
PUBLIC QUESTIONS AND ANSWERS

1. I have already made a submission to the review, why is the Panel consulting again?
In the first round of consultation, we asked people to tell us about their experience of the family justice system and what needs changing.

Based on the information provided to us in that first consultation, we now have some suggestions for possible changes, and want to hear feedback specifically on these proposals.

2. Will the new Family Justice Services Co-ordinator role mean the existing Family Court Coordinator roles are disestablished?

Clearly defined roles required before answering, We could not imagine the 2 roles existing side by side in a small or medium sized court.

If these roles become one or take over from the old FCC role. Will assistance be given? As the role will become huge. (assistance for the admin based work would be ideal in the busier but not the busiest courts)

Although the names of the two roles are similar, the Panel sees the responsibilities of the proposed Family Justice Services Co-ordinator as a much broader role than that of the existing Family Court Co-ordinator role. How this role is implemented is still to be determined.

3. What is the purpose of this paper?
We are currently asking for public feedback on our proposals. Then, in May 2019, we will make a number of recommendations to the Minister of Justice. Ultimately, it will be up to Cabinet to decide which recommendations will be progressed.
4. Will the Panel's proposed changes be enough to fix the complex problems with the family justice system?
The Panel is currently seeking feedback on our ideas for change. We will use this feedback to inform our final paper, which will include a more comprehensive suite of recommendations.
5. If FDR is no longer a pre-requisite for an on notice application to the Court, what will this mean for FDR providers?
 - The Panel considers that wherever possible, disputes should be resolved out of court, and FDR is an important tool that contributes to this. Our paper raises some questions

around the best way to encourage people to engage with FDR, and we are open to submitters' views on this.

Should FDR be compulsory unless excused (who should excuse Judge/Registrar/Senior Registrar/FCC) – Could applications be filed with a condition that FDR be completed within a prescribed timeframe, Example – Dispute between guardians over schooling, School starts in 4 weeks. FDR may be useful but can't realistically be completed before making the application.

FDR needs to stay, however needs to be free or costs substantially reduced, the cost appears to be a barrier to on notice applications.

6. What are the Panel's proposals that relate to the 2014 family justice reforms?

	2014	Panel's proposals
	Parenting Through Separation Programme (PTS) becoming compulsory for people who want to apply to the Family Court	<p>Parties are expected to attend PTS if they intend to engage with FDR or make an application to the Court.</p> <p>Agree, though parties should not necessarily be made to complete PTS before the commencement of the proceedings however still in the early stages of the proceedings. <u>Both parties should be required to attend.</u></p> <p>A review is undertaken of PTS and that this takes place every three years. Agreed</p> <p>PTS be kept as a free service. Agreed.</p>

<p>Out-of-court processes</p>	<p>Introduction of Family Dispute Resolution (FDR)</p>	<p>FDR should be available at the most appropriate time for parents, caregivers and their whānau, whether or not an application to court has been made. Agreed.</p> <p>Where an application to court has been made but FDR not undertaken, the matter be referred to FDR, unless good reasons are given not to (rebuttable presumption). Agreed on both with or without notice applications, should DV be an automatic excusal reason? Often there is a DV history but parties are working/safe together – This should be a Judges decision we think.</p> <p>Conflict and communication issues are at the forefront of all parties inability to work through a positive outcome, any form of mediation or conduit should be open to everyone for the best interests of themselves and the children. We would like to see a majority of parties complete FDR at some stage.</p> <p>A clear process is outlined in the rules for the court to make direct referrals, addressing timeframes and how outcomes are reported back to the court (while keeping the ability for parties to abandon proceedings, if appropriate). Agreed</p> <p>A review is undertaken of child participation practices in FDR, to identify issues and best practices. Maybe, what do the psychologists and Lawyers for child think about this, is there overseas research? Difficult issue.</p> <p>Could there be a youth advocate type role for some children.</p> <p>We're still thinking about whether:</p> <p>FDR should be free for both parties where one party is eligible for Government funding; or</p> <p>FDR should be free for all parties (with a possible trial of this proposal); Should be free,</p>
-------------------------------	--	---

	<p>the cost is a barrier to the process, often we are told by parties that the other parent will not attend as they would have to pay. We suspect that sometimes one reason parties apply without notice is the cost of the programme.</p> <p>We want to encourage people to participate in order to come to resolution or work through the issues. Getting parties together is fundamentally important for them to engage with each other and reduce conflict or communication issues.</p> <p>The eligibility threshold for government funding for FDR should be raised. It should either be removed or the cost reduced. But moving the threshold would be a good start. Are time payments available. The process has the possibility to provide long term savings in our view. There is a strong view in our team that this service saves money in the long run and probably provides better outcomes.</p>
<p>Setting up of the Family Legal Advice Service (FLAS)</p>	<p>Make legal aid available to people who only want advice and help. Yes but why not just have Legal Aid, why is there a reason for 2 names. The public call it legal aid anyway.</p> <p>The majority of time at the counter by CROs is helping parties within the realms of process, but we are not allowed to give legal advice, this needs to change and access to legal advice needs to be more freely available, CAB and CLC is overwhelmed with people needing advice or direction as to what to do. This can also be frustrating for our customers as they do not distinguish the difference between process</p>

		<p>and legal advice and view the Court or Ministry as being unhelpful by referring the off to services we should be connecting with and making sure they have access to.</p> <p>The lack of speedy access to legal advise for parties with urgent issues leads to them asking the registry questions we can't answer, it puts us in a difficult position, A duty solicitor system would solve this problem.</p>
--	--	---

		<p>Retain and enhance FLAS 1 to provide more thorough advice and help pre-court and to create a solicitor—client relationship. <i>As above</i></p>
In-court processes	<p>Changes to court processes including introduction of 'case tracks' and different types of conferences (meetings) to progress court cases</p>	<p>The system be simplified to two case tracks: on notice (standard) and without notice (urgent). <i>Agreed the tracks are confusing, although complex classification is useful.</i></p> <p>The number of conferences be reduced from five to three, for example, a judicial conference, settlement conference and a pre-hearing conference. <i>Agreed, even the Judges are using the wrong names now. Important that the Family Court has one set of names for events, not just the coca jurisdiction.</i></p> <p>The use of video and telephone conferences be increased. <i>For hearings when appropriate and urgent cases but not for lists in general. We note that these events take a lot of set up time and also go wrong and delay court often. The Judge loses some ability to read the body language of parties.</i></p> <p><i>Question as to what is meant by video and teleconferences increased, due to the fact that parties need to understand the Court process and be included in what is happening with their case, a reality of what the Court does and how they need to be part of it.</i></p>

<p>Changes to the way that children's safety is assessed</p>	<p>Consideration be given to whether the checklist in the former section 61 of the Care of Children Act 2004 should be part of the safety assessment process, If included, the checklist should be reviewed to make sure it captures all parts of a child's safety. Agreed.</p> <p>who would be responsible for the checklist and how would the VA's role be used or facilitated?</p> <p>Funding should be made available so that a Judge is able to direct children towards a counsellor, potentially allowing the child to engage in the Court process more, helping to solve core problems and giving the Court a better understanding of exactly what is going on from the Child's point of view. Could a Social Worker work together with LFC here?</p> <p>More information should be available at an early stage when the court is considering safety issues, for example, from the criminal courts and Police. Agreed, could some WO notice applications be delayed while we gather information if the Judge thinks appropriate. Could a S131a type process be developed for information from other sources.</p> <p>Consideration be given to whether to have specialist family violence support workers in the Family Court similar to victim support that is available in the District Court. Maybe – Could access to a duty solicitor be more useful? A local problem here is that it takes a week or two to get an appointment. We think you should liaise with the Women's Refuge and get their view.</p> <p>We feel that legal representation would be more useful, a duty solicitor to help with urgent applications would be better.</p>
--	---

	<ul style="list-style-type: none"> • Introduction of cost contribution orders 	<p>Automatic CCOs be removed and replaced with judicial discretion. For example, where a party has acted unreasonably or unnecessarily drawn out proceedings (perhaps by refusing to attend FDR), the court can make a CCO against that person (this is separate from court costs ordered between the parties in proceedings). Agreed, orders are not made often in our experience we suspect that it costs more to administer than it returns and does not act as a deterrent. This would not remove the Judges ability to use it as a threat when somebody is delaying proceedings.</p> <p>Filing fees not be changed. Agreed</p>
Role of professionals	Changing the role of lawyer for the child to represent both a child's welfare and best interests and views	<p>New criteria be introduced for the appointment of lawyer for child, to make sure each child's needs are met by the most suitable lawyer (focussing on personality, cultural background, training and experience, suitability of their qualification). Agreed – Are we not already doing this though.</p> <p>Supervision for L4C needs to be mandatory and funded by the court.</p>
		<p>Information given to parties and children about the role, obligations and limitations of lawyer for child be improved. Agreed</p> <p>Lawyer for child training, professional development and supervision requirements be regularly reviewed and strengthened. Agreed.</p> <p>The list of approved lawyers for child be regularly reviewed and updated. Agreed.</p> <p>Remuneration rates for lawyer for child be reviewed. Agreed.</p> <p>L4C- already doing the first, second and fourth point.</p>

	<p>Changes to how specialist reports are obtained and the introduction of a standard brief (a checklist) for those reports</p>	<p>The Ministry of Justice should look at measures to improve recruitment and retention of psychologists. Agreed – Pay and support through the complaints process we think are the big issues.</p> <p>There is a real need for improving recruitment and retention of psychologists. These seem to be overworked and perhaps underpaid and has a huge impact on the files that are ready for hearing and dictates a lot of when our files can be set down. Urgent action on how these can be recruited and retained.</p> <p>Psychological critique report writers should be required to be approved report writers under section 133 of the Care of Children Act 2004. Agreed.</p> <p>In response to complaints about a section 133 report writer, that the judge's decision regarding the complaint be made available in any subsequent disciplinary hearings. Agreed.</p> <p>Information and guidance be developed for parties, lawyers and the community about how cultural information can be helpful, and use is encouraged of the existing provision for a person to speak in court (section 136, Care of Children Act 2004). Agreed.</p> <p>The provision for a person to speak in court be strengthened so that the court must hear from a person called under section 136 of the Care of Children Act 2004.</p> <p>We're still thinking about:</p> <p>Recommending further policy work to develop an improved framework for the provision of cultural information to the court, including consideration of funding. Agreed.</p>
--	--	--

		<p>What training, support and ongoing professional development is needed to increase the number and capability of cultural report writers. Agreed.</p> <p>Direction needs to be given by a Judge that a cultural report writer is given all the information needed by parties eg OT as they are currently being blocked when they contact OT.</p>
		<p>Whether the threshold for requesting a cultural report should be changed.</p> <p>Judges ability to order psychological assessment of separate parties including child to be introduced.</p>

	<p>Removal of counselling services</p>	<p>Three types of counselling should be available in the new Family Justice Service, funded by the Government:</p> <ol style="list-style-type: none"> 1. counselling to help people deal with emotions that are stopping them from dealing with issues of care, contact and guardianship. Agreed, without a case before the court. 2. more in-depth therapeutic or behavioural family therapy-type counseling for complex court cases about parenting or guardianship issues Strongly agree 3. counselling to improve the parenting relationship or help people comply with an Order (as is the case currently). Agreed without a Judges direction should Counselling for children be part of that?
--	--	---

7. What other major issues were identified and what pre the Panel's proposals about them?

<p>Children's participation</p>	<p>On encouraging children's participation, further work should be done that draws on the research already available. This may include a trial programme to assess which child-inclusive models work best in a New Zealand context.</p> <p>Agreed</p>
---------------------------------	--

<ul style="list-style-type: none"> • Te Ao Maori and the Family Court 	<p>Considering how the Family Justice Service could change so it responds better to tamariki and Māori whānau. Examples are:</p> <ul style="list-style-type: none"> o involving hapū, iwi and community organisations in family justice processes including in the Family Court. Agreed could an iwi liaison be trained, would this be a professional paid role? o incorporating tikanga Māori in the Family Court processes and procedures agreed - but how? o introducing culturally appropriate training for family justice professionals, including court staff, lawyer for child and the Bench agreed o improving the framework for cultural information to be heard in court agreed o appointing more Family Court Judges that are Māori and have a deep understanding of tikanga and Te Ao Māori Agreed but maybe a focus on training our current Judges. o dual warranting some Te Kōti Whenua Māori (Māori Land Court) judges for Family Court proceedings involving Māori
--	--

	<p>children. This would help the court to make culturally appropriate decisions and raise the cultural capability of the Family Court Bench. Maybe, do they have the right skill set? Could some of these Judges be a useful resource in other ways, training/liasing with Family Court Judges?</p> <p>Considering if any legislative or operational measures should be supported by a strategic framework that creates objectives and accountability for those involved. E.g. through obligations on MOJ to improve family justice outcomes for Māori, or through strategic relationships between the Ministry and iwi, hapū or Māori organisations.</p> <p>Note: We support this line of thinking and acknowledge the crowns special relationship with Maori but do we have an obligation to take some of these processes to other communities? If a Court has a high percentage of people from another community as many do in its catchment should there</p>
--	--

	<p>be an active focus on understanding and finding the best way to help their families?</p> <p>Suggestion. What marae protocol could be incorporated in court processes. Could something as simple as the court taker inviting parties into the court room be appropriate, could the layout of the court have significance? Members of our staff have visited the Maori Land Court and been impressed there may be a lot we can learn from them in this area.</p>
Information	<p>MOJ develops and implements an information strategy to establish a cohesive and consistent set of resources in formats that cater to all needs. This should include information for service providers, community organisations, lawyers and family justice professionals. Agreed, Simple language wherever possible.</p> <p>MOJ develops a public awareness campaign to enhance New Zealanders' understanding of the Family Justice Service.</p>
Triaging	<p>Integrated assessments, screening and triaging should be established, and relationships strengthened between the Family Court and wider family justice services in the community. Agreed, FJSC role</p>
Complex cases	<p>All applications are triaged by the Family Justice Service Coordinator, to identify complex cases at the earliest opportunity, Agreed for on notice applications the Judge triages a without notice when its considered. What powers could the FJSC have to make this process quicker and make the best use of Judge time – as part of the triage we recommend directing S15 and 131a reports. Referring to a Judge for 132 reports, S19 reports, allocating a directions conference, directing LFC appointment at this stage</p> <p>The SFC Registrar could be a backup in the absence of the FJSC maybe.</p> <p>When the new role is established what would happen to all the work? There needs to be a clear guideline across the board on who does what.</p> <p>The Triage should be an ongoing process, we should be able to refer the file to a Judge at any time with these kinds of recommendation, possibly after inviting submissions – Example A current file will not go before a Judge again for some time, it</p>

	<p>has become apparent that S132 and maybe S133 reports may be required, Time could be saved if we requested submissions or referred the file to a Judge for directions now.</p> <p>Judges are given more powers to direct parties to time-limited and focused therapeutic intervention. Agreed</p> <p>individual judges undertake case management. Agreed</p>
<p>Family Justice Service Coordinator</p>	<p>A new role of Family Justice Services Coordinator (FJSC) be established, Agreed</p> <p>the FJSC triages all applications to the Family Court and makes sure that on notice applications needing urgent judicial attention are referred directly to a judge for directions. Non-urgent on notice applications are likely to be referred to Parenting Through Separation (PTS) or Family Dispute Resolution (FDR) providers or for legal advice. Agreed</p> <p>The FJSC connects those people who do not wish to make an application to court to appropriate services in the community. Agreed</p> <p>The main elements of the FJSC role should include:</p> <ul style="list-style-type: none"> o providing information and guidance on process, next steps and options agreed <p>This new role sounds amazing and exactly what most FCC's want to be doing now but what would happen with the admin tasks? What assistance would be provided?</p> <p>What community liaison/education would be useful part of this role. Face to face connection with people would be important how will smaller courts be managed, staffed.</p>
	<p>connecting people to services such as FDR and PTS or community services Agreed</p> <p>establishing and maintaining links with community services.</p> <p>The role of the FJSC should be established in law. Strongly agree, the role will need to be clearly defined in law and by internal guidelines especially if the is a SFC Registrar too.</p>

<p>Senior Family Court registrar</p>	<p>The position of Senior Family Court Registrar be established to speed up court processes and reduce the judicial administrative workload, thereby increasing judicial hearing time. Maybe, what does this role look like.</p> <p>Could a SFC Registrar have the power to</p> <p>Conduct a Registrars list in Court and</p> <ul style="list-style-type: none"> ■ Consider and make final decisions on formal proof hearings? Maybe with some limitations like changing the role of day to day care. ■ Consider Domestic Violence summons cases, with all powers except for excusing attendance at a programme. <p>Rather than a new role should we be working on our current Registrars powers that are not used by many. Should there be a formal qualification for a Registrar provided by an outside provider like a apprentices block course.</p>
<p>Other Notes:</p>	<p>Registrar should be able to extend Lawyer for Child appointment between reviews on OT cases.</p> <p>Duty solicitors to help with urgent applications when parties arrive at the counter. Often a person's ability to put together an application rather than their situation dictates the outcome of without notice applications at the moment.</p> <p>A lot of money needs to be put into these areas to make them work. There is a lot of work that needs to be put into Te Ao Maori however at present there is a real struggle to get reports from specialists, such as psychologists and social workers. This would need to be addressed firstly before other report writers are brought on. Working in conjunction with Oranga Tamariki is paramount and at present they do not have enough social workers to provide the information we need.</p> <p>The biggest challenges we face:</p> <ul style="list-style-type: none"> ● Parties that need access to legal advice when making an application or needing advice on what to do. ● Caseloads per CRO, making sure their events are meaningful and progression of cases in a timely manner.

	<ul style="list-style-type: none"> • Not enough judicial time. • All court users having access to free legal advice/or counselling and no party being disadvantaged.
--	--

8. How can people have their say?

Submissions can be made online by answering some specific questions.

People can also choose to make an email or postal submission based on the public consultation document available on the Ministry of Justice website,

The Panel is interested in hearing from anyone with experience in family justice services, whether as a service user, or a professional working in the space. People can make a submission at <https://www.iustice.govt.nz/iustice-sector-policy/key-initiatives/family-court-rewrite/> or get in touch with the Panel by emailing FamilyJusticeReforms@justice.govt.nz.

9. What is the Panel's Terms of reference?

More information about the Panel members and their terms of reference can be found <https://www.iustice.govt.nz/iustice-sector-policy/kev-initiatives/family-court-rewrite/>

Privacy and confidentiality

Submissions will only be used by the Independent Panel for the purpose of considering the 2014 family justice reforms. They won't be shared with government agencies other than the Ministry of Justice (which is providing administrative support for the review).

Anyone interested in submitting should note that information supplied will become official information, This means that the Ministry may be required to release all or part of the information contained in submissions in response to a request under the Official Information Act 1982, The Ministry of Justice may, however, withhold all or parts of submissions if it is necessary to protect privacy or if it has been supplied subject to an obligation of confidence

Completed by the s 9(2)(a)
Co-Ordinator.

with the assistance of our Family Court