Presbyterian Support Central
Family Works

The Participation of Tamariki and Rangatahi in Family Dispute Mediation
A Practice Perspective

Ko te ahurei o te
Tamaiti arahia o
Tātou māhi

"Let the uniqueness of the Child guide our work"

Mission statement :

To champion the cause of tamariki and children in our communities and support them and their families and whānau to flourish.

Aims :

Family Works Aim is to make Aotearoa New Zealand the best place to grow up, a place where children and tamariki are safe and families and whānau flourish.

How Family Works achieves a Child Centred Service

We know that tamariki and children can be :
Vulnerable and dependant – and so assess and manage risk proactively
We are aware that tamariki and tamariki are :
Competent and entitled - and so ensure they are consulted and involved

Organisations Guiding Principle : UN Convention on Children's rights

The child is the central client and the outcomes of our work relates to achieving well being for this tamariki and child
We ask children what they think about the service we provide – at the outset – during and at the end of interventions
We are skilled and spend time developing relationships with tamariki and children and understand the importance of this
We have robust supervision and professional processes that ensures we reflect and consider tamariki and children's needs at all times
We have sound and safe care and protection procedures
Understanding that knowing who you are is central to your wellbeing – we focus on helping tamariki and children achieve this
Training enables us to have the specialist skills in respect of attachment theory / child development / trauma / communication / systems theory / cultural competency to work with tamariki and children effectively

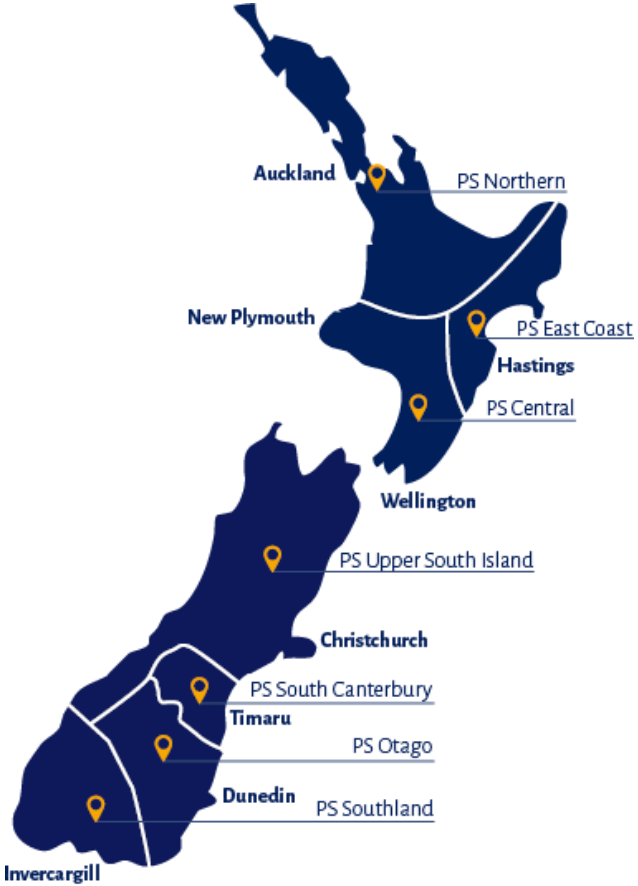
Family Dispute Resolution

FDR is a service funded (for those who qualify) by the Ministry of Justice which helps whanau and families reach an agreement on parenting arrangements after a divorce or separation. The mediation service has been designed to support parents and guardians to resolve without the need for going to court.

FDR : Time line and Background

2013 Family Dispute Resolution Act
November 2013 PSC and PSUSI Initiation and implementation planning
31 March 2014 FDR goes live
7 April 2014 Referrals commence and assessments begin in Family Works
December 2016 Legislation updated
Aug 2016 Todd Foundation Grant awarded for Children's Voice Initiative
September 2016 Advisory Group Inaugural Meeting

679 FDR mediations 313 completed mediation 780 children involved
500 Parenting Through Separation participants
- 1250 tamariki and children involved



Presbyterian Support Central Centres in:

Taranaki
Whanganui
Manawatu
Horowhenua
Kapiti
Wairarapa
Hutt Valley
Wellington

FDR Service Covers Central North island and South Island

Hearing the Children's Voice …..**Ministry of Justice Guidelines : Dec 2016**

"The FDR Supplier must have processes in place to ensure that the child's voice is represented in mediation. If appropriate may be facilitated by the mediator if suitably qualified or experienced or some other qualified person working with children. There are different models of incorporating child's views including : Interviewing the child separately and communicating this back to parents and having the child's representative present "

Questions ?????????

We know it is a good thing but how do we ensure that it is safe for children to express views ? How do we work in a culturally inclusive way

What do we need to ensure is in place ?

Todd Foundation Children's Voice In Mediation

Inaugural Meeting September 2016

National Advisory Group established : includes members fro m UNICEF Office of the Children's Commissioner Ministry of Justice

Survey of Mediators views and practice April 2017

Current Practice revealed

Literature Review March 2017

Current intelligence

Children's Voice Activity Sept 2017

Mediators views actively sort / capture and reviewed

Draft Best Practice Guidelines and Pilot in place November 2017

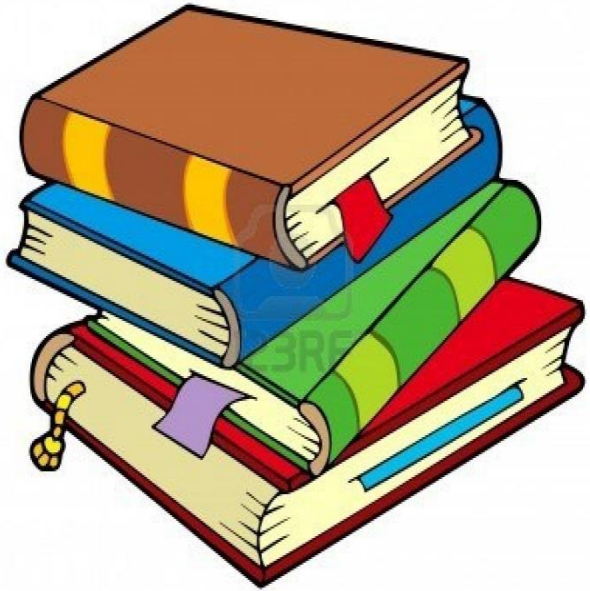
Summary of survey and key issues identified : 42 mediators participated FW and Fairway

60% felt that Child participation was very important
76% were not seeing the children independently of parents
88% did not have children attend the mediation

33 % thought that involving children would improve outcomes
30% were not sure ….

Barriers included :
36% Parents not wanting it
82% needing more tools and training
52% felt that time restrictions hindered

64% of mediators felt ready to start involving children more actively

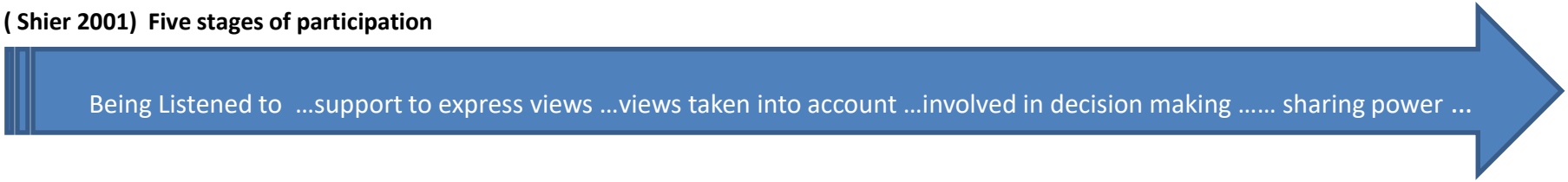


Final Report to Child Dispute Resolution Advisors Group : Literature review April 2017 Rodger Wilson Mediator

1. Levels and models of engagement with children
2. Hesitancy is for good reason
3. Evidence for including children is strong
4. How we do this is critical complex and requires skill

We need to see engaging with Children as a Continuum …..

(Shier 2001) Five stages of participation



Focussed and Inclusive Models : McIntosh 2007

Child Focussed - Child not seen / met

Building improved parental awareness
Advocating for interests of children
Creating an environment that supports
parents actively considering unique needs of children
Preserving significant relationships
Supporting adjustment to separation
Recovery from separation
Protection from conflict
Ensuring the pycho – developmental needs of children reflected

Child Inclusive - Child Seen

Eliciting experience and viewpoints relating to current living
WHILE removing the burden of decision making
Validating children's experience directly
Directly providing basic information that assists present and future coping

Caution

Arguments against Participation

Do no harm … things are stressful enough - we must not make things worse …

Canadian Department of Justice Research Project report 2009

1) Children may be manipulated by either parent to take sides
2) Undermines parental authority
3) Places responsibility on children for making decisions
4) Creates additional stress for child who may have divided loyalties
5) Poses risk to children from disappointed children's retribution
6) May expose children to further parental conflict
7) Presenting the child's wishes without their understanding of the basis of those wishes' can create more problems for the children if they do not understand the basis on which those wishes are being made
8) Where parents feel so over whelmed they cannot make use of feedback – this will not help children
9) Not all children want or need to be heard
10) Where mental health issues impede any positive working relationship
11) It exposes the child to systemic abuse by repeated professional involvement
12) Lack of professional expertise and confidence
13) If the mediator interviews the children, that role violates the mediators neutrality

and reasons to ensure we do it where appropriate …..

Evidence that :
Parents may not be well placed at this time to be attuned to children's needs (Hetherington and Kelly 2003)
Children are saying they want to be involved in decision making (Walker and Sherwood 2016)

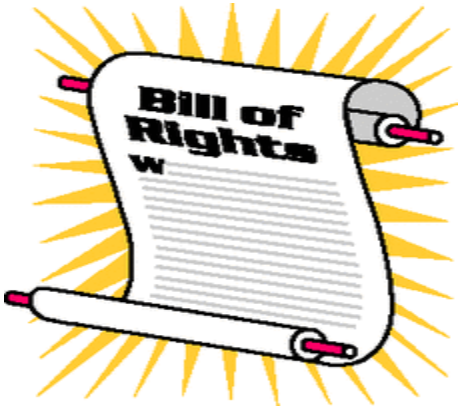
McIntosh and Long Study : 2002 Australia
Improved parental alliance
Improved emotional availability - fathers
Children's contentment with arrangements
Stability improved
Durable and workable arrangements

Goldson Study : 2006 New Zealand
Parental conflict lowered
Conciliation enhanced
Improved awareness of parental behaviour impact
Children adapted better
Agreements reached taking into account children's views

UN Convention Guidance: How to involve Children

July 2009 UN Committee on Rights of the Child adopted a General Comment on Article 12

Avoid tokenism
Process and not a one off event
Transparent
Informative
Voluntary
Respectful
Relevant
Safe and sensitive to risk
Managed skilfully



www.familyworkscentral.org.nz

Family Works is a Presbyterian Support service

Principles : Child Dispute Resolution Advisory Group March 2015 CAFCASS UK

- A priority is to ensure the child is protected from harm
- Age appropriate information about mediation and the Dispute resolution process are given to children of a pre determined age which makes clear to them that that they can, if they wish, express their npoiinio0ns to the professionals involved in their case
- Only skilled mediators / child practitioners should undertake this role with children in a supportive and appropriate manner
- These conversations should avoid and remove any burden of decision making for the child
- Experiences respected / validated / understood within a process that is developmentally sensitive
- Parents should be supported to listen / understand / value and reflect children's views and needs and taken them into account
- Mediation should ensure that the decisions reached take into account the conversations with the children and the messages shared with parents
- Children's conversations should be confidential and the nature and process of disclosure to parents must be agreed wit the child
- Children should be supported during the process and signposted to / offered additional help if that is needed
- Children should be kept informed about the dispute resolution process and outcomes reached
- Processes must put children and their families at the heart of the process and respect human dignity

…Who should see the child – mediator or independent child counsellor ?
….what about consent - do we need this from both parties ?
….multiple children – how do we manage this. Together ? Alone ?
….how do we assess / check out / manage parental readiness and capability ?
.. What issues need to considered in respect of culture
…….. How do we follow up and check that the child remains safe and supported ?
… how do we achieve this with the limited time available under FDR ?

Child Inclusive Mediation : Mediator interviews child **Goldson**
Child Inclusive with child specialist **McIntosh**
Comprehensive Assessments parent / children : **Sanchez and Sanchez** (2004)
Flexible model attending to context : **Graham and Fitzgerald**
Restorative Justice / Family Group Conferencing Models

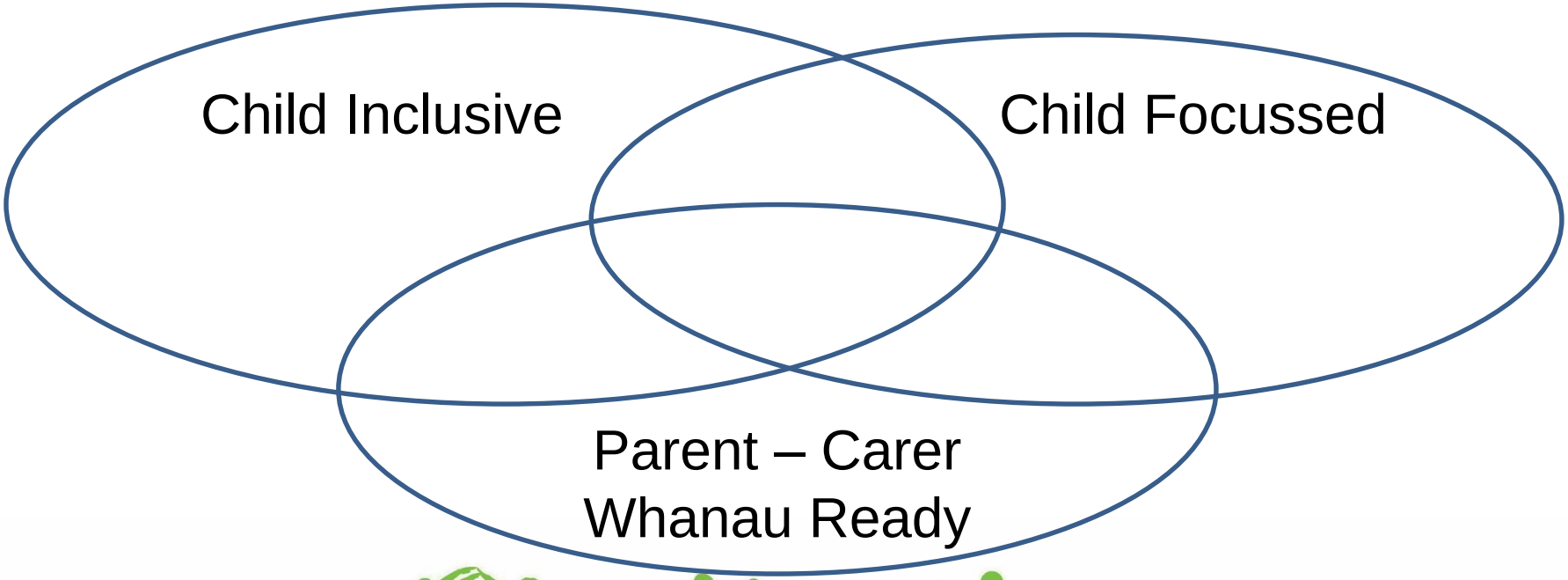
Family Works Practice Experience

Child Centred and Child inclusive models are being used
Inclusion encouraged with Support
Tentative / exploratory
Reflection and Review
Under established base line principles

Family Works Guidelines

1) Consider and assess the needs of each child and consider what is the best and most appropriate child centred / child inclusive approach.
2) Consider the position and capability of parents - assess and support readiness for tamariki and children's participation
3) Provide mediation with the intention of building recovery capacity for children and indeed parents / carers
4) Provide information for parents / carers / support people / wider whanau and family
5) Gain agreement from all parties (parents / relevant whanau / child)
6) Negotiate and discuss how tamariki and childrens voice will be incorporated into the mediation. Collaborate with all parties.
7) Ensure that that there is an agreed process for tamariki and children to be aware of the outcome.
8) Supervision / coaching provided along side delivery
9) Use and respect whanau and family resources and tikanga as guide

Model of Tamariki Child Centred Practice



Next steps for Family Works :
Under Guidance of Advisory Group

1.Enhance assessment process to actively consider child participation. Assess age / stage / development and context for each child. Assess parental capacity and resources for child inclusion. Consider cultural needs and tikanga

2. Formalise consent process and agreement for child participation

3.Capture competencies for child advocate work and ensure specific training / orientation in place

4.Capture competencies for child inclusive mediator work and ensure specific training / orientation in place

5.Ongoing case by case supervision / oversight

6.Draft Best Practice Guidelines to be made available

7.Review and develop against practice experience and reflection