

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 Co-ordinator roles are disestablished?

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.

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

	2014	Panel’s proposals
Out-of-court processes	<ul style="list-style-type: none"> Parenting Through Separation Programme (PTS) becoming compulsory for people who want to apply to the Family Court 	<ul style="list-style-type: none"> Parties are expected to attend PTS if they intend to engage with FDR or make an application to the Court. A review is undertaken of PTS and that this takes place every three years. PTS be kept as a free service.
	<ul style="list-style-type: none"> Introduction of Family Dispute Resolution (FDR) 	<ul style="list-style-type: none"> 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. 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). 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). A review is undertaken of child participation practices in FDR, to identify issues and best practices. <p>We’re still thinking about whether:</p> <ul style="list-style-type: none"> FDR should be free for both parties where one party is eligible for Government funding; or FDR should be free for all parties (with a possible trial of this proposal); The eligibility threshold for government funding for FDR should be raised.
	<ul style="list-style-type: none"> Setting up of the Family Legal Advice Service (FLAS) 	<ul style="list-style-type: none"> Make legal aid available to people who only want advice and help.

		<ul style="list-style-type: none"> Retain and enhance FLAS 1 to provide more thorough advice and help pre-court and to create a solicitor–client relationship.
In-court processes	<ul style="list-style-type: none"> Changes to court processes including introduction of ‘case tracks’ and different types of conferences (meetings) to progress court cases 	<ul style="list-style-type: none"> The system be simplified to two case tracks: on notice (standard) and without notice (urgent). The number of conferences be reduced from five to three, for example, a judicial conference, settlement conference and a pre-hearing conference. The use of video and telephone conferences be increased.
	<ul style="list-style-type: none"> Changes to the way that children’s safety is assessed 	<ul style="list-style-type: none"> 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. More information should be available at an early stage when the court is considering safety issues, for example, from the criminal courts and Police. 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.
	<ul style="list-style-type: none"> Introduction of ‘cost contribution orders’ 	<ul style="list-style-type: none"> 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). Filing fees not be changed.
Role of professionals	<ul style="list-style-type: none"> Changing the role of lawyer for the child to represent both a child’s welfare and best interests and views 	<ul style="list-style-type: none"> 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).

		<ul style="list-style-type: none"> • Information given to parties and children about the role, obligations and limitations of lawyer for child be improved. • Lawyer for child training, professional development and supervision requirements be regularly reviewed and strengthened. • The list of approved lawyers for child be regularly reviewed and updated. • Remuneration rates for lawyer for child be reviewed.
	<ul style="list-style-type: none"> • Changes to how specialist reports are obtained and the introduction of a standard brief (a checklist) for those reports 	<ul style="list-style-type: none"> • The Ministry of Justice should look at measures to improve recruitment and retention of psychologists. • Psychological critique report writers should be required to be approved report writers under section 133 of the Care of Children Act 2004. • 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. • 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). • 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>We’re still thinking about:</p> <ul style="list-style-type: none"> • Recommending further policy work to develop an improved framework for the provision of cultural information to the court, including consideration of funding. • What training, support and ongoing professional development is needed to increase the number and capability of cultural report writers

		<ul style="list-style-type: none"> • Whether the threshold for requesting a cultural report should be changed.
	<ul style="list-style-type: none"> • Removal of counselling services 	<ul style="list-style-type: none"> • Three types of counselling should be available in the new Family Justice Service, funded by the Government: <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 2. more in-depth therapeutic or behavioural family therapy-type counselling for complex court cases about parenting or guardianship issues 3. counselling to improve the parenting relationship or help people comply with an order (as is the case currently).

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

<ul style="list-style-type: none"> • Children's participation 	<ul style="list-style-type: none"> • 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.
<ul style="list-style-type: none"> • Te Ao Māori and the Family Court 	<ul style="list-style-type: none"> • Considering how the Family Justice Service could change so it responds better to tamariki and Māori whānau. Examples are: <ul style="list-style-type: none"> ○ involving hapū, iwi and community organisations in family justice processes including in the Family Court ○ incorporating tikanga Māori in the Family Court processes and procedures ○ introducing culturally appropriate training for family justice professionals, including court staff, lawyer for child and the Bench ○ improving the framework for cultural information to be heard in court ○ appointing more Family Court Judges that are Māori and have a deep understanding of tikanga and Te Ao Māori ○ 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.</p> <ul style="list-style-type: none"> • 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.
<ul style="list-style-type: none"> • Information 	<ul style="list-style-type: none"> • 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. • MoJ develops a public awareness campaign to enhance New Zealanders' understanding of the Family Justice Service.
<ul style="list-style-type: none"> • Triaging 	<ul style="list-style-type: none"> • Integrated assessments, screening and triaging should be established, and relationships strengthened between the Family Court and wider family justice services in the community.
<ul style="list-style-type: none"> • Complex cases 	<ul style="list-style-type: none"> • All applications are triaged by the Family Justice Service Coordinator, to identify complex cases at the earliest opportunity. • Judges are given more powers to direct parties to time-limited and focused therapeutic intervention. • individual judges undertake case management.
<ul style="list-style-type: none"> • Family Justice Service Coordinator 	<ul style="list-style-type: none"> • A new role of Family Justice Services Coordinator (FJSC) be established • 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. • The FJSC connects those people who do not wish to make an application to court to appropriate services in the community. • The main elements of the FJSC role should include: <ul style="list-style-type: none"> • providing information and guidance on process, next steps and options

	<ul style="list-style-type: none"> • connecting people to services such as FDR and PTS or community services • establishing and maintaining links with community services. • The role of the FJSC should be established in law.
<ul style="list-style-type: none"> • Senior Family Court registrar 	<ul style="list-style-type: none"> • 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.

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.justice.govt.nz/justice-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.justice.govt.nz/justice-sector-policy/key-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