



Barnardos

**Submission to the Independent Panel examining
the 2014 family justice reforms:
*Feedback on ‘Strengthening the family justice system’
consultation document***



February 2019



**Kia eke ai te hunga taitamariki
ki ngā rangi tūhāhā**

Summary of Barnardos' key recommendations included in this submission

Barnardos calls on the Independent Panel to:

1. include in its final proposals to Government that **the newly conceptualised Family Justice Service is 'trauma-informed'** (*refer pages 6-7 of this submission*), meaning that it operates in ways that are intentionally focused on minimising trauma and conflict, and maximising positive outcomes for children, families and whānau. This approach should be underpinned by appropriate evidence-informed training and capability on a systemic basis, at all levels of the Family Justice Service;
2. **revise and make more specific its recommendations to Government regarding how the proposed Family Justice Service will serve and be responsive to whānau Māori** (*refer pages 7-9 of this submission*) and that it should be a legislative requirement that the Family Court is provided with information concerning a child's cultural background and for tamariki Māori, the child's whakapapa; and recommend to Government that a pool of specialist cultural report writers is invested in and developed (*refer page 9 of this submission*);
3. **deepen its focus on children's safety in the Family Justice Service, building on its proposals already made in its Consultation Document** (*refer page 10 of this submission*);
4. **recommend the introduction of the new role of child advocate in the Family Justice Service, to support placing children at the heart of the system** (*based on the points outlined at pages 10-11 of this submission*), complementary to and alongside Lawyer for Child;
5. **recommend that a requirement is introduced that judges are required to specifically include children's perspectives in all Family Court judgments involving children, and that judges engage in periodic training to equip them to work effectively with children in Court, to encourage and support children's participation and to hear and include their perspectives** (*refer pages 11-12 of this submission*);
6. **recommend to Government that as well as establishing the provision of free counselling through the Family Court to parents, free counselling should also be made available for children in this context** (*refer pages 12-14 of this submission*), recognising the effective therapeutic support counselling can provide for children experiencing family stress and trauma, and the crucial need to take a holistic approach that supports both the parents and their child/children when a family or whānau breakdown or conflict is occurring;

7. recommend to Government that Parenting Through Separation is strengthened by making it compulsory; offering PTS in new additional ways (including online) to meet the specific needs of diverse families and whānau; *(refer pages 14-16 of this submission)* and that a review of PTS is undertaken by the Ministry, involving PTS providers and key stakeholders, covering the points identified at paragraph 43 of this submission;
8. recommend to Government that alongside research on child participation, the Ministry of Justice, working with the sector, develop guidance for child participation in FDR, including what child-inclusive FDR practice looks like and introducing stricter requirements regarding accreditation and training required to work with children in FDR *(refer page 16 of this submission)*;
9. recommend that community-based agencies are contracted by Government on a flexible, wraparound basis to support children, families and whānau engaging with the Family Justice Service, to support positive and sustainable outcomes through the Family Justice Service *(refer pages 16-17 of this submission)*; and
10. take a system-wide, joined-up approach when making its final proposals and recommendations to Government, including being as joined-up as possible with other work happening across the system currently (for example through intersecting system-change work in the areas of social welfare reform, mental health, family violence and child and youth wellbeing), and using the Child Rights Impact Assessment Tool to support the development of its final proposals and recommendations to Government, including embedding changes to the family justice system in legislation *(refer page 17-18 of this submission)*.

Contact details for anything relating to this submission

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A. Introduction

1. This submission to the Independent Panel examining the 2014 family justice reforms ('the Panel') is provided to give feedback on the Panel's consultation document published in January 2019, entitled 'Strengthening the Family Justice System' ('the Consultation Document').¹
2. This submission builds on the content outlined in Barnardos' original submission to the Panel (November 2018)² during its first round of consultation.
3. Barnardos appreciates the opportunity to contribute to this important review process, because it is crucial that Aotearoa New Zealand has a family justice system that is effective and responsive for children, families and whānau. This review provides the opportunity to significantly improve aspects of the system which are not currently functioning well in this respect.
4. Barnardos is pleased to see many of the recommendations outlined in our submission of November 2019 reflected in the Consultation Document, including a number of our 10 Priority Recommendations.³
5. Barnardos also appreciated the opportunity to meet with Panel Chair Rosslyn Noonan and Panel member La-Verne King on 22 February 2019, to provide verbal feedback and engage in discussion about the proposals, considerations and questions outlined by the Panel in its Consultation Document.
6. At an overarching level, Barnardos strongly welcomes the direction and focus of the Panel's proposals and recommendations. This is because we believe that together, the combination of proposals and recommendations will have a positive effect for children, families and whānau, through the provision of a newly conceptualised 'Family Justice Service' structure that puts the needs and rights of children, families and whānau at its heart. If implemented, these proposals hold the promise of significant change for the better in the experiences of those engaging with the family justice system. They should lead to the provision of a system that operates with the intention of serving and supporting those who engage with it, at what is a difficult and stressful time in life.
7. The purpose of this submission is to outline in writing Barnardos' feedback on the Consultation Document, focusing on areas where we see that the Panel's proposals and recommendations can be strengthened.
8. Like our submission of November 2019, the feedback contained in this submission stems from Barnardos' call to the Independent Panel to

¹ Available at: <https://www.justice.govt.nz/assets/Documents/Publications/Strengthening-the-family-justice-system.pdf>

² Available at: <https://www.barnardos.org.nz/assets/submissions/FINAL-Barnardos-submission-to-the-Independent-Panel-on-Family-Justice-Sy....pdf>

³ At p.2 of Barnardos *Submission to the Independent Panel on the Family Justice System: Review of the 2014 Reforms*, November 2018.

“recommend change and improvements to the family justice system to strengthen its responsiveness to protecting and promoting children’s rights and wellbeing, and the short and long-term wellbeing and outcomes of all families and whānau.”⁴

9. Our feedback does not cover all aspects of the Consultation Document. Rather, it focuses on the following areas which Barnardos is particularly well-placed to contribute on:
 - A trauma-informed family justice system;
 - A family justice system that works well for whānau Māori;
 - Children’s safety;
 - The role of child advocates;
 - Provision of counselling for children;
 - Strengthening Parenting Through Separation;
 - Child participation in Family Dispute Resolution;
 - The role of non-government organisations in the family justice system; and
 - The importance of taking a system-wide, joined-up approach.

We discussed many of these areas with Panel members on 22 February, and were encouraged to document these further in writing.

B. Brief background to Barnardos

10. Barnardos is one of Aotearoa New Zealand’s oldest and leading children’s charities, working towards the vision of ‘An Aotearoa New Zealand Where Every Child Shines Bright’.⁵ We hold fast to this vision because we believe in the potential of every child to develop and flourish. This is also reflected in our poutama: Kia eke ai te hunga taitamariki ki ngā rangi tūhāhā (realisation and development for all children).
11. Barnardos has been delivering services to children, young people and their families and whānau in Aotearoa New Zealand for over 60 years. Today, we are implementing three key strategies, working in the following ways:

⁴ At p.2 of Barnardos *Submission to the Independent Panel on the Family Justice System: Review of the 2014 Reforms*, November 2018.

⁵ See: <https://www.barnardos.org.nz/who-we-are/our-beliefs-and-values/> Also see Barnardos Annual Report 2018: <https://app.redpepperdigital.net/app/redpepper/view/annual-review--financial-statements-2018>

- Delivering direct social services to children and their families and whānau;⁶
 - Providing excellence in early learning;⁷ and
 - Advocating for the needs, rights and wellbeing of children in Aotearoa New Zealand.⁸
12. One of Barnardos' greatest strengths as an organisation is the fact we work across these three areas, through our Child and Family Services, Barnardos Early Learning, and our systemic Advocacy. In all our work, we focus on the whole-child, and the fact that children exist within the context of their family and whānau. We are committed to being responsive to Māori whānau in our services and we place a specific focus on Māori Development. We are based in the community around the country, and support a community-led approach to development. Our work contributes to positive, tangible change and development. This helps to create long-term sustainable outcomes in the lives of children, young people and their families and whānau, as well as their wider communities.
13. The feedback outlined in this submission has been developed working across Barnardos Advocacy, Child and Family Services, and Māori Development.

C. Barnardos' feedback on 'Strengthening the family justice system'

A trauma-informed family justice system

14. Barnardos wishes to re-draw the Panel's attention to our fourth priority recommendation outlined in our November 2018 submission, that:

"The family justice system is reformed on a system-wide basis to ensure that it is trauma-informed, with greater investment of resource towards helping address underlying root causes of developmental trauma in children, and intergenerational trauma in families and whānau."⁹

⁶ We provide our Child and Family Services nationally across the full continuum of support and care – from preventative and early intervention support, to intensive and targeted support, to universal services. See for more detail on the range of Child and Family Services we offer: <https://www.barnardos.org.nz/what-we-do/child-and-family-services/>

⁷ We provide high quality early learning available for all children nationally up to the age of five, in both home-based and centre-based early learning settings. See for more detail on Barnardos Early Learning: <https://www.barnardos.org.nz/what-we-do/early-learning-and-childcare/>

⁸ We advocate on the biggest issues facing children and young people in Aotearoa, to drive systemic change in legislation, policy, practice and institutions, for the benefit of children and young people. Our Advocacy is informed by the knowledge and expertise we have from working every day with children and young people and their families and whānau, and grounded in what children and young people themselves say matters to them and their hopes and aspirations. Our Advocacy is also grounded in the UN Convention on the Rights of the Child and other relevant human rights standards and norms. See for more: <https://www.barnardos.org.nz/what-we-do/advocacy/>

⁹ At p.2 of Barnardos *Submission to the Independent Panel on the Family Justice System: Review of the 2014 Reforms*, November 2018.

15. As noted in Barnardos' November 2018 submission, this is crucial because:
- To be effective, the family justice system as a whole must understand how the impact of developmental trauma can lead to life-long impacts for children;
 - The impact of trauma extends beyond children, and can have intergenerational impacts on families and whānau; and
 - Attention needs to be given to addressing underlying issues rather than simply focusing on symptoms.
16. Barnardos reiterates that a trauma-informed family justice system is one where:
- Resource is invested in helping address underlying root causes of developmental trauma, to support sustainable outcomes in the lives of children, family and whānau, and to help break and guard against intergenerational trauma;
 - Focus is put on establishing safety and addressing underlying relational harm in a wraparound manner, rather than rigidly requiring compliance (for example, with visitation agreements); and
 - Trauma-informed practice becomes a key way of working across and under the korowai of the proposed Family Justice Service, including through utilising tools to support this, such as ACE Scales (Adverse Child Experiences – this can help with identifying where a more intensive approach might be needed to help address root causes, rather than responding to each family dispute in a one-size fits all manner).
17. Barnardos strongly recommends that the Panel include in its final proposals and recommendations to Government that a focus is placed on ensuring the Family Justice Service is trauma-informed. We believe that a Family Justice Service that works in this way will play a critical role in breaking patterns of trauma and contribute to positive, sustainable and strengths-based outcomes for children, families and whānau.

A family justice system that works well for whānau Māori

Te Ao Māori in the Family Court

18. Barnardos welcomes the focus of the Independent Panel on a willingness and strong commitment to making recommendations to the Government that will lead to the proposed Family Justice Service working in ways that are effective, empowering, inclusive and responsive for whānau Māori.
19. Barnardos strongly agrees with the sentiment reflected in the quote included at page 12 of the Panel's Consultation Document:

that the focus of reforming the Family Justice Service, when it comes to whānau Māori, is that it must empower Māori to participate – in what is a Pakeha system and construct – in a Māori way.

20. Acknowledging that the family justice system as it is currently established is a Euro-centric construct, and that because of its nature as a mainstream institution, it cannot ever fully align with tikanga Māori or Māori views of whānau, is an important first step. Barnardos sees that the Independent Panel recognises this, and we believe it is essential that changes are made which will ensure that the system works in ways that serve and support Māori effectively and inclusively. This will help to support our whānau Māori to thrive and develop positively despite difficult circumstances which, like Pakeha families, may bring them to engage with the Family Justice Service.
21. Barnardos makes the following observations and recommendations regarding the Independent Panel's considerations, proposals and ideas in this regard:
 - a. From a tamariki and whānau perspective, Barnardos recommends that it should be a legislative requirement that for every child who is involved in a whānau matter before the Family Court, the judge hearing the matter should have access to full whakapapa information about the child. This would recognise the central importance of whakapapa to each and every tamariki Māori; whakapapa is central to tamariki identity and is information that ties everything together for tamariki Māori. It is of critical importance in the Family Court setting and it is essential that judges have access to it.
 - b. Barnardos also recommends that intentional, practical steps should be taken to bring tikanga Māori to life in the context and operations of the Family Justice Service. To this end, we support the Independent Panel's ideas regarding:
 - introducing culturally appropriate training for family justice professionals, including court staff, lawyer for child and the Family Court Bench;
 - improving the framework for cultural information to be heard in court;
 - appointing more Family Court Judges who are Māori. We also add to this that alongside these judges:
 - appointing more Family Court Judges who have an understanding of tikanga and Te Ao Māori and a demonstrated commitment to growing and developing in this respect is necessary; and
 - more family court lawyers and advocates should be supported to have an understanding of tikanga and Te Ao Māori.

- c. Barnardos also emphasises that when tamariki Māori are supported to take part in Family Court matters and proceedings in a meaningful way so their voices are heard, this needs to take place in the context of hearing all whānau voices. Tamariki Māori are always part of a whānau and the Family Court must recognise and give effect to this in its operations. Hapū and iwi do not separate individual tamariki from their support structure at times of unrest or conflict. Rather, when conflict is present, efforts are made to find either whānau support and/or other significant persons to stand beside the child or young person. Barnardos suggests this practice be introduced when the Court is seeking to understand tamariki and rangitahi voice. This also links to our feedback regarding the concept of a child advocate (further discussed at paragraphs 29-32 of this submission).
- d. Barnardos is concerned about the Independent Panel's consideration of dual warranting some Te Kōti Whenua Māori (Māori Land Court) judges for Family Court proceedings involving tamariki Māori. While we recognise the intent of this idea – to raise the cultural capability of the Family Court Bench – we suggest there may be other ways to leverage and develop capability, which would better equip the Family Court to be able to work in ways that work effectively for Māori. For example:
 - Sharing expertise and cultural capability across Rangatahi Court judges and Family Court judges; and
 - Putting in place effective cultural capability training and ongoing professional development support for Family Court Judges, in order to actively support the development of their understanding and application of tikanga Māori and Te Ao Māori perspectives in their adjudication of Family Court matters involving whānau.

Cultural information in the Family Court

- 22. Barnardos is of the view that cultural information and reports must be more strongly utilised in the Family Court, and that in order to do so, it is crucial that the barriers to accessing such information must be overcome.
- 23. To this end, Barnardos recommends that a pool of specialist cultural report writers should be developed. The expertise required to provide such reports and build the capability of report writers should be a critical investment. This is important in order to ensure that cultural information is brought to the attention of the Court in a meaningful and culturally safe way.
- 24. Barnardos strongly supports the Independent Panel's idea that section 136 of the Care of Children Act should be strengthened. We recommend going further, to make it a requirement that the Court must hear from a person called under section 136 to provide information concerning a child's cultural background.

Children's safety

25. Barnardos welcomes the Panel's emphasis in its Consultation Document on ensuring a Family Justice Service that prioritises and protects children's safety.
26. As an NGO working in the family violence prevention and postvention space, Barnardos is of the view that a comprehensive safety checklist should include things such as those included in the Domestic Violence Code of Practice. This provides guidance that Barnardos uses in its safety assessments as part of our children's safety programmes, and could usefully guide assessments and interventions in the Family Justice Service. In particular, does a child:
- Know what to do in an emergency?
 - Know how to get help when they need to?
 - Have supportive adults they can access?
 - Know how to get away from harm?
 - Know how to minimise harm?
 - Know how to assess and recognise when things are escalating?
 - Know what to do if someone hurts them?
27. The Panel has asked 'what information should be available to the Court to assess children's safety?'. Barnardos recommends that the Court needs to consider the potential impact of trauma, change, disability, addiction, mental and physical health, isolation, attachment, abuse and neglect on a child. If these exist, then a comprehensive safety assessment should be undertaken. This could be undertaken by a specialist report writer or a Ministry of Justice accredited Family Violence Service.
28. Barnardos also sees merit in exploring the Panel's idea of specialist family violence workers in the Family Court. We would also support there being separate workers for adults and children, but that when different members of families or whānau are supported in this way, the approach needs to be holistic (i.e. support needs to be given to all members of the family or whānau). We know this works from our own experience through the Ngā Pou Tuarongo project in South Auckland where Barnardos is working with Te Whare Ruruhaui and Fonua Ola. Together as three agencies, we work in a holistic way with tane, wahine and tamaki in family violence situations, and the outcomes of working with all members of family and whanau are proving positive.

The role of child advocates in the Family Justice Service

29. Barnardos welcomes the Panel's proposals to strengthen the role of Lawyer for Child, as outlined in its Consultation Document.
30. Alongside these proposals, Barnardos reiterates its encouragement to the Panel to consider the potential of introducing a child advocate role as part of the Family Justice Service too, considering the range of issues Barnardos raised in its November 2018 submission at paragraphs 50-52 and 60-61.

31. Barnardos appreciated the in-depth conversation on this issue with the Panel on 22 February. Further to that conversation, we wish to emphasise that Barnardos envisages:

- the child advocate as being complementary to, and working alongside Lawyer for Child (if additional to Lawyer for Child – as noted in our earlier submission, it could be that an option exists where some Lawyers for Child may seek to undertake a hybrid role);
- the focus of a child advocate is on providing holistic support for children through the various processes of the Family Justice Service at what is a time of significant change for the child (including to facilitate their participation), and would be from a professional background that means they are well-placed to do this (e.g. social worker, youth worker), including taking a trauma-informed approach (this links back to discussion at paragraphs 14-17 of this submission);
- the child advocate would work with children based on a child's sense of time, which we recognise Lawyers for Child may not always have the capacity to do;
- the child advocate would be matched with children taking into consideration the individual child's cultural background (including language), and how the child advocate can support the child to engage in the Family Justice Service and their life situation in ways that work for the child and their family and whānau situation from a cultural perspective; and
- the provision of a child advocate would be a way to address and re-balance the fact that children inherently lack agency due to their age and stage of life; however, this does not mean that they should not be supported to have agency within the Family Justice Service, and the provision of appropriate child advocates provides a way to ensure this.

Rather than adding a complicating, extra layer to the system, we envisage that child advocates could actually make the korowai of the Family Justice Service provide greater protection, working more effectively and with greater consistency and continuity for children, helping give effect to a range of their rights under the UN Convention on the Rights of the Child.¹⁰ Including the provision of child advocates would, in Barnardos' view, help to truly deliver on the promise of a Family Justice Service with children at its heart. As discussed with the Panel, we also note that effective provision of child advocates for children in the Family Justice Service also holds the potential of reducing intergenerational trauma that can be a by-product of engagement with the system.

32. Associated with the importance of hearing children's views and supporting children's participation in Family Justice Service processes, Barnardos

¹⁰ Including, e.g., the child's rights to participation (Art. 12); non-discrimination (Art. 2); best interests (Art 3.); to life, survival and development (Art. 6); to know and be cared for by parents as far as possible (Art. 7).

further recommends that the Panel recommend introducing a requirement that judges are required to specifically include children's perspectives in all Family Court judgments involving children. As discussed by the Panel, this is not currently given adequate attention, and Barnardos would like to see the Panel make a recommendation to Government that this needs to be addressed. The concept of 'children's rights judgments' is illustrative in the important role and effect that reflecting children's perspectives in court judgments affecting them can have.¹¹ Barnardos suggests that this requirement should be complemented by a recommendation that judges engage in training on a periodic basis to equip them to work effectively with children in Court, to encourage and support children's participation and to hear and include their perspectives.

Provision of free counselling for children through the Family Court

33. Barnardos welcomes the Panel's proposals regarding the provision of free counselling for parents through the Family Court. However, we reiterate our recommendation made in November 2018 that free counselling should be available to children (as well as parents) through the Family Court.
34. This would be consistent with the Panel's acceptance of Barnardos' central recommendation that the system should put the wellbeing and best interests of children at its heart, and work in ways that are effective for children, recognising their specific age and stage in life and their nature as integral members of their family or whānau. Barnardos believes that if counselling is only made available to parents through the Family Court, this will miss a hugely important piece of the puzzle – namely working with children and families and whānau by taking a holistic approach. A more holistic approach in this respect will allow the best possible chance of effective, positive and sustainable outcomes for children within the context of their family or whānau.
35. Barnardos emphasises that specialised counselling for children can help children to regain confidence, understand their place in their family or whānau, and enable them to have their views heard by someone who is professionally trained to hear and work through their concerns and worries with them, and support them to problem solve. It can provide a safe space for children to express themselves. Moreover, counselling can help to limit the impact of the trauma of family stress and conflict on a child or young person. From Barnardos own practice in child counselling through our [0800 What's Up](#) children's helpline (phone and webchat), we know first-hand the importance and value of ensuring that children have someone trusted they can talk to when they are facing tough times or experiencing problems.
36. Data from 0800 What's Up for the 2018 calendar year shows that 'family relationships' is one of our top three most frequently logged issues for counselling calls and webchats. The majority of calls logged in this category relate to issues regarding the child or young person's relationships with their parents, but can also include issues with siblings, grandparents, aunts and uncles, cousins and other family or whānau members. The problems raised

¹¹ See Helen Stalford, Kathryn Hollingsworth, Stephen Gilmore (eds.), *Rewriting Children's Rights Judgments: From Academic Vision to New Practice*, 2017.

are wide-ranging, including things such as arguments with parents, relationship problems in the home, abuse perpetrated on children by parents, feeling unsafe at home, and lack of acceptance by parents.

37. In 2018, Barnardos 0800 What's Up logged 375 calls and online chats where 'Family Relationships' was the main issue, and in addition, 887 calls and online chats which were logged with 'Family Relationships' as a secondary issue. It is also worth noting that the issues most often logged as secondary issues when 'Family Relationships' is the main issue through 0800 What's Up are 'Mental Health', 'Suicide', 'Life Skills', and 'Deliberate Self Harm'. The approach we take with 0800 What's Up is that we listen to children and young people talking about anything they wish to, and children often call us back and build up trust and rapport with our counsellors over time before sharing details of their problems with us. Creating this safe space for children is essential at all times, but in particular at times of high stress such as family breakdown, separation or violence.
38. Recognising that it is important not to isolate children at times of high stress, consistent with Barnardos' kōrero with the Independent Panel on 22 February, we note our recommendation that it is essential that a holistic, whole-of-family or whānau approach is taken to counselling in the Family Court context, in order to support outcomes that are effective and sustainable. This means that it will be important that counselling is offered to both the older and younger members of families or whānau, namely including both counselling for parents/caregivers, and counselling for children and young people themselves. These individual counselling supports may be made most effective in some situations where all the members of the family or whānau, including children, come together as a group for counselling, as well.
39. On 22 February Barnardos also discussed with the Independent Panel how child counselling in this context might work in practice. During this discussion, Barnardos emphasised the importance of:
 - After a referral is made, always working with the child in the context of their family or whānau situation;
 - Meeting with different family or whānau members to build up a picture of the child's world and situation;
 - Listening carefully to what the child or young person is saying, and finding ways that are effective for the child or young person to express themselves (this might include, for example, play, sand play, narrative exercises, art therapy);
 - Taking an individual case-by-case approach to deciding how to report back – this should always include working directly with the child or young person, and may include reporting back together with the whole family or whānau, or just with the child or young person's parents/caregivers; and

- Exploring what form child counselling might take for tamariki Māori, recognising that culturally-specific counselling tikanga may be appropriate (e.g. marae-based; involving kaumatua).

Strengthening Parenting Through Separation

40. As a Parenting Through Separation ('PTS') provider, Barnardos welcomes the Panel's view that moving ahead, PTS will be an important part of the Family Justice Service, and that in many places it is working well, and overall it should be strengthened.

41. Barnardos surveys PTS participants four weeks after they complete a PTS course, to gain their feedback. The response rate for these surveys is approximately 82 percent. In FY2017/2018, feedback from Barnardos PTS participants was highly positive, as follows:

Barnardos PTS participant feedback survey results FY2017/2018	
<i>Measure</i>	<i>Result</i>
% surveyed who felt "the programme has made me more aware of how to protect my child/children from any disagreements between me and the child/children's other guardian"	89%
% surveyed who felt "the programme has given me better skills to manage positive co-parenting"	89%
% surveyed who felt "the programme has improved my understanding of the Family Justice services including Family Dispute Resolution (FDR) and the Family Court process"	89%

Barnardos believes that one of the greatest strengths PTS demonstrates is its ability to be relevant and helpful to parents – and the fact that they want to engage with it – despite parents participating in the programme during a time of high stress and conflict.

42. Barnardos advocates for PTS being compulsory. We believe there are real benefits for parents to attend PTS, as research has shown that the programme is effective in helping parents to understand the impact of their relationship separation on their children.¹² However, as outlined in our submission of November 2018, Barnardos recognises that greater flexibility in how PTS is delivered and offered is needed. We have identified ways that PTS can be improved in this respect, including:

- Providing tailored PTS to particular audiences who do not fit directly into the current PTS model of delivery, but for whom PTS is relevant, such as grandparents raising grandchildren (who will often be dealing

¹² See, e.g., Jeremy Robertson and Jan Pryor (for the Ministry of Justice), *Evaluation of the 'Parenting Through Separation' Programme* (2009), available at: <https://www.justice.govt.nz/assets/Documents/Publications/Evaluation-of-Parenting-Through-Separation-Programme.pdf>, in particular discussion at p.100ff.

with the direct consequences of a parental separation on their grandchildren/mokopuna);

- Culturally-tailored PTS offerings, e.g Te Ao Māori; migrant and refugee communities, to ensure that PTS is effective for these audiences;
- Ensuring PTS is accessible for hard-to-reach groups, such as parents in prison and parents in outlying areas, rural localities, or who lack access to transport which, therefore, provides a barrier to attendance; and
- Ensuring PTS programmes are available in a timely way when parents, family and whānau members need them.

43. Having acknowledged the above, Barnardos agrees with the Panel's recommendation that a review of PTS is undertaken. We recommend this review includes:

- who can attend (Barnardos urges that PTS is developed to cater to particular groups, including e.g. wider family and whānau; grandparents raising grandchildren);
- reviewing the PTS syllabus, including to introduce a specific section focusing on the importance of hearing children's views of how parental separation affects them, their concerns and their views and wishes regarding their ongoing and future family care situation (this connects to, and Barnardos believes would act as an important and effective prelude to child participation in FDR, should the family enter into FDR);
- working with providers to develop and establish online PTS options that are targeted to meet the needs of particular audiences, to go alongside traditional modes of delivering PTS in face-to-face settings;
- looking at changing the contract for service arrangements for PTS, so that the delivery of PTS can better meet the needs of those who use PTS. For example, currently we know that places on PTS programmes in some locations are limited, and in other localities, there is an oversupply of providers. Therefore, the costing and funding structure for PTS needs to be reviewed with a view to making improvements that will enable PTS providers to provide the most effective service to families and whānau, in a sustainable way;
- that the Ministry of Justice explores with providers an extension of the PTS programme, through the development of a digital platform that will enable PTS providers to provide some online follow-up after the conclusion of the delivery of a PTS course. Barnardos has received consistent feedback from PTS participants that they find the programme valuable, but that they also want further information (i.e. a follow-on course, 'PTS-Plus') and that there are times when they would like to be able to access one-to-one support (to engage with and apply the content in their own specific circumstances); and

- Placing a greater focus on promoting the existence and availability of PTS throughout the new Family Justice Service, and through other key community-based channels.

Child participation in Family Dispute Resolution

44. Barnardos supports the Panel's view that a higher level of participation in FDR should be promoted.
45. Barnardos notes that the panel proposes a review of child participation processes in FDR is undertaken, based on research. Barnardos agrees that there is a useful role that research can play in the longer-term. However, we urge the Panel to make some more immediate proposals and recommendations, so that improvements can be made to child participation processes in FDR in the shorter-term which will better support and protect children.
46. In this respect, Barnardos recommends that the Panel proposes and recommends that the Ministry of Justice, working with the sector (i.e. FDR providers and child-focused NGOs working in the family justice context) develops guidance covering:
- what child-inclusive FDR practice looks like (minimum base requirements – including how to effectively hear and listen to children in different ways, identifying child trauma, and working effectively with children who have experienced family violence; and showcasing best practice examples of child-inclusive FDR, including how this feeds into parents' FDR and the bearing it has on outcomes/plans that are made through FDR); and
 - introducing stricter requirements regarding the accreditation and training required to work with children in FDR (i.e. training on child inclusive practice, and regular refresher requirements for FDR providers accredited to work directly with children to facilitate their participation in FDR).

The role of non-government organisations in the family justice system

47. The Panel has noted that it is interested in stakeholders' views on what measures could be implemented in order to improve the interconnection of the Family Justice Service.
48. In this regard, Barnardos emphasises that there is a role for community-based service providers to support children, families and whānau who are engaging with the system. Often we are involved in different aspects of children, families and whānau journey through the family justice system. However, due to the constraints of the contracting arrangements with Government that we provide this support under, we are often limited in what we can do by the scope of that contract. This can undermine the potential effectiveness we can have more widely, and prevents us from doing more for

children, families and whānau, despite Barnardos and other similar NGOs often being well-placed to identify different connections and support approaches that may help.

49. Having agencies such as Barnardos involved in the full spectrum of support through the Family Justice Service would be helpful for children, families and whānau, to ensure they are supported throughout the process, particularly when there are delays. Providers such as Barnardos, who are independent from Government, are often seen to be trusted providers of support, and are able to provide this support from a different perspective to those operating or directly delivering the Family Justice Service. To this end, we urge the Panel to consider recommending a more wraparound type approach that involves community-based service providers and the unique role they can play in supporting positive and sustainable outcomes through the Family Justice Service.

The importance of taking a system-wide, joined-up approach

50. When Barnardos met with the Independent Panel, we discussed the importance of the final proposals and recommendations of the Panel's Review being as joined-up and aware of the other work going on across the system currently, for example through intersecting work, especially:

- The Welfare Expert Advisory Group;
- Oranga Tamariki system reform, especially with governing legislation coming into effect on 01 July 2019 (including provisions relating to the UN Convention on the Rights of the Child and child participation, and provisions specific to tamariki Māori);
- Family violence system reform;
- The recommendations of the Government Inquiry into Mental Health and Addiction; and
- The Child and Youth Wellbeing Strategy, currently under development pursuant to legislative requirement under section 6 of the Children's Act 2014.

The outcomes of all these pieces of significant systems-change work will have an impact on the children, families and whānau who engage with the family justice system, and many of the issues they face will be cross-cutting.

51. In this regard, we particularly draw the Panel's attention to the contents of Barnardos' submission to the Welfare Expert Advisory Group (November 2018) available [here](#). We also note that because children who engage with the family justice system will be in situations of heightened vulnerability, it is important that their experiences are taken into account and help to shape the development of the Child and Youth Wellbeing Strategy.

52. Finally, Barnardos draws the Panel's attention to the [Child Impact Assessment Tool](#) developed by Government with the children's sector. We

believe this is an important tool for the Panel to use as it develops its final proposals and recommendations to Government, given its focus on ensuring the rights and wellbeing of children and tamariki in Aotearoa New Zealand through the Family Justice Service. We urge the Panel to further consider how legislation governing the family justice system can better reflect child rights principles, and principles that focus on tamariki in the context of their family and whānau, such as have been included in recent legislative reform under the Children, Young Persons and Their Families (Oranga Tamariki) Legislation Act 2017.¹³

¹³ E.g. ss.5(1)(a) regarding child and youth participation; ss.5(1)(b) regarding the child's rights under the UN Convention on the Rights of the Child and the UN Convention on the Rights of Persons with Disabilities; and s.7AA (including concepts of mana tamaiti, whakapapa and whanaungatanga);