



Family Court Review

Brief overview with implications for the WAVES Network

Presented to the WAVES Interagency Meeting,
4 December 2012

Overview

- Family Court Proceedings Reform Bill, 2012 released 27 November 2012
- Aims to 'ensure a modern, accessible family justice system that is responsive to children and vulnerable people, and is efficient and effective'.
- To be achieved in Care of Children cases by:
 - Compulsory Parenting Through Separation
 - Removal of Family Court counselling prior to court application
 - Mandatory user pays Family Dispute Resolution Service
 - Exclusion of lawyers and legal aid from most hearings except those proceeding 'without notice'
 - Limitation of Lawyer for Child to cases where the court deems it necessary to protect the safety/wellbeing of children
 - Simplification of court processes
 - Promoting resolution within children's timeframes



Cont'd...

- Improving Family Court responses to family and domestic violence
 - Increase max penalty for PO breaches to 3 years
 - Less rigid registration processes for non-violence programme providers
 - Greater flexibility in programme types
 - Exclusion of families that screen positive for violence from simplified court processes



Response from WAVES/WCLS Workshop November 2011

- Family Court counselling in need of reform, including children would promote conciliation and allow views to be heard
- Lawyer for child and psychologists reports overused, less expensive ways to hear children's views e.g. Court social workers
- Court processes confusing, promote adversarial responses, too open to delaying tactics
- Lawyers should be required to promote conciliation and subject to penalties if they don't
- Inadequate FV screening processes



Responses to proposals from WAVES/WCLS Workshop Nov 2012

- Opportunities to hear children's views reduced too far, not clear whether FDR will include children's views
- Unlikely that removing lawyers will speed up the court process, experience suggests not
- Adversarial court processes not addressed; self-representation likely to heighten rather than reduce adversity between parties
- No lawyers and FDR payment requirements will produce power imbalances between parties



Changes to Family Violence (Nov 2012)

- Increased penalty for PO breaches doesn't address the issue of policing breaches
- Increased flexibility for programme structure and development welcomed
- Still unclear how screening for FV will be done, needs to occur at multiple points in court processes
- 2011 concerns that FV responses will be limited to addressing needs of protection order applicants have not been allayed



Next Steps

1. Currently working through the Bill and summarising the main points for the network
2. Need confirmation of the submission due date
3. Will be available over January for any comments or suggestions you want to send our way
4. Opportunities to consult on specific topics early next year (Feb/Mar), e.g. Children and FV, FV screening

Keep tabs on our progress through our submissions page:

<http://www.waves.org.nz/network-services/submissions/in-process/family-court-review/>

