Child-inclusion in dispute resolution in the New Zealand Family Court

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Introduction

In recent years there has been a paradigm shift in family law from an emphasis on primarily working with parents to resolve parenting disputes over their children's care towards including the children in the dispute resolution process. The Family Courts Matters Bill, which was passed by Parliament on 2 September 2008 and came into force (in part) on the 18 May 2009 after being divided up into 12 Amendment Acts, allows for the introduction of new provisions relating to children's participation in Family Court counselling and mediation processes. The detailed planning and development of these new initiatives will not occur until the first stage of implementation of other aspects of the amendments is complete.[2] While the time frame in respect of the child-inclusive reforms remains uncertain at this stage, this article provides a timely exploration of the scope and intent of these reforms. It also examines international trends in child-inclusive practices in Australia and England/Wales, and raises several significant issues for consideration in the New Zealand context.

The context of New Zealand's child-inclusive reforms

Couples who are married, in a de facto relationship or a civil union can currently access counselling under the Family Proceedings Act 1980. The counselling offered is to assist in reaching agreements about matters in dispute, relationship issues, arrangements about the care of children, applications for a parenting order, or non-compliance with a parenting order. The new partners of the individuals in dispute may attend, as well as adult members of the wider family. To date, these counselling provisions have not included children. Instead, they have been presumed to benefit from their parents' engagement in Family Court counselling via a "trickle-down" effect. There is no research evidence to substantiate this assumption, however, studies have been undertaken showing the real benefits for children and parents alike when child-inclusive practices are adopted.[3] This research indicates that the healthy adjustment of the family to the separation/divorce transition is enhanced by the involvement of children in conciliation processes. Since around 6 per cent of cases proceed to a defended hearing, extending child-inclusive dispute resolution into the early phases of New Zealand Family Court service delivery would provide the opportunity for a significantly greater number of separated families to benefit from this new model of practice.

Child-inclusion in dispute resolution

Child-inclusion in Family Court dispute resolution constitutes a distinct discipline, blending the knowledge of developmental psychology, attachment theory, and family systems theory, with skills drawn from counselling and mediation. It balances rights-based justice with an ethical mandate to protect and enhance the family in transition. Engaging children in this way not only recognises a child's rights and agency, but also responds to the contextual needs of that child and family for skilled help through the separation and the parenting dispute which has arisen. A child-inclusive intervention therefore involves working systemically with the family to embrace a process that prioritises the developmental health of the children affected by the dispute — it is much more than just talking with a child to hear their views and relay these to the parents to assist them to reach agreement.

Two major propositions inform the rationale for the practice of child-inclusion in family law contexts. *Inter-parental conflict* is now recognised as a significant factor in causing deep distress to children and affecting their adjustment to their parents' separation/divorce. Evidence of serious compromises to children's wellbeing and mental health has led researchers to the view that the degree and extent of the conflict surrounding the separation needs to be taken very seriously in proposed models for dispute resolution.[4] Diminished parenting capacity during the separation, and in the year or two following, affects the parents' ability to nurture and protect their children.[5] This is caused in part by such factors as a higher incidence of physical and psychological problems, task overload, economic distress, and unresolved relationship issues. Hence, parents can easily get out of touch with their children's emotional needs as parent-child communication declines.[6] Far from being able to help their children and understand their fears and worries over this time, parents often inadvertently add to their children's stress. If a key determinant of child wellbeing is the extent to which parents are able to cooperate and manage conflict post-separation, then an intervention which encourages parents to think of their children, rather than focus on their own conflict, hostility and grief, is positively implicated in the ongoing mental health of that child.[7]

Secondly, that *children whose parents have separated should ideally retain ongoing meaningful relationships with each of them.* This is more easily realised when parents' affective responses to their children are as sensitive and positive as possible and each parent is helped to buffer the child from the more destructive aspects of parental conflict.[8]

Children whose parents are in conflict often suffer in silence.[9] A growing body of evidence indicates that children experience ongoing distress when they are not told what is happening and when adults do not take their feelings and

views into account.[10] Many children affected by parental separation yearn for an opportunity to make sense of their situation by being part of the negotiation process concerning the rearrangement of their family. As family members they actually have no choice but to be involved in the actual restructuring of their family's post-separation relationships, so being able to participate in the accompanying decision-making process can be a constructive experience.[11]

When delivered professionally by trained practitioners, child-inclusive practice is a targeted, short-term, dispute resolution process with a therapeutic outcome for the rearranged family. It is not therapy per se, as its context is socio-legal. Implementing a child-inclusive model early in the family law process provides an opportunity to identify and deal with conflict before it becomes polarised into intransigent parental positions, with their consequent harmful impact on the ex-couple's children. This model can also be applied to later stages of the Family Court process, either close to Court application or post-order, as a negotiation model that promotes the psychological adjustment of the rearranged family.

Child inclusive practices in overseas jurisdictions

Two other jurisdictions — Australia and England/Wales — have embraced child-inclusive innovations in dispute resolution and offer some useful insights into those issues with which New Zealand is about to grapple.[12]

1. Australia

Community-based dispute resolution processes involving children

Over the past 2 years a process of Family Dispute Resolution (FDR) has been implemented in Australia as a requirement before parties can apply to the Court for a parenting order (or to vary an existing parenting order). Family Relationship Centres have been established to provide the resources for this practice which focuses on resolving disputes concerning children's matters and working on the development of a parenting plan. The aim is to expedite the parents' ability to reach a consent order and to receive assistance in strengthening their parental alliance.

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An assessment is made of the clients' suitability for the dispute resolution process before it commences. Unless the matter is urgent, or involves abuse, abduction, mental ill-health, or the person has contravened or shown serious disregard to an order made in the preceding 12 months, the parties need a certificate from the Family Dispute Resolution Practitioner (FDRP) before they can file their application. The FDRP is not a counsellor and does not address any emotional aspects concerning the parties' relationship. Instead, he or she concentrates on resolving specific disputes between them and working on a parenting plan. If resolution is not achieved, a certificate is issued stating that the parties were unable to reach agreement and the Court process can then be triggered.[13]

The FDR process can include child-focused and child-inclusive practice when the parents jointly agree to this. A professional specifically trained in child-inclusive practice (a child consultant or FDRP) meets with the children on their own and then provides the parents with feedback about how their children are dealing with the separation. This feedback is thought to help the parents to reach better decisions which are in their children's best interests. The FDR child-inclusive process takes approximately 6 hours and includes resources and information on parenting through separation.

Child-inclusive dispute resolution within the Family Court of Australia

Empirical evidence establishing how an active focus on the centrality of children's views and needs can modify and influence parental intransigence in conflict has led to the development of two programmes within the Family Court of Australia:

1. The Child Responsive Programme (CRP) — this was introduced as part of the application process to help manage the fact that the FDR emphasis on early intervention and dispute resolution has meant that those cases proceeding onto the Family Court are inevitably more complex.
2. The Less Adversarial Trial (LAT) — its key features include the adoption of inquisitorial techniques, including direct consultation with children (through the CRP), modified application of the rules of evidence, and strong judicial management to prevent the case being driven by the disputing parties.

This model includes expert assessment and opinion which is provided to families, legal practitioners and the Family Court in a way that is not available in the community-based FDR model. One Family Consultant is assigned to each family and works with them until the matter is settled or adjudicated. This provides the family with continuity and consistency of approach and enables a comprehensive family report to be prepared for the trial. The expert advice from a social science specialist in child and family matters (a social worker, counsellor or psychologist) assists the Court to determine the issues and a further report can be provided if the Judge asks for this.

Children can be involved early in this process. Where appropriate, the Family Consultant will find out the children's views and feelings and give feedback on these to the parents to assist them to focus on the impact of their conflict on their children. This process also supports the children in their right to be included and to give their views. Various stages of this model include screening, assessment, the inclusion of children's views, expert opinion, and the preparation of a Preliminary Report. These provide the family with several opportunities for settlement in response to the different interventions. Further feedback loops occur to parents, their legal representatives and the children's independent lawyer to fully test the positions taken in the dispute. In an integrated approach to dispute resolution, families can be referred back to the community FDR process or to other services when opportunities for alternative resolution are identified.

An Issues Assessment Report is provided at the time of the feedback meeting with the family and legal representatives. This is useful for negotiating settlements and, in the same way, a subsequent Family Report can be made available to help maximise settlement opportunities. When cases proceed to the LAT, a full family report is prepared. Following the decision, a post-determination stage occurs where families are assisted to understand and implement their orders. Referral to counselling services in the community to work within the terms of the order can also be made at this time.

Training requirements in Australia: Practitioners (also known as mediators) in the FDR scheme must have a social science background (such as psychology, social work, or family therapy) along with five to ten years' experience in their field. Regulation 83 requirements govern registration as a Family Dispute Resolution Practitioner (FDRP). They are required to have an appropriate degree/diploma or equivalent, or be admitted as a legal practitioner, have ten hours of on-site supervision by an experienced FDRP and undertake a five-day training course in family mediation or dispute resolution. In their work with parties, the FDRP is able to issue the certificate which demonstrates that the parties have attempted mediation before applying to the Court. The training requirements are being increased (for those who met the earlier 2007 requirements), from 30 June 2009, to include a five-day intensive course on family law, domestic violence, and working with vulnerable clients; along with achieving a specific set of competencies. For those entering the field, a Vocational Graduate Diploma in FDR will then be required.

To practice child-inclusive work as a child consultant in the community FDR scheme, the professional (either a FDRP or a counsellor) must attend a specific training course taught over a minimum of four days. Similarly, the practitioners in Child Responsive Practice (CRP) are social science graduates with five to ten years of supervised practice experience and some training in child inclusive practice.

2. England and Wales

The Children and Family Court Advisory and Support Service (CAFCASS) was established in 2001 to safeguard and promote the welfare of children involved in the family courts. The organisation deals with public law cases (where social services are involved and children may need to be removed for their own safety), adoption, and private law cases where residence and contact arrangements need to be put in place following parental separation under s 8 of the Children Act 1989. Section 7 provides for a report to be written for the Court by a CAFCASS Family Court Adviser (FCA). They have a duty to give due weight to the wishes and feelings of the child concerned. The importance of hearing the child's views is strengthened by R 9.5 of the Family Proceedings Rules 1991 which allows the Court to make a child a party to s 8 proceedings.

New child-inclusive practice tools have recently been developed by CAFCASS which have wider international relevance. These include the Needs, Wishes and Feelings Resource pack, a Court Life Record for children, the use of impact statements, and the current development of online services (such as facilitated dispute resolution for children, young people, and their families).

Dispute resolution processes initially occur at a First Directions Hearing in Court, where the parties to the dispute and their legal representatives are present. At this hearing, the Court will make a decision about how to move ahead with the application that has been made about the children. As an early intervention, this process is becoming increasingly successful and is leading to a decline in the number of welfare reports requested by the Courts at the time of the first hearing.

There are essentially two types of family conflict resolution: in-Court conciliation; and external dispute resolution which is usually undertaken by CAFCASS. This is directive, non-privileged, and non-voluntary. In certain circumstances it can be developed into extended dispute resolution. CAFCASS intends to divert resources from report writing to dispute resolution interventions, including ways of best accessing the views of the child.

In Court, FCA's are asked by the Judge to help families to reach agreement on arrangements for their children. Sometimes this can be achieved immediately and no further intervention is necessary. When agreement on some (or all) of the issues is reached during a meeting at the First Directions Hearing, the Court may then allow some time to see if this works. If no agreement is reached, the FCA may be asked to continue to work with the family to resolve the outstanding issues. As there are diverse regional variations, both within mediating agencies and within CAFCASS, the local dispute resolution scheme will determine how this is done. Variables will include the age of the child and the nature of the application.

If matters are still not agreed, the Court will usually ask the FCA to carry out further work and report back (via a s 7 report) with a positive recommendation about the best way forward. This may include additional work with the family, and usually an interview with the children on their own to access their needs, wishes, and feelings. This takes about 10 weeks to complete.

Public law-related information held by the police, social services, child protection registers and CAFCASS can all be accessed as part of this process. Children's Guardians may also have been appointed to represent the child's interests.

When divorcing or separating parents have not been able to reach agreement due to their high conflict and hostility, children can be made a party to the proceedings and have a solicitor appointed to represent them. The Children's Guardian meets with the child and ascertains their views and wishes, as well as meeting with other involved parties, including the parents. A report is then written for the Court which outlines the views of all the parties and makes recommendations. This report is available for all those involved in the case to read. The child has the right to attend the Court hearings and to meet with the Judge or Magistrate. All these processes, in both public and private law, are about prioritising the best interests of the child and advocating for these.

Child-inclusive dispute resolution processes have been implemented with enthusiasm and creativity in England. Some examples include:

1. A pilot scheme in London has adapted the New Zealand *Family Group Conference (FGC) model* (used in child protection cases) to *private law cases*. This initiative is novel in its application to parenting disputes and could be worthy of consideration in the New Zealand context (from whence it first came!). Its advantages include the speed of the process, the involvement of the wider

family, its cost-effective nature, and the inbuilt review system. This private law FGC intervention is said to be achieving a high success rate of agreements between parties.

2. In June 2005 the Norfolk branch of CAFCASS implemented the *Extended Dispute Resolution (EDR) programme* which covers two county Courts. Following an assessment by a CAFCASS FCA, the Judge will adjourn the matter for six weeks to allow child-inclusive meetings to occur in the hope that this will supplant the need for a s 7 report and hearing. Parents with domestic violence and mental health issues are screened out. The majority of parents involved in the EDR have been able to devise a viable child-focused co-parenting plan without recourse to a Court hearing. Like the Australian FDR model, parents each have an individual session with a practitioner, and are then seen together. The children are invited to attend the third session with both parents in attendance and are helped by their parents to draw a family tree and to talk about their lives. The parents then withdraw and the children are encouraged to talk about how they are feeling using art, puppets, and other resources. Feedback and file notes are later shared with the parents who are encouraged to find a solution. The children are subsequently invited into the final session with their parents (if the children are comfortable with this). A short report is then prepared summarising the sessions and any agreements reached. The parents receive this before the date of the next Directions Hearing.

   The pilot demonstrated a high agreement rate and generated many positive comments from the participants about their sense of empowerment in working out satisfactory solutions.[14] The professionals working on this pilot believe that the children involved had their needs more extensively canvassed as a result of their participation.

3. Judges in *Leeds* were concerned that children were not being given the opportunity to make their views known at the time decisions were being made about them and that there were long waiting lists for s 7 reports. In 2005 they therefore began to involve children aged 9 years and over by getting the children to meet in the CAFCASS office during the First Directions Hearing whilst their parents were in the Court. The FCA then reported to the Judge and the parents on the children's views. After a decision had been made, the FCA reported this back to the children. The scheme was so successful that the age of involvement was subsequently reduced to 8 years to open it up to more children.

Training requirements in England and Wales: CAFCASS practitioners (FCAs) all have social work qualifications and typically have 3-10 years post-qualifying experience. They receive a 5-day induction training course on joining CAFCASS which covers public law, private law and adoption work. This is a standard national programme with no regional variations. In addition, there are mandatory training programmes in domestic violence. Other national programmes include training on National Standards and dispute resolution casework. From April 2008, each staff member has received their own continuous professional development budget by which they can purchase training or books directly. On average, CAFCASS practitioners will undertake 10–15 days' training per year.

Child-inclusive practice in New Zealand

Up until now New Zealand's approach to the involvement of children in dispute resolution has been primarily legal in focus and centred on the ascertainment of children's views. One child-inclusive model, predicated on family collaboration principles, has been empirically piloted in New Zealand.[15] Seventeen families were recruited from Family Court counselling referrals under the Family Proceedings Act 1980. The 34 parents and 26 children (aged from 6 to 18 years) were individually interviewed following their participation in a child-inclusive counselling process where the children attended parts of this counselling with their parents.

The findings were consistent with those found internationally as all the New Zealand parents reported being much more aware of the effects of their conflict on their children, along with a heightened recognition of their child's need for parental cooperation, and a significant enhancement of their ability to reach agreement about co-parenting with their former partner.[16]

Children in the study said that their involvement in the child-inclusive process satisfied their need for their voice to be heard and for them to better understand what was happening within their family. They reported a decrease in anxiety about the emotional and practical issues they faced as their family life was rearranged. The parents also noted their children's lowered levels of anxiety and reported improvements in communication with their children and their former partner.

> Well, it helped me and it helped [my ex wife]... and if we make an agreement in front of [our daughter] we are bound to it otherwise we are modelling something very flaky to our child, who will blame us ... It's tempting to hurt the other person, bargaining with the children ... My Mum's still venomous about my father and that is the last thing I want for my children. (Non-resident father of three children).[17]

> I really liked that the counsellor knew Mum and Dad. It meant she understood the parents' positions. (Boy, aged 15).[18]

The consequential amendments to the Care of Children Act 2004 (COCA), as a result of the recent passage of the Family Courts Matters Bill, have now created the opportunity for the inclusion of children in counselling and mediation in Family Court dispute resolution processes:

> Counselling: Counselling under the Family Proceedings Act 1980 will continue to be available for issues of relational work between the parents in dispute, leading to either reconciliation between them, or conciliation about the way forward. Those wanting resolution on day-to-day care, contact, or post-order help for their family will in future be referred under the COCA amendments to counselling, mediation, or a mediation conference with a Judge. The Care of Children Amendment Act 2008 has extended counselling services to involve children in the following three ways:
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> (i) s 46T(3)(c) — This provision allows for children to be part of their parents' counselling process when

parents or caregivers are undergoing counselling relating to a dispute over the day-to-day care, contact, or guardianship of the child.

(ii) s 46ZA — Where a mediator has agreed that a child may attend mediation, this places an obligation on the mediator to discuss with the child whether he or she wishes to attend counselling for the purpose of clarifying his or her views on the matter in issue.

(iii) s 46P(1) and (2) — If the Court considers that a child needs therapeutic counselling to accept an order, then counselling must be arranged for that purpose.

Mediation: The family mediation pilot run in four Family Courts between March 2005 and June 2006 was intended to be inclusive of children. However, the evaluation showed that children only attended 6 per cent of mediations for any period and that lawyer for child was the most common means of including the child's perspective.[19] Based on the pilot project findings, the amendments now provide for a two-tier mediation service within the Family Court: one Judge-led and the other undertaken by a Court-appointed mediator. Non Judge-led mediation will be available for disputes under the Family Proceedings Act 1980 and for care arrangements under the Care of Children Amendment Act 2008.

Parents who seek mediation under ss 46F(3), 46J(3) or 46R(2) of COCA can, if it is considered appropriate, have their children present at part of the mediation process. The mediator will have a duty to discuss with the child (pre-mediation) whether they wish to attend counselling for the purpose of clarifying their views on the matter. If the child agrees, then he/she will be referred to counselling (as per s 46ZA above).

Issues arising from the reforms

Several key issues emerge when the review of child-inclusive models in Australia, England and Wales are considered in light of the recent New Zealand amendments. These include the place and role of the child in counselling and mediation, the terminology used to describe their engagement in these processes, and training requirements for the professionals involved.

1. The place and role of the child

Children's views have been increasingly incorporated in family law dispute resolution processes over recent years (mainly via lawyer for child, specialist reports and judicial interviews). The amendments are now extending child-inclusive practices to counsellors and mediators. Their silence about how children will actually participate in these contexts is not surprising since there has been no previous use of such a model in the New Zealand Family Court. Whether children are seen apart from, or together with, their parents — or a combination of both — is yet to be determined.

Children's inclusion could, for example, take any of the following possibilities in the counselling or mediation contexts and some decisions will need to be made about which one(s) should be utilised in New Zealand:

- Children could be interviewed away from their parents and their views reported to the parents in a session either by the counsellor/mediator or a third party, such as a child representative or child specialist;
- Children could attend a session and present their views and interests directly, either with the assistance of a support person or alone;
- Children could attend parts of their parents' session; or
- Children could attend the final session where the agreement is presented to them.

2. Terminology

Counselling under the Family Proceedings Act 1980 has never been intended to provide therapy per se to the parties in dispute. The generic term "therapy" has a much broader context than that of "dispute resolution". It works through a wide range of modalities, expressions and timelines which combine in different ways to restore the emotional health of the individual and/or his or her significant others. In contrast, counselling, as an intervention in the Family Court context, is an alternative dispute resolution process which seeks a therapeutic outcome. This is a subtle, but pivotal, distinction which can be easily misunderstood by parties to a dispute, as well as by some professionals.

Family Court counselling is thus not an intra-psychic intervention in family dispute resolution, but is instead a process designed to help the parties identify issues, explore options and try to each agreement. In this respect it is not too dissimilar from mediation and this can be the source of some confusion. Counselling does, however, differ from mediation in that it draws on social science theories relating to family systems, child psychological development and attachment. A further difference of significance is that counselling under the Family Proceedings Act, in the early phase of a dispute, can bring about reconciliation between the parties. While counselling and mediation overlap, they therefore each have a different focus, and both may be required at different stages in any specific family situation.

The essence of these adult-focused interventions and professional roles needs to be clearly understood as the new legislative provisions are enacted in New Zealand and their potential for the inclusion of children is realised. This is particularly so due to the range of terms used internationally to describe child-inclusive practices in community-and Court-based dispute resolution processes (for example, child-inclusive, child-responsive, child-focused) and the current lack of clarity in the recent amendment about the model of practice intended for use in New Zealand. Each term has a slightly different meaning and this has the potential to cause considerable confusion for practitioners, parents and children who need to be clear about what type of session(s) the children are being invited to attend. Ideally, the emergence of child-inclusive dispute resolution in the New Zealand context should be recognised as an empirically proven practice which is neither counselling nor mediation.

To distinguish counselling (under the Family Proceedings Act 1980) from child-inclusive counselling under COCA, it might be helpful if different nomenclature was used. For example, "counselling" for relational counselling with adults only; and "family counselling" for child inclusive practice. In the mediation context it will also be important to make a distinction; for example, "mediation" for adults-only mediation (under the Family Proceedings Act 1980), and "family mediation" for child-inclusive practice under COCA. Alternatively, the phrases used internationally could be adapted for use in New Zealand.

3. Practitioners' qualifications and training

There is currently no clarity about the qualifications and training required by practitioners who will soon be working child-inclusively in the New Zealand Family Court. A child-inclusive model of practice should, of course, only be undertaken by a professional following completion of a relevant training course (as occurs in Australia, and within CAFCASS in England and Wales). The effective application of the new legislative amendments in the New Zealand context therefore requires the development of a training programme based on robust empirical principles. Whether a child is interviewed independently (as in the Australian model), or seen together with their parents, adequate professional training is essential. This should include knowledge of child development, attachment theory, systemic family dynamics, family law, the effects of separation/divorce on children, child interview skills, and a demonstrated ability to integrate children's views and feelings as part of the adult decision-making process(es).

Practitioners who are inexperienced in child-inclusive practice, lacking in knowledge, or insensitive to the needs and ways of children can cause harm. Children caught in the middle of their parents' separation/divorce are profoundly sensitive and cannot afford to have their struggle compounded. Practice standards need to reflect the complexity of the work.

Child-inclusive practitioners in overseas jurisdictions generally have a tertiary degree qualification and a minimum of two years of supervised practice in the field of child inclusive work. They also complete a core child-inclusive training of at least three days and then have ongoing supervision. Such an approach would also be required in New Zealand. Judges, Registrars, Family Court co-ordinators, lawyers, mediators and psychologists should also have the opportunity to attend training in child-inclusive practice relevant to their respective roles and requirements. This will help the professionals engaged in child-inclusive counselling and mediation to understand their own and their colleagues' roles and responsibilities, as well as the child-inclusive dispute resolution process as a whole. Such a functional integration of Family Court services will assist in ensuring positive outcomes for families.

Conclusion

Child-inclusive conciliation processes are increasingly finding favour internationally in the resolution of family law disputes between parents. New Zealand is currently on the cusp of "catching up" with several overseas jurisdictions through its recent enactment of legislative provisions to introduce child-inclusive dispute resolution in counselling and mediation here. This will nicely complement our existing world-leading child-inclusive practices in defended hearings via lawyer for the child and judicial interviews. However, the lack of specificity in the New Zealand reforms means that several significant issues still require clarification, that is, issues concerning the role and place of the child in the conciliation processes; the terminology used to distinguish child-inclusive counselling and mediation practices from existing adult-focused conciliation interventions; and the training needed for both child-inclusive practitioners and other Family Court professionals. The purpose of this paper has been to signal the importance of addressing these matters and to reveal the complexity of getting them right in the New Zealand context. As we have shown, child-inclusive practice is a targeted, short-term, dispute resolution process with a therapeutic outcome for the rearranged family. It is not the same as therapy, but it is much more than just an interview with a child present. In essence, the work involves a commitment to skilfully incorporating children's perspectives as a means of helping separated parents to refocus on their child(ren), to defuse any conflict or hostility, and to reach negotiated outcomes as early as possible in the separation process Much can be learnt from the longer-standing child-inclusive initiatives in use in Australia in particular, in England and Wales, and in the New Zealand pilot. The challenge now is to take the ambit of our reforms and sketch in the detail so that real benefits can be achieved for families and the Family Court from the forthcoming implementation of child-inclusive dispute resolution practices in New Zealand.

Child-inclusive conciliation processes are increasingly finding favour internationally

Footnotes

1. Jill Goldson gratefully acknowledges the financial support of the New Zealand Law Foundation which funded *A Position Paper* on *Child inclusion in dispute resolution in the New Zealand Family Court* (Goldson, 2008) on which this article is based.
2. See www.justice.govt.nz/family/legislation/new-proposed-legislation/new-proposed.asp. New ss 46D to 46ZF of the Care of Children Act 2004 relating to counselling and mediation, as inserted by the Care of Children Amendment Act 2008, come into force on a date to be appointed by the Governor-General by order in council.
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