

A qualitative study on behalf of the Independent Panel examining the 2014 family justice reforms

[Appendices report]

April 2019



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Disclaimer

This is qualitative research. It should be noted that while qualitative research can be used to identify a range of issues and assess the intensity with which views are held, quantitative research is necessary to establish with certainty the extent to which views expressed are held throughout all parents and children/ young people who have experienced the family justice system reforms since 2014. This research does, however, deliver a detailed summary of the experiences and perspectives of the participants who took part in this research.

Introduction

Background and context setting

In August 2018, the Minister of Justice asked an Independent Panel to examine the impacts of a package of reforms made to the family justice system in 2014. The 2014 reforms changed the services and processes available to help separating couples agreeing on the care and contact arrangements for their children.

The Independent Panel's Terms of Reference require it to consult widely with those using and working in the family justice system to understand the overall effect of the 2014 changes, and particularly whether they are achieving outcomes that focus on the welfare and best interests of each child.

The Panel has conducted two phases of public consultation with parents, professionals and peak bodies and was interested in hearing from children/ young people, and parents who may not otherwise engage with mainstream feedback loops (Māori parents, Pasifika parents, new migrant/ refugee parents¹ and parents with disabilities).

Research was commissioned to gather feedback and personal experiences of the family justice system changes made in 2014 from these specific groups.

Research objectives

The primary objectives of this research were to explore and understand the experiences of the post-2014 services for resolving disputes about care including experiences of both out of court and in-court processes and more specifically to:

- Identify what is working well and what could be improved.
- Identify any unintended consequences of the 2014 family justice system reforms.

Target respondents

The target respondents for this research were:

- Māori parents
- Pasifika parents
- Parents with disabilities
- Children and young people
- Parents generally.

¹ During the research development it proved difficult to identify parents from new migrant and refugee backgrounds who had experienced the 2014 reforms within the research timeframe. We were also concerned about the impact of participation on vulnerable participants. Consequently, new migrant and refugee parents were not included in this research. We note that this may still be needed at some stage.

Method - Qualitative approach

The research employed a qualitative methodology in order to understand participant's experiences with the family justice system 2014 reforms. A total of 47 in-depth interviews were conducted; 34 with parents and 13 with children/ young people between the ages of 11 and 18 years. Interviews were undertaken in a range of locations - both in urban and provincial centres. Note we have not indicated specific locations in this report to protect participant's confidentiality. The research was undertaken from mid-January - early March 2019.

As stated in the disclaimer, this report includes a detailed summary of the experiences and perspectives of the participants *who took part in this research*. However, quantitative research is necessary to establish with certainty the extent to which views expressed are held throughout all parents and children/ young people who have experienced the family justice system reforms since 2014.

Also, the research does not include families who considered the family justice system but who were incentivised (or simply decided) to sort the matter out themselves, or with the help of their communities, social services, and wider whānau.

Research findings

Two reports have been produced, which are designed to work together.

1. Main report

A separate, main report includes:

- Comprehensive reporting of the main findings from in-depth interviews with parents and children/ young people;
- Key insights; and,
- Recommendations going forward.

Findings are supported by verbatim comments selected to represent the key audiences that form the basis of the research and to highlight the key findings using the 'voice of the parents, children and young people'.

To avoid identifying research participants most verbatim quotes have been attributed to a key audience only - no location or gender information was included.

2. Appendix report

This document - the Appendix report - contains *supplementary information only*. Specifically, in relation to:

- Additional information regarding key professionals;
- Introduction letters, information sheets and consent forms used for recruitment; and,
- Discussion guides and prompts used during the in-depth interviews.

Verbatim comments are also included.

The readers is referred to the main report for a comprehensive discussion of the findings from this research and to provide context for the contents of this Appendix report.

Appendices

8.1 Additional information regarding key professionals

■ Parent's perspective

8.1.1 Lawyer for Child

One aspect of the 2014 reforms was to limit the appointment of lawyers for children to situations where the court has concerns for the child's safety or well-being and the court considers the appointment necessary. This was intended to better target the use of professionals in the court.

Most participants were supportive of the Lawyer for Child and believed it was important and necessary for their child/ren to be given the opportunity to speak and to have an independent voice. Notwithstanding, participants had mixed experiences of the Lawyers for Child, with some being very positive and complimentary and others not so much.

■ Working well

Represent the best interest of the child/ren

Most important for participants was that the Lawyer for Child was focused on the needs and impacts on their children/ young people.

For many participants their experience of the Lawyer for Child was a lawyer that was independent and unbiased; and one that made up their own minds, rather than being influenced by one or other parties. They did their 'homework' and took care to explore with children/ young people what was being said and provide an environment where children/ young people felt safe to talk honestly about their preferences and what was important to them.

Engage well with children

Participants described Lawyers for Child who had been open, approachable, helpful, and empathetic. They considered the Lawyer for Child was natural and friendly, and that their children seemed comfortable talking with them. Their observations were that time was taken getting to know and understand their children and the 'bigger picture' and reports indicated that they had represented their stories well. They talked to children in age appropriate terms and language and did not treat teenagers like children.

Some go beyond their role as a Lawyer for Child

Participants were also appreciative of the multiple roles that some Lawyers for Child were forced to play. They were educators; they explained processes and procedures and who's who in simple, lay-people's language. They were mediators and could help explain situations and concerns to the other parent. In some situations, they had been a buffer or intermediary between children/ young people and their parents.

Cultural understanding

Māori lawyers had been helpful for Māori families by providing cultural context and understanding.

So, I guess my impression of the child's lawyer is that they, and probably rightly so, are going to put the children's safety at the fore and because they probably deal with the worst of the worst they are going to err on the side of caution and not take anyone's word for it. (European / Pākehā parent)

Well I wasn't in the room. But I think it went really well. [Child] was very comfortable. They weren't upset or anything like that, they felt good about it. They felt comfortable telling Lawyer for Child exactly how they felt because they had been telling their other parent what they wanted to hear, so the other parent thought that was what the child wanted. But once the child was appointed their own lawyer, they felt comfortable saying, well actually, it is not what I really want I just tell (parent) that because I didn't want to hurt their feelings. [So, they were able to be honest with the lawyer?] Child was able to be honest. (European / Pākehā parent)

■ Less than satisfied

Lacking empathy and understanding

A few participants however felt that the Lawyer for Child had not provided sufficient understanding of their children/ young person's views and not represented them that well. They were not satisfied that the Lawyer for Child had taken the time to get to know the children and in fact had shown no rapport with their child/ young person. Some were concerned that the Lawyer for Child had not appreciated how daunting to a child/ young person the professional 'lawyer' attire could be and some without children of their own had shown no empathy of children and how they might behave or communicate.

Neutral meeting spot (agreed by children/ young people)

Also, of concern was where the Lawyer for Child would meet with children/ young people. While school may be a neutral place it was obvious to other pupils that someone was being singled out for a chat and could make children/ young people self-conscious and less than frank in that environment.

8.1.2 Other specialists (Psychologist)

If a judge needs more information in deciding a case under CoCA, he or she may ask for a cultural, medical, psychiatric or psychological **report**. The 2014 reforms amended section 133 of CoCA to improve the use of specialist reports.

Several participants said they had used or requested specialist/ specialist reports during the family justice process. However, it was not always clear to researchers if the specialists (reports writers, counselling) etc. which participants described were in fact part of the family justice process. Some families were also involved with other agencies and professionals, who also undertook specialist reports. For example, for education purposes, for ACC sensitive claims, for mental health issues and for drug and alcohol rehabilitation. Some parents found it hard to distinguish between those which related to the family justice system and those which did not.

Regardless of the context, participant's experiences of specialist report writers were generally positive.

■ Working well

Represent the children's best interest

Participants agreed that specialist reports provided independent and professional oversight and represented children's views well. They could also provide valuable insights, guidance, help and reassurance for parents and act as a precursor to more help and support for the family. (Some families found it hard to access help, so court requested specialist reports and follow-up were welcomed.)

Can support parent's cases

For some participants, specialist reports had provided valuable evidence relating to their parenting skills, their relationship with their children/ young person and household dynamics.

■ Less than satisfied

Difficult to access

Some participants were critical of the strict/ tight criteria involved accessing specialist report writers, which meant some children/ young people had missed out. One parent was upset that their children were not eligible for a specialist opinion because they had been placed in kin care, despite the trauma and angst their children experienced being taken and kept away from them.

I was worried about the kids and their mental health. Knowing that trauma like this comes back to you when you are an adult and you are trying to find your way - these are learned behaviours and they stay with you. But the kids, I asked numerous times to get these reports done just to make sure that things were okay because there was a few times in school for (child) that they have said (child) is a bit hypo, they are over-emotional, but the children never met the criteria for it. (European / Pākehā parent)

Can be costly in time and money

Specialist reports were also expensive (paying a third of the cost is still tough for some parents) and there could be a long wait for specialists (which extended timelines further).

Specialist reports were also known to impact on timelines which was stressful for parents. Waiting for appointments for psychologists (and others) impacted on other decision-making.

Reports were not correct (undermined validity)

Some participants were critical of the contents of the reports:

- The contents of specialist reports can be disarming and upsetting for parents who were unaware reports had been done until the findings were presented - read out in-court - without warning.

... The psychologists report was quite damning and that made me think I am really doing the right thing. (Asian parent)

- A couple of parents described occasions when they had received different/ opposing views and findings from two different specialists. This had made them cynical and suspicious that if their ex-partner so chose, they could eventually get the answers they wanted.

Role of reports and specialists not always clear

It was evident that for a few participants they did not understand the role of the specialist reports and how the professionals worked, so they were a little cynical and dismissive of their input.

8.1.3 Counsellors/ counselling

The 2014 reforms removed relationship and pre-court counselling for separating couples. Counselling for people who wanted help with reaching agreement about care arrangements for children was replaced with FDR. Most in-court counselling was also removed. A judge may still direct parties to counselling but only when deciding an application for parenting agreement or a dispute between guardians. Counselling can only be ordered once where it would help improve the parents' relationship or help them comply with a direction or order made by the court. A judge cannot direct parties to counselling once proceedings have ended.

Participants' experiences of counsellors - both one on one and in a group/ family setting - varied widely. Some parents and their children had found the sessions extremely valuable, while others had found them awkward, upsetting and of little use.

We note that there is no current 'court mandated' counselling for children and families, so when participants spoke about counsellors in this context, they were referring to counselling outside of the family justice system.

■ Working well

Represent the best interest of the child

As stated, there is no current 'court mandated' counselling for children and families. However, where participants' children had accessed counselling via other services or avenues, they described counsellors who had engaged well with their children (family) and who had communicated on their level. They had helped children to understand - not feel guilty or to blame - and provided a safe environment for them to speak honestly and openly.

Provide coping skills and tools

Participants also talked about counsellors who had provided coping strategies for them and their children (and taken some of the strain and responsibility off parents), during a very stressful and traumatic time. Anger and stress management tools had been extremely valuable for parents **and** children who were feeling hurt, vulnerable and even enraged by events in their lives.

Unemotional, professional oversight and perspective

Good counsellors had been accommodating and calming; they were people who parents and children could relax with in a safe and confidential space. They guided but did not lead or instruct and encouraged participants to focus on what 'really' mattered. Moreover, counsellors had helped to give perspective **and** put things in perspective and helped to clarify misunderstandings and open lines of communication.

Because there were a lot of misunderstandings. My ex thought I was saying things and doing things that I wasn't doing, and I was hearing things that perhaps weren't happening when my child was in their care. So, there was a lot of misunderstanding so that all came out in the open and we actually started to get along and would even talk outside after the counselling sessions about (child) and felt like we could communicate properly as adults and really, really thought things were going to get better. (European / Pākehā parent)

My child called the counsellor, their friend; they would say my friend (name) or whatever her name was. I don't think my child realised that it was counselling, obviously they didn't know what counselling was. Child was 8. (Māori parent)

■ Less than satisfied

Expertise varied

However, counsellors' levels of expertise and capability varied. Participants with experience of multiple counsellors explained that some were better at listening and encouraging confidence and trust than others. And some were better with children than others.

The counselling arranged by the court was hopeless. CYFS was involved recently - absolutely hopeless. (European / Pākehā parent)

Occasionally, parents and children had felt under pressure to participate in counselling and had felt awkward, embarrassed and stressed during the sessions. Sometimes children and/or partners had rejected counselling, as they believed there was a stigma attached and some believed that it did not help. In these situations, participants worried that counsellors only heard one part of the story, so were unable to present a balanced and unbiased overview and report.

Can be costly in time and money

Private counselling and specialist report writers were costly and could take a long time to organise and for reports to be written and submitted, which added more time and stress to the process.

(As mentioned, even contributing to a third of the cost is difficult for some parents.)

Some participants questioned the value of counselling when it happened too late in the process to have any influence on the outcome.

We were on the waiting list for about seven months to get into some family counselling. By then you have almost forgotten why you have done it in the first place and trying to remember all of these bits and pieces you don't want to re-traumatise by going through it again. (Māori parent)

Some value lost if not all parties attend

Several participants had been disappointed when their ex-partner had refused to attend joint counselling, more so when they personally had found it helpful and that it had potential to benefit both parties (and their interactions going forward).

... Counselling I had to go to a joint counselling session, and it was quite well set-up and quite good, but (ex-partner) couldn't participate for their own reasons. (European / Pākehā parent)

Difficult to access

Like psychologist specialist reports, some participants were critical of the strict/ tight criteria for counselling services, which meant children/ young people and parents missed out.

Others felt there was insufficient counselling offered and that it was too short term. For many children/ young people and their families, their problems were ongoing so, ideally counselling needed to be as well.

But what I think was more worrying for me was trying to get counselling that my children needed ... much earlier. Kid friendly counselling. Because, even now, I think they are so over protective of me. I don't know how to take back that responsibility from them. I have got them; I am supposed to care about them. They have lost a parent; they have gained back a parent but for kids it is a hard process. (Pasifika parent)

Another thing I am worried about is [Name's] mental health and having to kick and scream every week nearly for five years not wanting to go to their other parent. Yet there is no evidence to say their other parent does drugs or their other parent does this for my child not to be in their care. My child's safety is fine, but the mental well-being concerns me the most. (Māori parent)

Some parents were unaware counselling was available and felt they would have found counselling or some other form of mentoring/ support, beneficial.

There weren't many places I found I could go to, to talk about it. Some sort of counselling while you are going through the process. Just somewhere that you can go that can validate that what you are going through is tough but also there to guide you that this is not a necessity. I can very much see it now and I can see the benefits of what we have gone through. (Pasifika parent)

(NB: Several families/ children were receiving ongoing counselling and support, but this was not widespread, and it was not court mandated.)

8.1.4 Judge

Most participants had been satisfied with the judge during in-court process; several described their judge as excellent.

■ Working well

Well respected

Participants knew that judges had a wealth of legal knowledge and experience; that they were experts in their fields and that only the best legal professionals were appointed judges. In addition, participants respected judges for their professional 'aura' and demeanour and wisdom and their innate ability to quieten things down when hearings became loud and emotional. Judges had generally been sensible, pragmatic and patient; they explained the process and when participants didn't understand, took the time to explain things in a way that they could understand. They filtered out unnecessary, emotional rhetoric, focused on the task at hand and took no nonsense from anyone.

Once participants had got over their nerves about appearing in court, the judge had not been as scary and intimidating as they had expected.

The judges are really good. [What was it about the judges that makes you say that?] They stuck to the facts, they didn't elaborate on things that had no proof or purpose. I went through the anger management course and that was voluntary, apart from smacking my child when they were three years old there was no physical violence but yet that was implicated. So, the hearings we went to, the judge said there is no evidence of this let's move forward'. (Disabled parent)

The judge caught my ex out because they lied and the judge was not amused by that. So that was quite good in a way. So, the judge wasn't asleep whereas half the people in the court seemed to be half asleep. (European / Pākehā parent)

[What was your experience of the judge in the family court?] You don't get a lot of time with them, but I felt that the judge was extremely objective, and she was a family court judge. I was happy that it was a woman just with my experience and stuff like that. I felt that she was really balanced in her approach to try and see everyone's needs not just the children's needs like the Child Lawyer does or not either party being my ex or myself. (European / Pākehā parent)

The judge was really cool. He could tell that we didn't quite understand their way of speaking. So, they were really cool in making us feel comfortable and explaining things without making you feel silly. [So, the judge himself would explain stuff?] Yes. My sibling didn't understand a few things, so he explained it. When we went into our first court date at that point, I had only just begun putting my name down, firstly I was just supporting and being there because I can vocalise better than my parent, whereas she can't really explain. And he was really understanding in that there is someone random turning up. I guess he let the rule bend. So, he allowed us to be there. (Pasifika family member)

■ Less than satisfied

Not impartial

Several participants had not had such a positive in-court experience. These parents were critical of their judges, who they believed were not impartial, so participants had not felt they were getting a fair hearing. For one participant with a change of judge, the tone also improved and they felt they got a fairer hearing. There was a better examination of the evidence and specialist reports and no suspicion of unconscious or other biases.

This view was expressed most strongly by parents with a disability and Māori participants, who believed some judges made incorrect assumptions about their parenting skills or their customs and beliefs.

Ignored

A couple of parents had felt belittled and ignored in court; they claimed they had been spoken at or spoken about, rather than spoken to and this had upset them and undermined their confidence.

[How did you feel the judge managed your case?] *We had a couple of different judges. I never really got spoken to. I was spoken at or about for the first three visits to the court and it wasn't until I went down to a Section 91 Supervision Order that the lawyer actually spoke to me in a way that she was like you have done amazing work. And it felt like they do this so many times and they see not very good cases and they are all numb to it. ... it just seemed like CYFS opinion mattered more and it was a conversation between them and what would they like to do with me.* (European / Pākehā parent)

■ Children/ young person's perspective

8.1.5 Lawyer for Child

■ Working well

Shows understanding and communicates well/ professional

Some children/ young people have had **very good experiences**, especially those who have been told in advance who the Lawyer for Child was and warned in advance about the meeting/s. Positive experiences are evidenced by the Lawyer for Child who have:

- Clearly been there for the child/ young person.
- Been good listeners.
- Explained things well; told children/ young people what was happening and why.

It was basically to tell us that we don't have to go with parent, but they would like us to go with them, so we don't lose that contact and stuff. (16)

- Talked to children/ young people about their views and let children/ young people talk without interrupting or putting words in their mouths. They had encouraged children/ young people to answer truthfully and spoken in an age appropriate way and used age appropriate language.
- Been professional, unbiased and experienced (or so older children assumed).

She carried a briefcase and looked a bit scary, like one of those business people. She was very helpful. I thought that she sounded like she knew what she was doing. When other people came they sounded kinda like new. She sounded like ... okay that's happening and this is happening and sounded like she always had a solution to things, and I thought she'd been doing this for ages and is really experienced and I liked it. (13, Māori/PI)

- Been kind, friendly, happy, bubbly.

You want to know what the lawyer was like she was like amazing. [So, the lawyer was happy herself - was that good?] She was bubbly, sort of like me. (11)

- Held meetings in a neutral, non-threatening environment.

■ Not working well

Lacking in empathy and understanding

Some children/ young people's experiences were less pleasant or positive, though the researchers suspect this might have been at least partially due to the fact that lawyers were 'different' than other adults these children/ young people had come into contact with. Business suits and briefcases were unusual and slightly alarming for some children/ young people.

Characteristics which children/ young people disliked, and which undermined their trust in the Lawyer for Child were when lawyers were (or perceived to be):

- Rude and cold, with an interrogator-type approach.

There are people in there who shouldn't actually be lawyers. The woman I talked about she shouldn't be a lawyer. She should probably handle police investigations. I think she would be better at that. She is very manipulative which would be a positive for them but she is not a people person at all. (16)

- Manipulative ... one teenager felt the lawyer had put words into their and their sibling's mouths and twisted questions to get positive answers (or the answers the lawyer wanted).
- Biased ... one teenager felt the lawyer had not tried to understand the circumstances, background and context and approached the case with his own preconceived ideas i.e. that children needed both parents ... regardless of what the parents were like.
- Waffle-y and not very good at explaining.

[Name] particularly would over explain what was happening but not tell us actually what was happening. Tell us basically mum and dad want custody of you what do you want? And that was it over and over again. It was more a therapy style than an actual lawyer style. (16)

- They talked 'down' to children/ young people and did not converse in age appropriate manner. Teenagers did not want to be talked to like primary school children.
- Shut children/ young people down and wouldn't let them speak or express their opinion.

I do remember that I tried to [give my views and honest opinion] but then the reaction I got from her I closed up and didn't say much more. (18)

I know the lawyers I spoke to and have spoken to weren't there to state my case but to interpret what I had. A man called [Name] was a terrible lawyer and probably is not in the system anymore, did not listen to anything I said and made the decision by himself and thought that my step-parent should have all of the custody for me without listening to me and I was very against that. (17)

Location for meetings not suitable

For one child/ young person participant, the location for the meeting with the Lawyer for Child did not work well. It was held at the local CYFS office, which had negative connotations for them. It was an intimidating venue and an older teenager said they had found it demeaning going there. They would have preferred meeting in their family home or another neutral venue.

And for some children/ young people having conversations at school were embarrassing and laid them open to bullying.

Hard to be open and honest

Several children/ young people admitted they did not tell the Lawyer for Child the truth. One had been afraid of their mother's reaction. Another, a 16-year-old, who had already been through two previous parenting arrangements, was distrustful and sceptical of the system per se and of those working in it.

When I was four my birth dad and mum broke up and I had a lawyer and the lawyer asked me what you want, and I said I wanted to be in [City 1] with my parent1, but I ended up going to my parent2 who lives in [City 2]. This time I kind of just went, oh well they are not going to listen so why bother having an argument. (16)

Role not that clear

Some, not all, children/ young people recalled meeting the Lawyer for Child. Others recalled meeting a lawyer (or lawyers) but were unsure whose interests they represented; if they were independent or if they had been appointed by one of their parents; which could make older children/ teenagers wary, distrustful and careful what they said.

... I think he was my parent's lawyer. So, while he was neutral with me, he wasn't a neutral party. (16)

The experience could also be confusing and concerning, as children/ young people were not sure how their words might be interpreted or portrayed, in what context and to whom.

No, my parent kept me isolated for a lot of it and I think they took me in to see a lawyer a couple of times which was basically just tell this man everything bad about your other parent. [So that was the Lawyer for the Child was it?] Yes. (17)

Stressful

Meeting the Lawyer for Child had been an overwhelming and confusing experience for some younger children, for whom having a one on one conversation with any, unknown adult was stressful and slightly confrontational. One child described feeling like they were in the spotlight, while others mentioned they had felt pressured to say what they thought they should say or what their parents would want them to say, not what they honestly thought or felt.

One older teenager had been very worried that what they said may have negative repercussions on the future.

Because while you were there you knew what you were going to say was going to potentially have huge effects on what happened and also you didn't know whether that information was going to get out to either parent, so you are still very biased in what you say. [Guarded?] Yes. Very. (17)

Another child said they had felt unhappy and sad with the lawyer. They had felt like giving up, as they felt powerless and believed they couldn't do anything right.

8.1.6 Social worker/ psychologist/ counsellors (including school counsellors)

Children and young people's experiences with social workers, psychologists and counsellors etc. have generally been positive and the outcomes beneficial.

Even older children/ teenagers whose families did not receive counselling (or time with a social worker or psychologist), or who could not remember doing so, recognised the benefit of having support through the process from someone independent and who had their best interests as their focus.

And, several older teenagers said they would be open and amenable to seeing counsellors now and believed they might benefit more now they were older and had the benefit of hindsight and maturity.

I think now, I would've wanted to [see a counsellor]. But I don't think I wanted to at the time ... I don't know why, but it's only now that I'd consider it. I was 15 at the time and I thought that if you see a counsellor, it means you've got a problem. (18, Māori)

■ Working well

Independent conversations

Meetings could be happy, relaxed and fun times and children/ young people generally enjoyed the sessions and conversations. They have found it helpful to talk with someone outside of the family and the sessions provided an opportunity for children/ young people to open up and express themselves.

It felt good because sometimes I couldn't talk to other people. I remember there were two people. I remember she was really fun and she stuck around for a while. She did the same stuff ... asked me questions. I used to go to a counselling place and we'd go there with all the family, and then I'd go separate, so that was really good too. I actually met my best friend doing counselling. I liked being separate at counselling because I think I trusted the person and it's just me being alone with one person because I don't want to say stuff in front of the family. And because parent wasn't there, I knew I wouldn't upset them. (13, Māori/PI)

Children/ young people participants were able to have their say in a safe and private environment and with someone who was trained to listen and help. These professionals kept children/ young people's confidences even when they had got angry and upset with their situation. Importantly, they were independent - outside of the loop - and could provide an unbiased perspective and help children/ young people to understand the wider picture

They just asked me questions ... and did games with me like we had a whiteboard which had 1 to 100 on it, and they said put a mark on how much I wanted to come and live here [City]. My mark was 85, but that was before and now it's 65, because now I really want to go to [City] College. (12, Pasifika)

School counsellors have also been helpful (though children/ young people said it could be 'embarrassing' meeting them as, afterwards, everyone knew where they had been.)

■ Not working well

Difficult conversations

For a few children/ young people participants, their experiences were not so positive. They described meetings as awkward and that they hadn't known what to say. Meetings could be painful when people start asking 'uncomfortable questions'.

Whenever we went to school we used to get called out of class every day to come and meet this lady, I forget her name. She used to ask questions about how visiting parent was, how school was going and sometimes she'd ask other questions about family life and I found that uncomfortable, because I cared about my parent, because we didn't get to visit them as much and I used to get sad and stuff. (13, Māori/PI)

One child remembered attending meetings with a psychologist and their three siblings, where they would talk individually and as a group about their feelings 'and stuff' toward their absent parent. They did not think this helped them personally but that it did help their younger siblings who missed their (step) parent more than they did. The child said they felt unhappy going to the meetings, as it was always a rush to get there and sometimes, they would get taken out of school which was tough and embarrassing.

Not sure about confidentiality

A couple of children/ young people participants had been worried if what they said might be perceived as taking sides or breaking confidences and what their parents might think or do if they heard or learned what they had said.

8.1.7 Judge

Children and young people have, in the main, been kept out of the court process.

One child recalled a brief meeting with a judge. Their summary of the meeting was that it covered the same content as their previous meetings with the counsellor and the lawyer, so wasn't that helpful. It was a repeat of the previous meetings.

A few older children/ teenagers were a little frustrated they had not been given the chance to speak to the judge or attend the court sessions, as this added to the sense that important decisions about their lives were being made behind their backs and using, potentially, biased or misinterpreted information.

[Did you meet the judge at all?] No, the only person I talked to was the lawyer, I wasn't actually there for the hearing. I was literally kept isolated from it, I wasn't given any news about it. It wasn't good. (17)

8.1.8 (Family Dispute Resolution) Mediator

Only one young people participant could recall attending 'Family Meetings' and their recall was not positive.

One teenager recalled attending family meetings but not until quite late on in the process, when their trust in the system was low and they refused to listen to anyone. The meetings were not helpful.

In contrast, another teenager, in hindsight wished they could have participated in the 'mediation' and to have had their say with and/or without their parents. However, as their parents chose not to involve them from the very beginning, this did not happen.

(Note: her parents may have been offered this service but refused).

8.2 Introduction letter and consent form

Dear

Research with families about the services available to help separating parents make arrangements for their children

I am contacting you as your family has used one or more family justice services after 2014. These services include Parenting Through Separation courses, the Family Legal Advice Service, Family Dispute Resolution, or the Family Court.

The Minister of Justice has asked an Independent Panel of experts to examine how well a series of changes made to the family justice system in 2014 is now working and how those changes have affected whānau using the family justice services.

As part of this work, the Panel has arranged for an independent research company to conduct a series of interviews with families - parents, young people and children - who have used these services. The Panel is particularly interested in the experiences of Māori and Pacific Island people, new migrants and people with a disability.

These interviews will focus on what did and what did not work for parents and whānau needing help to agree about the care of their children after separation.

These interviews will be strictly confidential, and findings from the interviews will be reported back to the Independent Panel completely anonymously.

I write to you now to ask for your permission to share your contact details with the team at UMR who are leading this project. An information sheet with more detail about this work has been enclosed with this letter.

Participation in the research is completely voluntary and confidential, and whether you and your family participate or not will not affect your relationship with the Ministry of Justice or any other government agency. Any notes or transcripts of interviews will be stored securely by UMR and destroyed after two years.

You and your children are not obliged to participate, and you can say no or withdraw from this process at any time.

UMR will provide a koha or thank you gift to parents (money) and children (a voucher) as a way of saying thank you for the time and effort that it takes to participate in research like this.

If you are interested in participating, and are comfortable with your contact details being shared with UMR, please fill out the consent form on the third page of this letter and either:

- email it to familyjusticeresearch@justice.govt.nz; or
- mail it to:
 - Family Justice Reforms
 - National Office
 - Ministry of Justice
 - SX10088
 - Wellington

When we receive your consent form, we will pass your details to UMR, and someone from the UMR team may contact you about arranging a suitable time to interview you and, potentially, your children. However, there is a chance that if too many people want to participate, they will need to randomly select people and you might not be contacted.

If you have any questions about the research or about participating, or you would prefer us to mail you a hard copy of the consent form, please contact XX on 12345678 or XX@justice.govt.nz.

Thank you for your time. Your participation is extremely valuable and will help make sure that the needs and views of New Zealanders are known when the Panel makes decisions about changes to the family justice system.

Yours sincerely

Manager - Secretariat to the Independent Panel examining the 2014 family justice reforms

Consent form - Research about parents and children's experiences of the family justice system

The Ministry of Justice has commissioned UMR Research Limited to undertake research into parents and children's experiences of the family justice system.

I agree to be interviewed/ consent for my children to be interviewed about my/ their experiences of the family justice system and confirm that:

- I have been given the information sheet on the research and I have had the chance to read this information and ask questions and any questions I have had have been answered to my satisfaction.

I understand that:

- This is an independent study being conducted on behalf of the Ministry of Justice's Independent Panel and that UMR researchers are responsible for the collection and analysis of all information.
- That by agreeing to take part I am willing to participate in a face to face interview/ consent to my children being interviewed about my/ their experiences at an agreed location.
- The topic of the discussion will be about my/ my children's experiences of the family justice system. The discussion is not about my dispute or arrangements and how much personal information I/ my children choose to share with UMR research is my/ their choice.
- Taking part in the interview is completely voluntary and my/ my children's choice.
- I/ my children can stop the interview at any time.
- I/ my children can choose not to answer particular questions.
- I/ my children can withdraw my answers up to one week after the interview.
- The information I/ my children provides will be included in a confidential report where no names or locations will be identified.
- What I/ my children say may be quoted in the report, but I/ they will not be identified.
- The interview will be recorded and transcribed (with my/ my children's permission).

I _____ agree to take part in this research

I _____ consent for my children to take part in this research (Please print your name)



8.3 Information for research participants

Research on behalf of the Independent Panel examining the 2014 family justice system reforms.

An Independent Panel is reviewing the changes made to the family justice system in 2014. As part of that work, the Panel wants to understand how those changes have affected whānau using family justice services. An independent research company, UMR Research, has been asked to conduct a series of interviews with people who have used the system, so the Panel can understand what's working well and what needs to be improved or changed.

The research will include parents, young people and children from across New Zealand and is particularly interested in the experiences of Māori and Pacific Island people, new migrants and people with a disability. We want to make sure their views and experiences are known and considered when the Panel makes future decisions about changes to the family justice system.

We hope you will participate in this very important research. Everyone's input is important and will help to make the family justice service better.

Why have I received this letter?

You have been identified from Ministry records as having used one or more family justice services since 2014. You may have participated in a Parenting Through Separation course, Family Dispute Resolution, Family Legal Advice Service, or gone to the Family Court in the last four years.

The Ministry of Justice keeps this information on record to make sure that that family justice service providers can access up-to-date information about their clients, and so the Ministry can track and report on family justice services.

We are contacting you to invite you and, potentially, your children to participate in this research.

Your details will not be shared with UMR Research unless you give your express permission for us to do so.

If we do not hear from you, someone may telephone you to make sure you received this letter and check if you would like to take part.

I'm interested, what happens next?

If you are interested in taking part by yourself and/or consent to your child/ren being interviewed, please fill out the consent form included with the letter and return it to us.

You can do this by emailing it to us at:

familyjusticeresearch@justice.govt.nz; or posting it to:

Family Justice Reforms'
National Office, Ministry of Justice
SX10088, Wellington



Once we receive your consent form, we will pass your name and contact details on to the team at UMR. They may contact you to arrange a time and place to meet with you (and potentially your child/ren) to talk about your experience with family justice services.

We need to hear from a range of different people across New Zealand, so there is a chance that not everyone who volunteers will be contacted. We apologise in advance if this happens to you.

What will happen in the interview?

- A researcher from UMR research will talk with you (and/or your child/ren). Most researchers are female, but you can request to talk to a male if you prefer. The interview will be held at a place and time which is convenient to you (and your child/ren).
- You can bring a support person if you need to. UMR can arrange interpreters if this will make you feel more comfortable talking about your experiences.
- Interviews might be with you and/or your child, you and another parent (unknown to you), two older children together or small groups of parents. (Depending on who agrees to take part.)
- Interviews will take about one hour for adults and 45 minutes for children. Small groups last 1.5 hours. With your permission, the interviews will be recorded, and the researcher will take some notes.
- You and your child will receive a thank you gift of money (adults) or a voucher (children) for your time.

What will you talk about?

UMR will ask you about your experiences of the family justice system and what worked well and didn't work so well for you and your whānau. The interview is not a test of how much you know about the family justice system, UMR just want to know about your experiences. We do not need to know about your dispute or arrangements. How much you choose to share is entirely up to you, but whatever you do so say is confidential.

What will happen after the interview?

After the interview, the research team will write up a summary of the main points from the discussion. You will be able to check that summary to make sure that what is written accurately represents what you meant.

At the end of the interview, you will be given information about who you can contact if you have any questions or concerns about the research.

If you do find it difficult to talk about your experience, or the interview leaves you feeling concerned or distressed, the UMR team will arrange the help and support you require.

Once all the interviews are complete, all responses will be combined with other participants in a confidential report. No names or places will be used. The report will help the Independent Panel to evaluate the effect of the 2014 changes and whether decisions are upholding the welfare and best interests of each child.

I'm worried about my privacy

Your participation in this research is voluntary, and your privacy is guaranteed. Only UMR will know who is interviewed and what they said.

UMR would not give your name or contact details to anyone else, unless researchers are concerned about your immediate safety, when they might connect you with a support service in the community. You can end your contact with UMR at any time.

Any stories or information you share with UMR will be recorded anonymously. UMR's findings from the research will be reported to the Panel without identifying individuals.

Who can I contact if I have questions?

If you have any questions about this work, please contact:



8.4 Final discussion guide - Parents

1. Background

Researcher introduction.

Explains the background to the research, the objectives, why participants have been asked to take part and what will happen to the findings.

- Researchers are independent and have no influence with the courts or any other Government Agency.
- Might be a bit sad or tough, so we can stop or you don't have to answer any question if you feel uncomfortable doing so.
- If there is anything which upsets or worries them, with their permission, we can ask someone to contact them.

Confidentiality explained; reassured that what they say will not be shared with any third party and that anything they say will have no impact or influence on their dealings with the Family Court System or any other Government Agency.

2. Introductions/ Getting to know each other

Participants introduce themselves; first name, and a little bit about themselves.

- Work, family, how long they have lived in the area.
- Main interests, hobbies; recreation

3. Overall impression/ experience of the family justice system [UNPROMPTED AND TOP OF MIND]

Explain to participants that we respect their privacy and that we do not expect them to share their personal stories with us if this isn't what they want to do, but it would be helpful for us if they could use examples/ situations to explain (illustrate) their experiences.

What words/ phrases would you use to describe your experience of the Family System?

[Complete Prompt One: Journey Map - Ask parent to indicate which family justice system service they used/ have experience of]

4. Experiences of out of court of process changes (follow-up as appropriate for each participant)

Use Prompt One - Journey Map to refer to.

Work through each section/ service participant has used/ has experience of.

4(a) ASK ALL - Family Dispute Resolution (FDR) (Compulsory)

- Thinking about taking part in the FDR **what worked well for you? And what didn't work so well?**
- And how well did the FDR help you to reach an agreement about caring for your children?
 - What worked well? What did not work well?
- Were your child(ren's) wants and needs included? In what ways?
- ASK ONLY IF PARTICIPANT attended **the Preparation for Mediation (PFM) service (Voluntary)**
 - What were you hoping to achieve by taking part in the PFM service? Were your expectations met? In what ways? If not; what could have been better?
 - In what ways was the service helpful/ not helpful for you in considering the needs of your children? What could have been better?

4(b) ASK ALL - Parenting through separation (PTP) (Compulsory)

- What did you like about this programme? What didn't you like about this programme?
- In what ways was the programme helpful/ not helpful in helping you to understand the effects of the separation on your children? How did it make a difference?
- What could have been better?

4(c) Family Legal Advice Service (FLAS)

- In what ways was the initial advice and information from FLAS (i.e. assistance with court forms?) helpful/ not helpful? Prompt on:
 - Filing court forms.
 - Working with a lawyer.
- What did you like about this service? What didn't you like about this service?
- What were some of the ways the service helped you work through what would be best for the children?
 - Prompt: Do you think it helped you to lessen/ calm (diffuse) your emotions and focus on the best interests of your child(ren)?
- How did the service help you to think about the true situation; think through any misconceptions or be more realistic about what can be agreed to?

[OPTIONAL - Use Prompt Two - Report Card at the end of each section or as an overall summary].

5. Experiences of in-court process changes (follow-up as appropriate for each participant)

5(a) (Access to legal representation) - Removing lawyers from the early stages of Family Court cases

- Did you represent yourself or did you have a lawyer?

IF PARTICIPANT DIDN'T HAVE A LAWYER; ASK:

- How easy or difficult was the process to understand? (What about the forms and questionnaires, affidavits?)
- Were you encouraged to use support people (McKenzie Friends) - did this help?
- How did you feel representing yourself? Were you confident or nervous or somewhere in between?
- What are some of the good things about not having a lawyer in the early stages? What are some of the not so good things?
 - In your case, would having a lawyer from the start have made the process easier for you and your children? Explore the reasons why.

5(b) Court processes

- How easy was it for you to understand the court system and processes?
- How would you describe your experience?
 - Prompt on:
 - User-friendly
 - Easy to work through and navigate
 - Difficult and too much legalese
 - Confronting and intimidating.
- How useful were the different settlement 'conference' (meeting) options? What were the standouts for you?
- And what about the court forms - how easy were they to use? Did they make the court process easier or more confusing for you? What would help?
- What case track were you allocated to? What worked well? What didn't work well?
 - Simple track
 - Without notice track
 - Standard track.
- Thinking about your child(ren) how timely were the decisions?

5(c) Assessing children's safety

- What does 'feeling safe' mean for you and for your child(ren)? How would you describe it?
- How would you describe:
 - 'the welfare of the child(ren)'.
 - 'in the best interests of the child(ren)'.
- How well do you think your children's safety needs were met? What worked well? What didn't work well?

- How were your children's views considered?
 - [Prompt on] Were your child(ren's) views heard **AND** listened to?

[OPTIONAL - Use Prompt Two - Report Card at the end of each section or as an overall summary].

6 Role of professionals

6(a) Lawyer for the Child

- Did your child/ren meet with a lawyer? **IF YES ASK:**
- How well do you feel your children's lawyer understood your child(ren's) view/s?
- How well did your children's lawyer support and ensure that your child(ren's) welfare, safety and best interests were met?

6(b) Specialist reports

- Did your child/ren require a specialist report? **IF YES ASK:**
- Describe the process of getting the specialist report? How were your child(ren's) views included in the specialist report?

6(c) Counselling services

- Did you attend court-directed counselling? **IF YES ASK:**
- How did the counselling make a difference to reaching agreement on the parenting order or guardianship of your child(ren)?

[OPTIONAL - Use Prompt Two - Report Card at the end of each section or as an overall summary].

7 Summary

- What words of advice do you have for parents like yourself starting or going through the family justice system?
- Any other comments or suggestions?
- Check if happy for a follow-up phone-call to clarify any points?

Thank participants and close interview.

8.5 Final discussion guide - Children and young people

1. Background

Researcher introduction.

Explain what we are going to talk about and check that they are okay to talk about a few things.

Things we are going to talk about today are to do with the time when Mum and Dad were working out how to look after you when they decided to live in different places.

And remember what we talk about today will not be talked about with your brothers and sisters, Mum and Dad or any other people you know. We will be writing things down into a report that includes the stories from other children like yourselves; but your name will not be on anything.

2. Introductions/ Getting to know each other/ establishing rapport

Participants introduce themselves; first name, and a little bit about themselves. See Tell Me about Yourself Activity Prompt 1

- What are your favourite games to play? What about your favourite TV programme/ books?
- What is your favourite thing to do at school?

Overall experience

Introduction: Thinking about when Mum and Dad were working out how to look after you when they decided to live in different places ...

- I wonder what it was like for your family, from what you can remember?
 - What things seemed to go okay for you and your family?
 - What things were harder?
 - And what might have made it easier for you (and for your family)?

Specific experiences of some of the key professionals

Researcher background [DO NOT READ]

Possible professionals' children may have talked to as part of the family justice process. And note the children can easily get mixed up who was who - not a test on who they can remember and no worries if they get people mixed up.

Note: the role of the professionals was to help provide a voice for the child; although children might not always get what they want - **they have a 'voice', but not a 'choice'**.

Lawyer - Someone who talked about what it is like living with Mum and Dad and what was important to them.

Social worker/ Psychologist - Someone who talked about what it is like living with Mum and Dad and how they were feeling.

Met with a judge - Someone who talked about what it is like living with Mum and Dad and what was important to them.

FDR mediator (Family Dispute Resolution) [Out of court space].

We know that often children can end up talking to lots of different people - I wonder who you can remember talking to?

[And then prompt from there ...]

For each one that is applicable; ask the child/ young person how did they feel when they talked to this person?

Show me the that you felt when you spoke to the 'judge/ lawyer/ social worker/ FDR mediator, etc

Use the prompt list to follow-up depending on the faces picked.

Can you tell me why talking to this person made you feel sad, happy/ confused/ angry, etc ...

[If they find it hard to articulate, explain] ... some children/ young people say they felt sad because they ...

Sad face	Happy face	Questioning face etc.
A bit/ a lot scared	It was nice	What is going to happen next?
Really worried	I liked talking to the person	Who will take care of me?
They couldn't sleep afterwards	The person understood how they were feeling	
They wanted to cry	It was good having someone to talk to	
They felt angry	He/ she listened to me	
I didn't like it		

- Did you feel the person listened to what you wanted to say? And what you wanted to happen?
- What would have made it better for you?

Exploring being safe

- Explain - we are now going to talk about having a safe place; being with safe people and what that means for you.

[Prompt ... Children/ young people tell us that feeling safe can happen for them in lots of different ways]

- Some children say staying with Nana ...
- One boy told me that being at school was his best safe place
- I remember a girl just about your age told me that having her dog with her ...

Tell me some of your best ways to feel safe and why. Do you have a safe and happy place and, if so, where is that? What makes something feel safe?

NOTE TO RESEARCHER - Use the following as prompts but weave into the conversation (as above)

Not getting hurt	Being out of danger	Having my dog with me
Having Mum and Dad around	Being at home	Staying with Nana (Nan) and Granddad (Koru)
Not getting into trouble	Being at school	Being with my older brothers and sisters

Overall experience summary

Thinking about the people you have talked to when Mum and Dad were working out how to look after you when they decided to live in different places ...

- Who would you give the most stars to for being the best person who listened to you?

Prompt on: Mum, Dad, Uncle, lawyer, social worker, etc.

E.G. if they thought that a lawyer would be really good , they could give 2 gold stars, 1 gold star would be good, 1 red star would be not good, 2 red stars would be not good at all.

And depending on if they had a judicial interview (could have met judge in his/ her chambers or possibly the court room) you could ask how many stars they would give the court.

[Write down all relevant names/ people and complete star chart prompt].

Finishing

Is there anything else you would like to talk to me about?

Thank you so much for talking to me. You have been really helpful.