

ALBURY WODONGA FAMILY LAW PATHWAYS PRESENTATION 30 JUNE 2020
CHILDREN AND YOUNG PEOPLE IN SEPARATED FAMILIES STUDY

QUESTION: I am wondering that even though young people want these things (to participate), not all children have the emotional intelligence to process this. Does the research uncover if what some people want and what is useful and appropriate can be two different things? They cannot always understand the complexity of decision-making so getting children's views can be challenging.

ANSWER: It is not that it will be appropriate for all children and not all children will want to participate but our Children and Young People in Separated Families Study and earlier research have shown that the importance of having safe options to participate should the child or young person wish to do so. There were comments from some children and young people participating in our study that indicated that although they found it difficult, they also felt that it was important, especially in those cases characterised by significant safety concerns, to have the opportunity to participate and to ensure that their views were accurately communicated. Family law system professionals are faced with the challenges associated with facilitating safe and effective options to enable that participation to take place in order to support the agency and participatory rights of children and young people. In doing so, professionals could keep in mind what children and young people have told us about what constitutes effective professional practice from their perspective and to consider a range of options to ensure that children have access to safe and effective means of communicating. It is also important to keep in mind that our research indicated that participation for children and young people is not just about having the opportunity to speak, but it is a broader concept that also involves having an opportunity to be kept informed. The reflections of some of our participating children and young people with positive experiences of child-inclusive FDR, independent children's lawyers and family report writers are also helpful in this regard.

QUESTION: Can you comment on undue influence and burden on children regarding participation?

ANSWER: Our research suggests that it is important for family law system professionals to consider the options that enable safe and effective participation on the part of children and young people. Some children and young people in our research suggested, for example, that this might include options that are 'a parent-free zone'. That is, having the opportunity to communicate with professionals in the absence of parents was identified by some children and young people as important. It is also helpful to keep in mind that participation may be quite challenging and so efforts should be made to ensure that it is as comfortable a process as possible. Again, relevant professionals should keep in mind the features of effective professional practice that emerged in our research and which were outlined in the presentation today. For example, ensuring that there is not just a once-off or cursory meeting but rather ongoing engagement throughout the process so that professionals have the opportunity to build that trust and rapport with the children and young people. These are mechanisms that can be put in place to ensure that children and young people are supported to communicate freely and to participate safely and effectively. Our research with the children and young people allowed us to engage with them during the recruitment process and when undertaking the in depth interviews with them and this enabled us to hear their views and experiences in their own words. On our assessment they were principally based on their own experiences and as a whole, these data support the central role of child inclusive approaches to eliciting evidence relevant to family law decision-making.

QUESTION: Are there any plans to provide training for the professionals who are working with children so that they can allow the children to have a voice while ensuring that it is safe to do so.

ANSWER: Our report to the Attorney-General's Department outlines the features of effective professional practice from children and young people's perspective. Given these and other findings of our study, together with previous research including our Evaluation of the 2012 family violence amendments, which identified issues associated not only in terms of children's views but also with identifying, assessing and responding to family violence, child abuse and other risk issues, the research suggests that support is required for professionals in relation to these matters. Our report has been submitted to AGD and it has been publicly released so it is now for the Government to consider any policy changes or amendments in this regard and for the family law system and professional bodies to consider any changes to practice or training and support mechanisms. We understand that there are activities have been underway to address issues raised in our body of research and include for eg., changes to the training program for ICLs and developments in terms of family law system screening practices.

ALBURY WODONGA FAMILY LAW PATHWAYS PRESENTATION 30 JUNE 2020
CHILDREN AND YOUNG PEOPLE IN SEPARATED FAMILIES STUDY

QUESTION: In high conflict families, how can children be protected from emotional manipulation (from parents)?

ANSWER: A detailed response to this question is beyond the scope of our research which was focused on understanding the experiences of children and young people whose parents had separated and accessed family law system services and how these services may better meet their needs. The ongoing support of an independent professional who can: facilitate their safe participation; who can keep them informed of the decision-making process and its progress and of the outcomes; and having access to therapeutic support if they need it, are means by which children and young people can be supported through their parents' separation and the decision-making process that follows. Some young participants in our study identified that it was importance of speaking up and they encouraged their peers to speak out if they needed support during the separation process. These were matters that were identified in the context of this particular piece of research, but there is more work to be done in terms of identifying how the findings of this research can be turned into meaningful protection of children and young people going forward.

QUESTION: regarding the term parental alienation and the contentious nature of it.

ANSWER: The term parental alienation is a contentious one and concerns about parental alienation have been associated with the family law system for many years. While acknowledging these concerns, the issue of parental alienation is not an issue that has emerged as significant in the context of our extensive research in the family law and family violence space. Rather evidence from the AIFS Evaluation of the 2012 family violence amendments suggests that under-disclosure and issues associated with screening and identifying, assessing and responding to DFV, child abuse and other child safety concerns, are issues of particular significance for our family law system.

QUESTION: What are your next steps for your research agenda?

ANSWER: As noted, our Children and Young People in Separated Families Study report has been submitted to the Attorney-General's Department. We have been disseminating this research widely and engaging with stakeholders in relation to how the findings of this research can inform future practice. For example, we have had engagement with the Courts, with Family Law Pathways Networks and with Children's Commissioners as well as government agencies. Currently we are also engaged in the Evaluations of the PPP500 / Small Claims Property Pilot and the Lawyer-assisted Property Mediation Trial applicable in small property matters, in addition to research commissioned by ANROWS in relation to the compliance with and enforcement of family law parenting orders that we are currently seeking ethical clearance for this research to be undertaken.