins)
3/10	Receive email from Court assigning me to Bob as Lay Advocate, noting the next date, confirmation back to the Court Registry	5
	Email Lawyer for Child & Oranga Tamariki requesting relevant information	10
4/10	Phone whānau to arrange appointment and briefly explain role	5
	Email Oranga Tamariki Coordinator about Family Group Conference (FGC)	5
	Receive and consider information from Lawyer for Child	15
5/10	Receive and consider information from Oranga Tamariki	10
10/10	Prepare for whānau hui	15
11/10	Meet with whānau – explain role and take notes	60
13/10	Prepare for FGC	20
14/10	Attend FGC – represent young person & advise on cultural matters	60
17/10	Work on pepeha for child or young person	30
18/10	Review and consider FGC	15
	Make follow up appointment with whānau to complete information gathering & discuss FGC	10
19/10	Meet with whānau	45
20/10	Prepare & file report	60
	Confirm with whānau filing of the report and finalising pepeha	15
23/10	Attend FC and follow up with whānau	90
6/11	Follow up with whānau and progress with FGC tasks	15
	Follow up stakeholders with FGC obligations	10
20/11	Follow up with whānau. Complete and file updated report with Court	45
24/11	Attend FC for supporting disposal of case	60
Disbursements		
1.	Mileage	
2.	Report Writing \$50	

Appendix 1: Report Template



Please note that this template is intended as a guide only.

Family Court

Report Date: _____

Family Court Case Number (FAM): _____

Date of Hearing: _____

Name of Child or Young Person) _____

Preferred Name: _____

Date of Birth: _____

Ethnicity (if known): _____

Name of Lay Advocate: _____

Contact (for Lay Advocate): _____

About the Child / Young Person Genealogy (whakapapa)

1. Who is the child or young person?

2. Where are they from?

3. Who is in their family/whanau, hapu and iwi (or cultural equivalent)?

4. What are the key aspects of the culture of this family/whanau?

5. What are their interests in this proceeding?

6. Is there any other significant information that the court needs to know?

Lay Advocate Signature

Note: Reports are due to the Court Registry three working days before the court sitting date.

Appendix 2: Pre-visit Assessment Guide

Complete this form if you are planning to meet with a child/young person and their family/whānau for the first time, or if you haven't visited within the past 28 days.

Case Reference:	
Name of Lay Advocate:	
Date and time of proposed visit:	
Information gathering	Tick
I have asked the Court Registry to run a check in the HASARD database for alerts or incidents relating to the address or the child/young person.	
I have checked with the lawyer, social worker and the Police to see if there is anything of cause for concern at the address.	
I have checked with the Police and, after making inquiries via their databases, they have confirmed that the address is not of interest to them.	
I have, using Google Street View, carried out an initial visual check of the surroundings (including confirming you can park your car so that it can't be blocked in).	
Risk assessment	Tick
I have identified that the address is isolated (over one hour away, and poor mobile coverage, I could not summon help in an emergency).	
I have identified that the address is a known gang house, or someone at the address has a known gang affiliation.	
I am aware that someone at the address is affiliated with drugs.	
I am aware that someone at the address is violent, aggressive and/or erratic in their behaviour.	
I have identified that there are known aggressive dogs, or potentially aggressive dog breeds on the property.	
I am aware that someone at the address has misused firearms or other weapons.	
I am aware that someone at the address has a known contagious medical condition.	

If you identify any of the above risks while gathering information, you should consider holding the meeting in a public place (e.g. at the Court).

I have completed my pre-visit assessment in relation to the child/young person and their family/whānau. I have decided where the meeting needs to be held (i.e. a public place or the child/young person's home) and I have noted the actions I need to take to mitigate the risks I have identified.	
Based on my assessment, the meeting will be held at:	A public place <input type="checkbox"/> The child/young person's home <input type="checkbox"/>
Signature of Lay Advocate:	
Date completed:	

The completed form may be emailed to the Court Registry for it to be placed on the court file; or retained as part of your personal records.

Appendix 3: Health and Safety Checklist

This checklist will prompt you to work through the health and safety considerations of visiting a child/young person and their family/whānau, so that you are fully prepared for the meeting.

Complete just before leaving for the meeting:	Tick
I know the route I will take to get to and from the meeting place (factoring in road conditions in the area and weather watches/warnings currently in place).	
I have provided a responsible person with my mobile number and the location of visit. They have recorded my vehicle details (year, make, model, colour). We have discussed when I will check in with them, and what they will do if I am not back when expected.	
I have my 'Lay Advocate' identification card with me.	
I have saved emergency numbers into my mobile phone so they can be dialled quickly.	
My mobile phone is fully charged and I will keep it on me at all times during the meeting.	
I will keep my car keys on my person at all times during the meeting (in a pocket, rather than in a bag).	
I have confirmed that a parent or appropriate guardian will be at the meeting location when I arrive for the meeting.	
I understand that if the child/young person's parent or appropriate guardian is not present at the location the meeting is taking place, then the meeting will need to be rescheduled.	
Where the meeting is being held at a private address, I have confirmed with the parent or guardian that dogs on the property will be restrained prior to the meeting (and I will seek to confirm this before stepping onto the property).	
I have a light source with me (e.g. mobile phone torch or flashlight on mobile phone) in case of low light conditions. I have a reflective vest and emergency triangle in my car in case of an accident or emergency.	
All items I am leaving in the car during the meeting have been secured out of sight.	
I understand that I should not turn my back on anyone during the meeting, and should if at all possible, choose to sit in a location where I can make a quick exit if necessary.	
I am aware that if at any time I start to feel like something is not right or I am feeling uneasy, I will end the meeting and leave quickly.	

While at the meeting, proceed with caution and continue to assess risk:

- Be alert to sounds of conflict coming from the house and do not enter if you hear any.
- Identify exit points in the house and situate yourself close to an exit if possible.
- Note the layout of the property and possible routes from the house to your car.
- Check your mobile phone for a signal when you arrive at the address.
- Take care to avoid dressing in gang colours.
- Do not present your back to anyone
- Restrict opportunities for someone to grab you (e.g. tie long hair up; do not wear a tie, necklace, or scarf)
- Learn to identify early warning signs of distress and techniques to diffuse aggression.

- Know your physical/verbal limitations.
- Be alert to signs of drug use, or a possible clan lab (Clandestine Laboratory).
(e.g. sweet/bitter chemical odours from the house, lab equipment, excess containers)
- Have alcohol-based hand sanitiser in your car and use it after the visit.

***'If in doubt, get out' – Your safety is paramount.
If you start to feel unsafe at any time, end the meeting and leave.***

Complete after returning from the meeting:	Tick
I have informed the person who was aware of my travel plans that I have returned (i.e. if I do not live with them, I have called them to say I am back).	
I have raised with the Case Officer any concerns I have about one or more aspects of the meeting (including but not limited to aggressive behaviour, suspicious or unusual behaviour, something unusual about the meeting location, dogs etc).	

Appendix 4: Safe driving guide

The New Zealand Transport Authority (NZTA) has identified that safer driving is significantly impacted by the following factors:

- Speed
- Alcohol or drug-affected driving
- Driver fatigue
- Driver distraction
- Giving way at intersections
- Safety belts

Speed

Driving speed affects how quickly a person can respond to hazards, and the likelihood of sustaining a serious injury in a crash. It is essential to adjust the speed of a vehicle to suit the driving conditions, whether these are due to:

- *Traffic conditions* – e.g. high traffic volumes, other road users such as trucks, cyclists or horse-riders, parked cars.
- *Road conditions* – e.g. bumpy, narrow and/or winding roads, ice or gravel on road surfaces.
- *Weather/lighting conditions* – e.g. fog, wind, rain, snow, bright sunlight, low light conditions.

Driver fatigue

Driving while fatigued increases the amount of time it will take to identify and respond to hazards while driving. Driving while fatigued also interferes with the ability to concentrate and make good decisions. Some tips on avoiding driver fatigue include:

- Not driving if feeling tired, unwell or taking medication that makes someone feel drowsy (note that even over-the-counter medication can have this impact).
- Avoiding driving long distances after a full day's work.
- Taking regular breaks if driving some distance (and stopping for a rest immediately if a person becomes aware that they are feeling tired or drowsy).
- Staying away from fatty or sugary foods while driving, as these can make a person feel sleepy.

Driver distraction

According to the NZTA, anything that diverts concentration for more than two seconds when driving can significantly increase the chances of being involved in a serious crash. Some tips on avoiding driver distraction include:

- Checking windscreen and mirrors are clean and making adjustments to the car's mirrors, car seat, radio etc. before setting off on the journey.
- If required, pulling over to consult a map for directions.
- ALWAYS turning off mobile phones when driving.
- If required, pulling over to make a call on a mobile phone.
- If required, pulling over to eat or drink (instead of while driving).

More information and practical advice on a range of safe driving topics can be found on NZTA's website: nzta.govt.nz/safety

Appendix 5: Court etiquette guide

Family Courts will generally operate in a way that encourages children, young people and their family/whānau to participate in the court process.

General courtroom etiquette

- Each court sitting will usually be formally opened by the court taker or a court attendant.
- Everyone in the courtroom must stand until the Judge is seated. Judges will wear a judicial robe in the Family Court.
- Most Judges give a general greeting to those who are present before sitting down.
- The dress code for court is tidy and professional.
- Cell phones must be turned off at all times when you are in the courtroom. Tablets and laptops are generally permitted if they are required for the court process and are silent to operate.
- Any reports or documents that need to be presented to the Judge in court for consideration on the day must be given to the court taker in advance.
- Stand up if spoken to by the Judge in court and identify yourself and your role.
- Stand when speaking and when answering questions, unless invited by the Judge to remain seated.
- Do not move around the courtroom or have side conversations while the Judge or anyone else is speaking.
- Abide by the direction of the Judge at all times.
- Speak clearly – the acoustics in courts are not always user friendly.
- At all times, it is the Judge who is in control of the process, and the Judge's directions should guide you in understanding any local practices.
- Judges are addressed as Sir or Ma'am, Your Honour or Judge.
- While the Court is sitting, everyone is expected to show respect for the Court process at all times.
- Do not discuss matters not connected to the case with other people present at the hearing.
- You must stand when the Judge leaves the courtroom.
- There may be local practices that will make a difference to how the Family Court operates.

Etiquette outside the courtroom

- Outside the courtroom, the Judge is correctly referred to by His/Her Honour Judge [surname] or Judge [surname], unless invited by the Judge to address them in any other way.
- When interacting with agencies (for example, Police, counsel, Lawyer for the Child or Oranga Tamariki), remember you are doing so in your capacity as a court representative.

- When interacting with families, you do so in your capacity as a court representative and you must produce your letter of appointment for the case that you are assigned to and your ID card. If for some reason you do not have your ID card, then please bring with you some form of photo ID (such as a driver's licence or passport).

Additional resources

More information can be found on the Ministry of Justice website:

- justice.govt.nz/family/about/without-a-lawyer/

The New Zealand Law Society also provides helpful advice:

- lawsociety.org.nz/practice-resources/practice-briefings/Addressing-members-of-the-Judiciary.pdf
- lawsociety.org.nz/practice-resources/new-zealand-law-society-guide-for-new-lawYERS

Appendix 7: Roles of other Family Court professionals

Principal Family Court Judge –The Governor-General must, on the advice of the Attorney General, appoint a Principal Family Court Judge. The Principal Family Court Judge is responsible for ensuring the orderly and timely discharge of the business of the Court in consultation with the Chief District Court Judge.

Family Court Liaison Judge – The Judge nominated to liaise between the local judges and the Principal Family Court Judge for a defined geographic area.

Family Court Judge – Specialist District Court Judges chosen for their knowledge and expertise in family law. This includes experience, training and understanding of the importance of different cultural perspectives and values in relation to children and young people.

Registrar, Deputy Registrar (Case Officer, court taker, registry staff) – Every court has a registrar and many courts also have several deputy registrars who can exercise most of the powers of a registrar as permitted by legislation. Registrars, including Deputy Registrars, are statutory appointments and exercise specified jurisdiction of the Court, including considering applications, court-taking duties, managing case records against appointments of Lawyer for the Child, Lay Advocates, psychiatrists and psychologists.

Service Manager – The Service Manager is responsible for the management and oversight of the staff and the delivery of services, of the Family Court. They will also hold an appointment as a Deputy Registrar.

Family Court Coordinator – The Family Court Co-ordinator (FCC) contributes to the operation of the Family Court by co-ordinating specialist services and playing a key role in managing relationships with management, the judiciary, professional service providers, legal practitioners, court users and community groups. Their main role is to match the characteristics of a family with an appropriate professional, such as Lawyer for Child and psychologists. They also arrange for reports to be provided to the Court in respect of Oranga Tamariki cases.

Lawyer for the Child – The Court can appoint a lawyer to represent a child in the court process under certain legislation. In proceedings under the Oranga Tamariki Act 1989, the Court appoints a lawyer to represent a child or young person who is the subject of proceedings (if they don't already have one). The Court or Registrar must, so far as practicable, appoint a lawyer who is suitably qualified to represent the child or young person because of their personality, cultural background, training and/or experience.

Lawyer to Assist – In any proceedings in the Family Court, the Court may appoint a lawyer to assist the Court. This lawyer does not represent any party to proceedings but may provide independent legal advice to the court, offer an impartial perspective or undertake any other tasks required by the Court.

Social workers (Oranga Tamariki) – Social Workers may also be appointed to provide additional support through the FGC process, assess needs, and ensure completion of the Family Group Conference plan.

Lay Advocate – a child or young person may also have a Lay Advocate. This is a person appointed by the Court who is not a lawyer. They support a child or young person and their family/whānau in court, make sure the Court knows about all relevant cultural matters and represent the interests of a child or young person’s family/whānau if they aren’t already represented.

Appendix 8: Family Justice terminology guide

Adjourn / Adjournment – Delaying a hearing for another day or time.

Affidavit – A written statement made under oath (including by affirmation) before an authorised person.

Affirmation – A promise that something is right or true, made by someone without any religious beliefs. A person can affirm instead of taking an oath. An affirmation is just as serious as an oath.

Application – A request for the Court to make an order, direction or decision. Also, the name of the document that contains the request.

Applicant – A person who applies to a court for an order, direction or decision.

Certified copy – A copy of a document that has been signed and certified as a true and correct copy by someone who has the legal authority to do so.

Chambers – This term refers to a Judge’s office but is also used when a Judge is dealing with procedural issues in a case that is not in open court (such matters are said to be dealt with in ‘chambers’).

Child – In proceedings under the Oranga Tamariki Act 1989, this means a person under the age of 14 years.

Closed court – A court hearing that is closed to the public. Most hearings in the Family Court are held in closed court.

Conflict of interest – A real or perceived incompatibility between a person’s private interests and their public duty.

Contact arrangements – The rights of a person who does not have day-to-day care of a child to spend time with the child.

Counsel – A lawyer.

Counsel/Lawyer for the Child – A lawyer appointed by the Court to represent a child or young person in the Family Court. It is usually a barrister or solicitor whom the Court appoints and who represents the child or young person in Family Court proceedings.

Cross-examination – Where a witness who was called by one party in a court case is questioned by the lawyer for the other party (or by the Lay Advocate). The purpose of cross-examination is often to challenge the accuracy of the witness' evidence.

Direction/application for direction – When someone taking part in a trial asks the Court to make an order for directions about a case, it is called making an application for direction. A direction is an order made by a Judge in relation to the conduct of a proceeding.

File – Formally lodging an application or other document at court.

Guardian (of a child) – A person having all duties, powers, rights and responsibilities that a parent has in bringing up the child.

Hearing – A legal proceeding where an issue of law or fact is tried and the parties present evidence and submissions to the court.

Interim order – A temporary court order.

Oath – A promise made in front of an official that something is true or right. An oath is based on the religious beliefs of the person making it. For example, a Christian would swear an oath on the Bible, and a Muslim on the Qur'an (Koran).

Order – When a Judge tells someone what they have to do.

Party/Parties – Person/s involved in a court case such as the applicants, appellants, respondents, defendants (who are generally called "parties").

Proceeding – A case being considered by a court.

Registrar – A court official who makes sure that the formal processes of the court are followed and that accurate records of hearings are kept, and who gives effect to any direction from the Judge. Sometimes referred to as the 'court-taker'. The registrar can also exercise some of the Court's powers, including making decisions about some matters (for example, timetabling decisions about when certain steps in a court case will take place).

Respondent – The person against whom an application to the court is made.

Unrepresented litigant – A party to a family court case who is not represented by a lawyer. Also known as self-represented or a lay litigant.

Service (of documents) – The formal delivery of a legal document to a person who will be affected by that document.

Statutory appointment – An appointment made by a Judge in court under legislation, which begins when the Judge directs the appointment be made and ends when the case ends.

Witness – Someone who gives evidence about something in court, on oath or solemn affirmation.

Young Person – In care and protection proceedings, a young person is of or over the age of 14 years but under the age of 18 years.

Ministry of Justice
Tāhū o te Ture

justice.govt.nz

info@justice.govt.nz

0800 COURTS
0800 268 787

National Office
Justice Centre | 19 Aitken St
DX SX10088 | Wellington | New Zealand



New Zealand Government