

# Family Justice

An Administrative Review of Family Justice System Reforms



MINISTRY OF  
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*Tabu o te Iure*

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# Executive Summary

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**In 2014, major reforms were made to the Family Justice System as part of the Government's wider commitment to ensuring that New Zealand's courts were modern, accessible and responsive to the needs of those who used them. The reforms shifted the focus from court resolution of parenting disputes when parents separate to encouraging parents to reach agreement themselves where this is appropriate. They were intended to give families the opportunity to resolve issues without the need to engage in formal court proceedings which can be adversarial and exacerbate conflict.**

The purpose of this report is to evaluate whether the changes made in the 2014 Family Justice reforms, primarily related to Care of Children Act 2004 (CoCA) proceedings, have achieved a number of intended benefits.

The reforms aims were to create a family justice system which is responsive to children and vulnerable people; encourages individual responsibility where appropriate; and is efficient and effective. It was intended that the Family Court be used for the most serious of cases with other disputes being settled using the new Family Dispute Resolution (FDR) service and Parenting Through Separation (PTS) courses.

The number of CoCA related cases and applications to the courts have reduced since the reforms have been in place. It appears likely that some of these cases have been resolved at Family Dispute Resolution as expected. However, there has been a noticeable increase in the proportion of applications that are filed without notice (urgently).

An expected feature of the reforms was that, depending on the complexity and acrimony involved in a dispute, different levels of assistance would be needed for resolution. Some would only need PTS, some would need FDR, and some would need to go to court. For those with a dispute which reaches mediation through FDR, the majority have some or all issues resolved (83% in 2015/16). Some of these successes may contribute to the fewer cases and applications going to court. Some of the decrease in traffic may also be from people learning more to facilitate their own arrangements through Parenting Through Separation courses. Many people have contact with these courses, and are not then using Family Dispute Resolution.

Costs have reduced since the reforms have been in place. Costs were increasing prior to the proposal of the reforms, but began decreasing in the few years leading up to the reforms. Following implementation of the reforms, the costs were subject to a sharper drop, followed by a slight increase over the post reform period.

Since the reforms, it takes longer for a CoCA application to be disposed (closed/completed). This is likely to be because of the increased complexity of cases now going to courts. We hypothesise that the less acrimonious, less complex, disputes are more likely to be diverted through FDR and PTS courses. Qualitative research indicates that the nature of work required due to the increase of without notice applications, and the additional judicial time taken to review applications from self-

represented applicants may also play a role in this increase. The time it takes to complete an out-of-court mediation, from assessment to decision, is much quicker than the time it takes to resolve a dispute in court.

Despite data issues limiting interpretation for some demographic information, it appears that the demographics of people that have been accessing CoCA related Family Justice services have remained relatively constant over time, and are similar in court and out-of-court, with few exceptions. There has been no obviously apparent shift in the demographics of people accessing Family Justice services following the reforms. It is unlikely, based on the broad demographics examined, that one could argue the system is more or less responsive with regards to specific population groups which might be considered vulnerable.

The system is very responsive to people who make without notice (urgent) applications with most interim orders being made on the same day.

It is also very responsive to the needs of children, with lawyer for child appointed to represent a child where the court has concerns for the safety or well-being of the child and considers an appointment necessary.

Though the courts are initially responsive when dealing with potentially vulnerable parties, the average time to complete all applications has increased overall since the reforms (as mentioned above).

More research is required in order to further evaluate the responsiveness of the system to children and vulnerable people, to understand whether the out-of-court/in-court process runs smoothly, and to examine the timeliness and outcomes for people who carry on through out-of-court services into in-court justice services.

# Background

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**In 2014, major reforms were made to the Family Justice System. These reforms aimed to give families the opportunity to resolve issues without using formal court proceedings which could be adversarial, exacerbate conflict and costly.**

This paper focuses on the changes made relating to the Care of Children Act (CoCA) processes first proposed in 2012.

The main change in the reforms involved providing services to resolve disputes which families could access without entering the court system. The Family Dispute Resolution (FDR) Service was created, and the Parenting Through Separation (PTS) service was expanded. The reforms also made self-representation to the court mandatory in the early stages of most non-urgent<sup>1</sup> CoCA related applications to the court, and alongside the reforms a Family Legal Advice Service (FLAS) was also created.

## Out of court

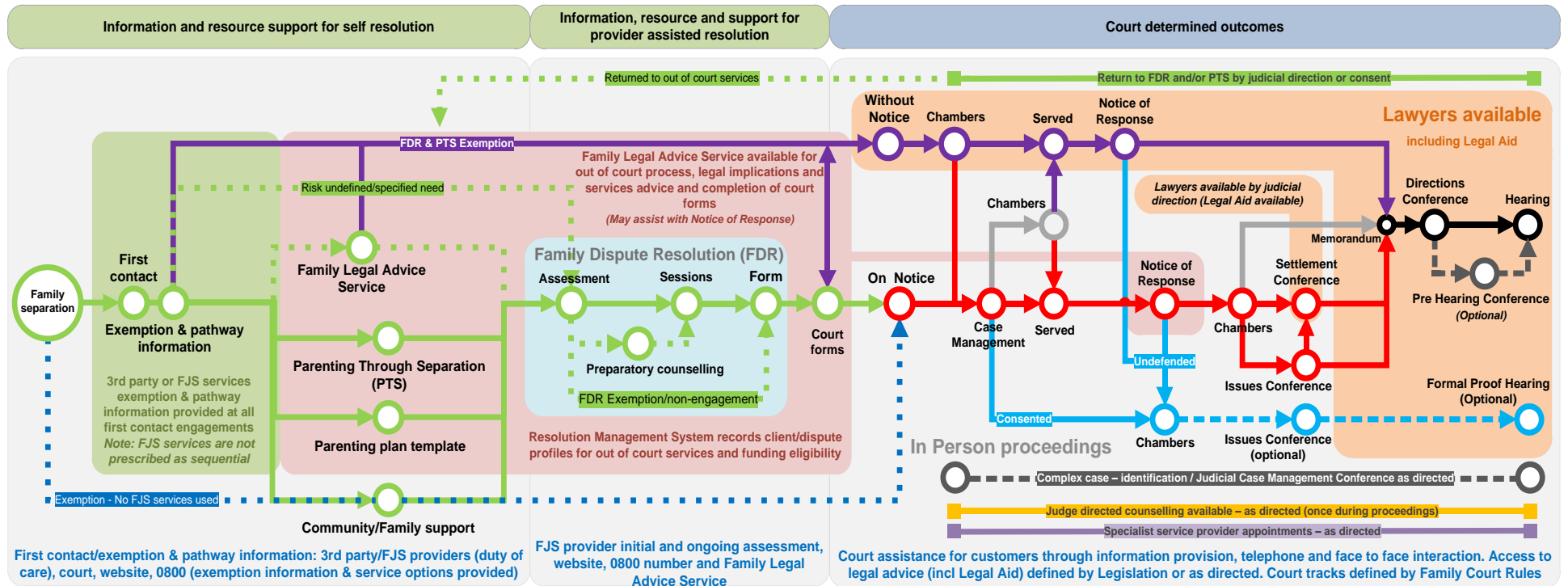
**Family Dispute Resolution (FDR)**

## In court

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<sup>1</sup> On notice applications that are simple track proceedings or up to and including settlement hearings in standard track proceedings.

Figure 1: The Family Justice System following reforms





# Changes along the way

## Changes to Family Dispute Resolution services

On 1 December 2016 the Ministry of Justice (ministry) introduced a more flexible approach to how FDR services are accessed by parties.

The changes responded to findings from a 2015 evaluation of FDR and mandatory self-representation (Ministry of Justice, 2015). The evaluation raised concerns that people felt pressured into reaching agreements and that key stakeholders believed more time was required for parties to prepare for and participate in FDR.

When FDR was introduced in March 2014 parties could attend two mediation events in a 12 month period, with a three month stand down between events. Analysis of the time parties spent determined an average of 5 hours was spent at each mediation event and up to 3 hours in total for preparation for mediation.

The following changes were made so parties felt less pressure by having a specific timeframe in which to complete mediation, and to allow for better preparation for FDR.

- From 1 December 2016 fully funded parties in a dispute became eligible for funding of up to 12 hours for both preparation for mediation and mediation within a 12 month period with no stand- down period.
- Disputes with at least one fully-funded party became eligible for funding of up to 12 hours of FDR in a 12 month period. Any parties that are not eligible for full funding have to pay their share of the costs.
- Disputes where no parties are eligible for free FDR are entitled to 5 hours of FDR twice in 12 months. Each party have to pay their share of the costs.
- All assessments to determine parties' suitability for FDR are completed in addition to the 12 hours and are free for everyone regardless of eligibility.

## Intended benefits of reform

The objectives of the reforms were to achieve a modern and accessible Family Justice system that:

- is responsive to children and vulnerable people
- encourages individual responsibility where appropriate
- is efficient and effective.

The proposals primarily targeted matters relating to the CoCA as these were the largest single category of applications filed in the Family Court -36% in 2012/13 and where costs were rapidly increasing. More specific goals of the reforms included:

From the original proposals for the reforms:

- *providing better information to help people settle disputes without going to court*
- *the cost of providing information and PTS would cost \$4.5m over 4 years (2012/13-2015/16)*

- *FDR will divert at least 1,200 cases from the Court (i.e. 1,200 families will not need to go to court*
- *4,000 fewer applications going to court*
- *the cost of subsidising FDR would be \$3.3m in 2013/14 and \$4.4m in subsequent years*
- *family legal aid costs would be reduced*
- *costs of lawyer for child would be reduced.*

At other times since the reforms other statements have been made about what the reforms might achieve:

- *lawyer for child would be appointed in 30% of cases on simple track and 70% of cases on standard track*

We have focussed on those intended benefits which we can evaluate with the data currently available.

## Methodology

To evaluate the effectiveness of the reforms and assess whether the original goals have been achieved we have compared data before and after the reforms were implemented.

We have examined several key subject areas where it was possible to compare data prior to, and following, the reforms. These include: the volumes and profiles of people accessing justice services, the costs incurred, and outcomes when examining out-of-court services.

In transition periods, when new policy is first implemented, data may be unreliable or fluctuate greatly. In the immediate lead-up to changes people may rush to get as much as possible done under an old policy, and after implementation they may take time to “find their feet” in adhering to the new policy and its reporting requirements.

For these reasons, we focus on comparing the full financial years immediately prior to, and following, the introduction of the reforms. We generally leave the implementation year out of discussion for this reason.

Data from multiple systems has been extracted and collated to form this report. These systems include the Court Case Management System (CMS), the Financial Management Information System (FMIS) and the Resolution Management System (RMS).

The most recent full financial year data was for 2015/16.

# Access to information

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One of the goals of the reforms has been addressed to some extent in previously published qualitative research.

*Goal: As a part of the reforms, the ministry would provide better information to help parties settle disputes without going to court.*

In 2015 an evaluation of FDR and mandatory self-representation in Family Court was undertaken (Ministry of Justice, 2015). Interviews with parents who had been through the system found that information relating to FDR was reasonably easy to locate and understand, but that information relating to mandatory self-representation was difficult to find and use.

Though not specifically in response to the findings, steps have since been taken to make online information easier to find as a part of a 2016 refresh of the ministry's website.

The modernisation of the website included updating content to make it easier to understand and find. For example by providing quick links from the home page to common searches like child custody and separation and divorce. And finally making the site mobile and tablet accessible.

The content on the new site was tested with customers to ensure content was up-to-date and easy to navigate.

For more information relating to perceptions of the process of FDR and self-representations see Ministry of Justice (2015).

# Volumes

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## Applications

### Changes in access through courts: volume of applications<sup>4</sup>

*Goal: 4,000 fewer applications going to court due to FDR.*

Since the reforms, the number and type of new applications to the court each year has changed markedly. Overall, applications have dropped following the reforms. The average number of all family<sup>5</sup> applications for the two years prior to the reforms (2011/12 – 2012/13) was 64,130, and following the reforms (2014/15 – 2015/16) it had dropped by 7% to 59,480 applications.

The drop was even more evident for CoCA<sup>6</sup> applications. The average in the 2 years prior (2011/12 – 2012/13) to the reforms was 23,937 and dropped by 21% (5,139 applications) to 18,798 following the reforms (2014/15 – 2015/16).

One of the goals of FDR was to decrease applications to the Family Court by at least 4,000 applications. The decrease in CoCA applications since the reforms suggests that this goal may have been met. However, without linking courts and out-of-court data we cannot say that FDR is reducing these applications.

In addition, between 2009/10 and 2012/13 there had been a declining trend in all Family Court applications (a decrease of 8% over that period), and a declining trend in CoCA applications from 2010/11 to 2012/13 (a total decrease of 14.5% over the period).

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<sup>4</sup> All figures relating to applications filed in the Family Court are for substantive applications. Refer to the glossary for the definition of substantive applications in the Family Court.

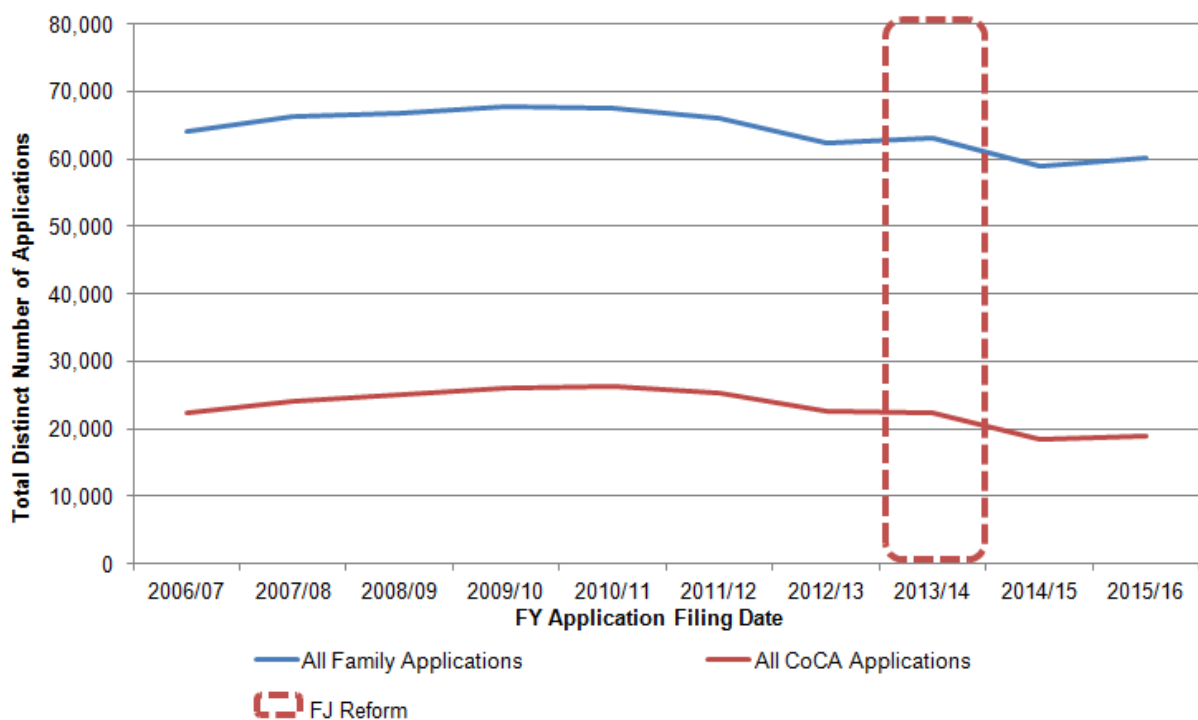
<sup>5</sup> Refer to the glossary for the definition of and types of substantive applications (grouped into case types) dealt with by the Family Court.

<sup>6</sup> CoCA applications generally relate to parenting or guardianship matters.

**Table 1: Family applications and CoCA applications, 2006/07 – 2015/16**

FY Application Filing Date	All Family Applications	All CoCA Applications
	Total number of Distinct Applications	Total number of Distinct Applications
2006/07	64,154	22,315
2007/08	66,390	24,041
2008/09	66,700	24,971
2009/10	67,825	26,096
2010/11	67,509	26,304
2011/12	65,956	25,376
2012/13	62,304	22,498
2013/14	63,120	22,477
2014/15	58,895	18,555
2015/16	60,064	19,041

**Figure 1: Family applications and CoCA applications, 2006/07 – 2015/16<sup>7</sup>**



The total number of all family and CoCA applications has since increased slightly during the post-reform period, indicating a growth of 2% for all family applications and 2.6% for CoCA applications in 2015/16 compared to the previous financial year.

<sup>7</sup> By application filing date

### Changes in access through courts: volume of applications by application filing type

When applying to the court for assistance, applicants can file either on notice or without notice. If an application is filed without notice the application will be considered by a Judge, who decides whether an interim order is needed straight away before the other person gets to have their say.

If an application is on notice, the other person will be given the chance to respond to an application before the court makes an order. Orders for without notice applications are granted if the time needed for the other person to respond to an on notice application could lead to: serious injury, undue hardship, risk to a parent or child’s safety, or a child is being taken out of the country without one parent’s permission.

As expected when proposing the reforms, the numbers of on notice applications have dropped; both in the Family Court as a whole, and for the CoCA cases more directly impacted by the reforms.

For all family applications, the average number being filed as on notice for 2014/15 and 2015/16 decreased by 19% compared to the average in the two years prior to the reform implementation.

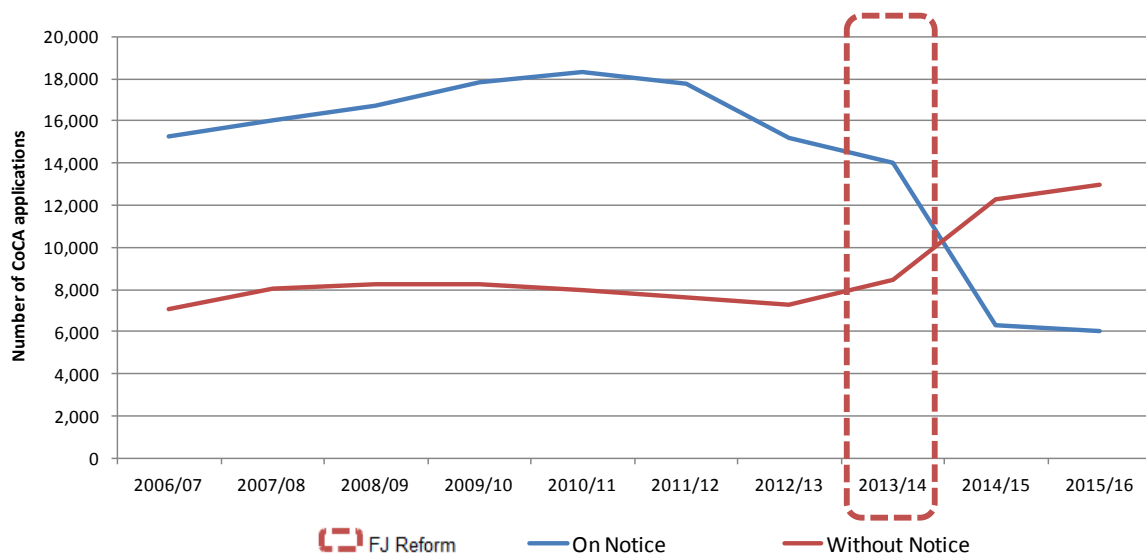
Conversely, the average number of without notice applications increased by 28% between the two years prior to the reforms and the two years following. For CoCA applications, a similar relationship was seen, but was much more pronounced. The average number of CoCA applications filed on notice across 2014/15 and 2015/16 decreased by 63% from the average across 2011/12 and 2012/13. The average number of applications filed without notice for the same years increased by 69%.

**Table 2: Family applications overall and CoCA applications by application filing type (on notice, without notice), 2006/07 – 2015/16**

FY Application Filing Date	All Family Applications		All CoCA Applications	
	On Notice	Without Notice	On Notice	Without Notice
2006/07	48,693	15,461	15,240	7,075
2007/08	50,046	16,344	16,022	8,019
2008/09	50,219	16,481	16,692	8,279
2009/10	51,269	16,556	17,849	8,247
2010/11	51,731	15,778	18,351	7,953
2011/12	50,292	15,664	17,737	7,639
2012/13	46,409	15,895	15,209	7,289
2013/14	45,261	17,859	14,015	8,462
2014/15	39,246	19,649	6,294	12,261
2015/16	39,270	20,794	6,058	12,983

The proportion of CoCA cases which were filed without notice increased from less than 35% in the years prior to the reforms, to over 65% in the two years following the reforms. Figure 2 shows the way CoCA applications have been filed has changed over time. This change appears to be strongly related to the implementation of the reforms.

**Figure 2: Number of on notice vs. without notice CoCA applications<sup>8</sup>, 2006/07-2015/16**



Though the marked increases in without notice applications can be clearly seen in the first year post reforms, they continued to rise in the 2015/16 financial year. For all family applications, those filed without notice increased by 5.8% in 2015/16 compared to the previous financial year. In comparison, there was very little change for on notice applications. For CoCA applications, without notice applications increased by 5.9% in 2015/16, with on notice applications decreasing by 3.7%.

Initial findings of research into the reasons why people use without notice applications carried out by Wehipehana, Spee & Akroyd (2017), on the ministry's behalf suggest:

- applicants want professional representation through a lawyer
- matters are either urgent or time sensitive
- to initiate action towards resolution, often where communication between parties has completely broken down.

Since the reforms, the main way which people can access legal representation early in the process is by filing without notice. This is seen as the key driver towards making without notice applications.

Despite the increase in without notice applications, they are initially dealt with quickly by the courts, either on the day of filing or the next working day; 88% of without notice parenting order applications filed in 2015/16 received an outcome (interim or final) on the same day and an additional 6% on the next day; most of the remainder would have been directed to proceed on notice.

<sup>8</sup> By application filing date.

# Cases

## Changes in access through courts: volume of cases<sup>9</sup>

*Goal: FDR will divert 1,200 cases from going to court.*

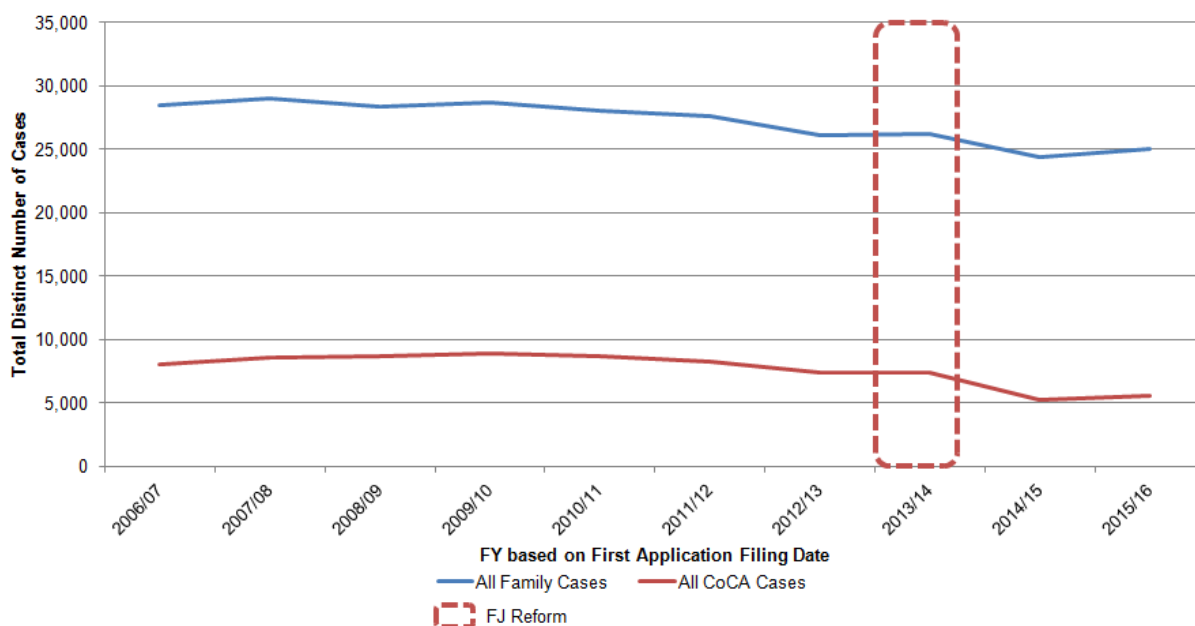
The volumes of both new CoCA cases<sup>10</sup> and family cases<sup>11</sup> overall which go to court have dropped since the reforms have been in place.

The number of new family cases overall has dropped from an average of 26,890 in the two years prior to the reforms (2011/12 – 2012/13) to an average of 24,706 following the reforms (2014/15 – 2015/16); a decrease of 2,184 cases.

Similarly, the volume of CoCA cases has dropped from an average of 7,824 to an average of 5,405; a decrease of 2,419 average cases. The cabinet paper proposing the reforms suggested that 1,200 families would not need to go to court, by resolving their issues through FDR.

Though we cannot directly attribute the drop in cases to FDR at this time, there has been a drop in cases since the reforms, which may be due to the out-of-court services provided not only through FDR, but also through PTS and FLAS.

**Figure 3: New family cases overall and new CoCA cases, 2006/07 – 2015/16<sup>12</sup>**



<sup>9</sup> Tables and figures include both Active and Disposed cases unless noted only cases which have a disposed CoCA application are included in analyses. Cases may still be active, but have disposed applications.

<sup>10</sup> CoCA cases with a substantive application filed in the court relating to the Care of Children Act

<sup>11</sup> Family Court cases with a substantive application filed in the court. Refer to the glossary for the definition of and types of substantive applications (grouped into case types) dealt with by the Family Court. Cases are made up of one or more applications relating to the same Act or group of Acts. Applications filed relating to the same family and Act, even if it is many months or years after the first application, are usually added to the original case.

<sup>12</sup> Based on first application filing date.



Within the post-reform period, there has been an increase in the volume of all family cases by 2.5% and a growth in CoCA cases by 4.3% in 2015/16 compared to the previous financial year. In comparison, the pre-Family Justice reform period was showing a decrease in the volume of cases for both all cases and CoCA cases, with a 5.4% and 10.1% decrease in 2012/13 compared to 2011/12, respectively.

The proportion of CoCA cases against all family cases has shown a gradual decrease from 2011/12 – 2014/15, with a slight increase in 2015/16, dropping from 30% in 2011/12 to 22% in 2014/15.

**Table 3: Number of family cases and CoCA cases, 2006/07 – 2015/16<sup>13</sup>**

FY based on First Application Filing Date	All Family Cases	All CoCA Cases
2006/07	28,502	8,055
2007/08	29,031	8,627
2008/09	28,402	8,719
2009/10	28,626	8,920
2010/11	28,068	8,676
2011/12	27,636	8,238
2012/13	26,144	7,411
2013/14	26,240	7,370
2014/15	24,407	5,291
2015/16	25,005	5,521

## Disputes

### FDR disputes

*Goal: FDR will divert 1,200 cases from going to court.*

The closest proxy to a ‘case’ in the out-of-court system<sup>14</sup> is a ‘dispute’. FDR manages disputes where multiple people can go to mediation to resolve their differences. Just as cases in the Family Court can have multiple applications; disputes in FDR can have multiple mediations.

In 2014/15 over 2,500 disputes that had contact with FDR were finalised. In 2014/15, families involved in 1,194 of finalised disputes completed at least one mediation. In 2015/16 this figure rose 33% to 1,589.

<sup>13</sup> Based on first application filing date.

<sup>14</sup> Note: All non-financial data relating to out-of-court services is extracted from the RMS. Data concerning the same period can vary if extracted at different times from this system.

**Table 4: Finalised FDR disputes, with numbers completing mediation, 2014/15-2015/16<sup>15</sup>**

<b>FY dispute finalised</b>	<b>All FDR Disputes</b>	<b>FDR Disputes which had at least one completed mediation</b>	<b>FDR Disputes which had at least one mediation with full or partial resolution</b>
<b>2014/15</b>	2,619	1,194	1,018
<b>2015/16</b>	3,646	1,589	1,323

Considering disputes as a proxy for cases in FDR, the number of finalised disputes with at least one completed mediation in 2014/15 was just under the 1,200 cases which were expected to be diverted from court when the reforms were proposed.

By 2015/16 the number of finalised disputes with a completed mediation was well over this 1,200 target. Although these disputes might be cases that are deferred from the courts for a time, we have to take into account the outcomes of the process, and whether issues are being resolved upon completion of mediation.

In 2014/15 there were 1,018 finalised disputes which had at least one mediation with full or partial resolution upon completion.

In 2015/16 there were 1,323. We cannot directly link full or partial resolutions to court avoidance currently but if these disputes did not progress to the courts, (and the case volumes through court since the reforms also suggest there may be such a relationship), then the goal would have been achieved in 2015/16.

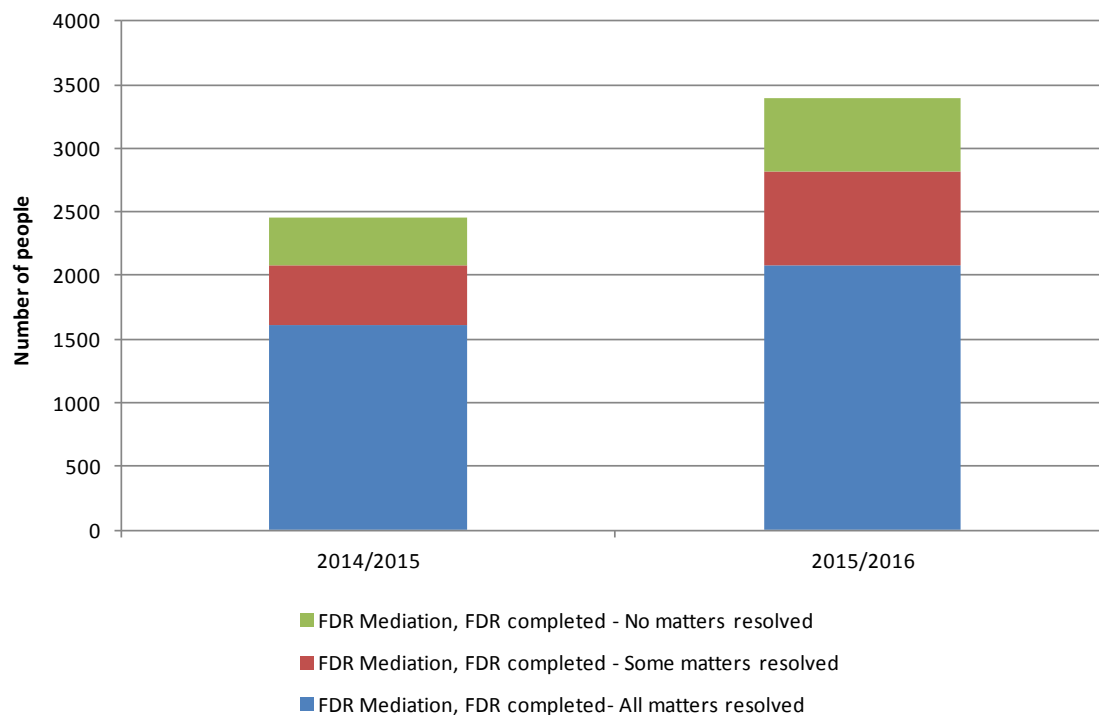
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<sup>15</sup> Based on finalised date.

### FDR disputes: Mediation outcomes

The proportion of people who completed mediations with partial or full issue resolution was 85% in 2014/15 and 83% in 2015/16, well over the 50% stated above. Figure 4 shows a breakdown of the number of people who completed mediations, by the outcomes<sup>16</sup>.

**Figure 4: Number of people with completed FDR mediations, by resolution status, 2014/15-2015/16**



It is important to note that many people never complete mediation. In 2014/15 there were 1,594 people with finalised FDR disputes who were exempted from FDR, withdrew from FDR, or did not sign an agreement to mediation for a dispute.

In 2015/16 this number increased to 2,779. We do not currently have a clear picture of what happens next with these people. They may end up going to court, they may continue to labour with ongoing child custody and access issues, they may end up coming back later to attempt mediation at a later time, or they may resolve their issues independently.

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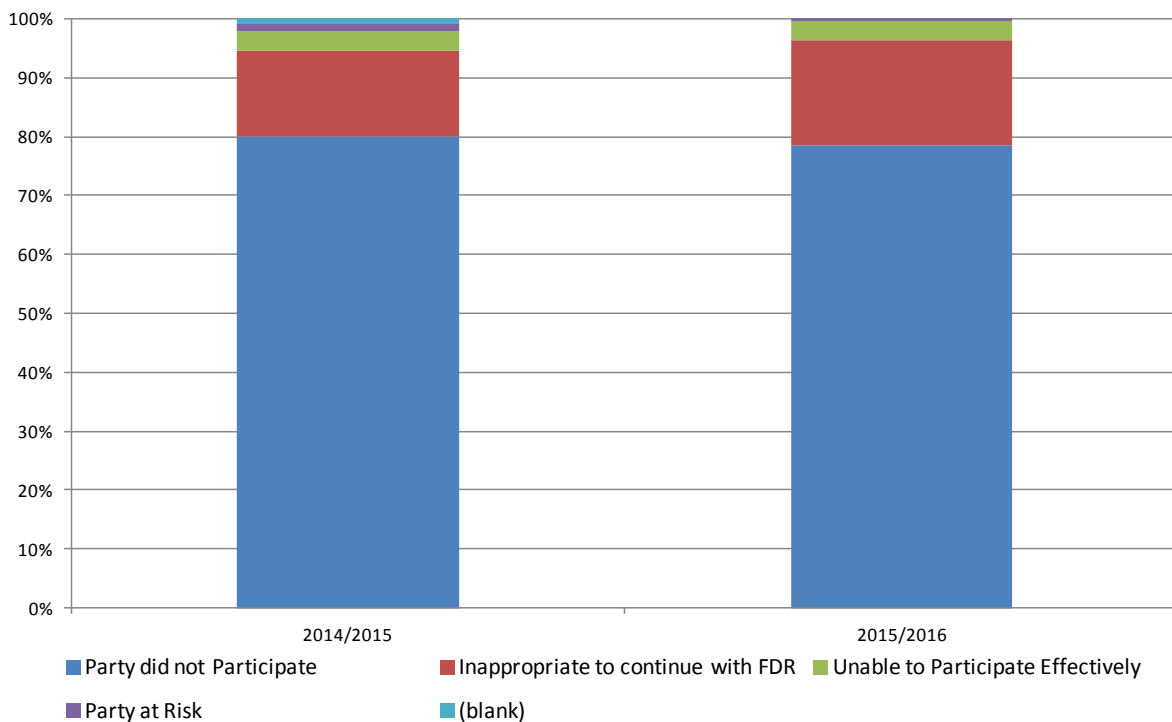
<sup>16</sup> Note: If a person completed multiple mediations with different outcomes in the same year, they are counted once under each mediation outcome.

The reason for the vast majority of exemptions is that parties simply did not participate in FDR.

Figure 5 below shows the breakdown of exemption decisions by reason. For those decisions finalised in 2014/15, 80% of the exemptions were because parties did not participate.

In 2015/16 this proportion remained relatively consistent at 79%. The next highest reason for exemption is that the FDR provider determined that it is inappropriate to continue with FDR; 15% in 2014/15 and 18% in 2015/16.

**Figure 5: Reasons for FDR exemptions, 2014/15 - 2015/16**



Suppliers have been asking people that are exempt for “party did not participate” why they will not participate in FDR and early indications have found that for most they either “did not want to engage in the process”, or they “failed to respond to repeated attempts of contact by the supplier to get them involved in the FDR process”.

## Courses

As mentioned, FDR disputes are the closest equivalent to “cases” in the Family Court, but there are other services which are provided outside of courts too. One of these is PTS courses.

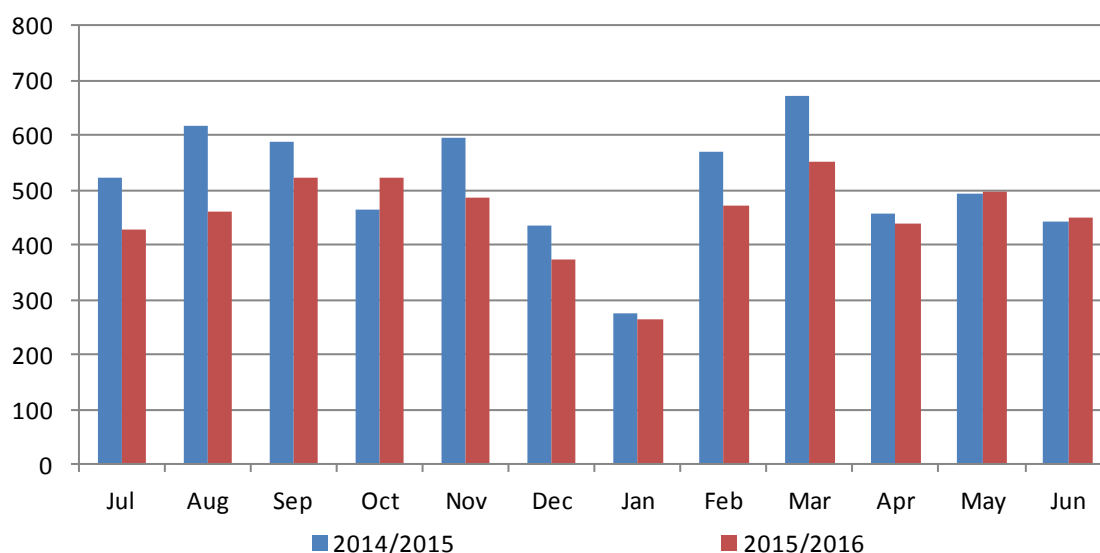
In 2009/10 approximately 2,370 parents attended an initial session of a parenting information course and in 2010/11 around 3,630 attended. Insufficient data was collected to allow reporting on the number of parents accessing PTS courses from 2011/12 up to the reforms.

Many people have attended PTS Courses since the reforms have been in place. Over the 2014/15 and 2015/16 financial year 11,597 people attended at least one PTS session (6,130 in 2014/15 and 5,467 in 2015/16).

Since the reforms the number of parents who have had access to this service increased from an average of 3,000 parents pre-reforms to almost 5,800 post reforms; an increase of over 90%.

As Figure 6 below shows, the number of people attending an initial session in 2015/16 was down consistently on 2014/15. Fewer participants had initial PTS sessions almost every month, with the exceptions of October, May and June. The overall drop from 2014/15 to 2015/16 was almost 11%.

**Figure 6: People attending an initial PTS session, by month, 2014/15-2015/16**



For many, interaction with PTS has been the only interaction with the out-of-court part of the system. This may mean that they are yet to enter FDR, have gone to court instead, or the lessons learned in PTS aided parents in resolving their arrangements for shared care of their children.

## Family Legal Advice

Another element of the out-of-court system is the Family Legal Advice Service (FLAS). Not everyone is eligible to receive FLAS for a dispute. Being funded for FLAS is dependent on an individual’s income and the number of their dependants. (see Appendix 1).

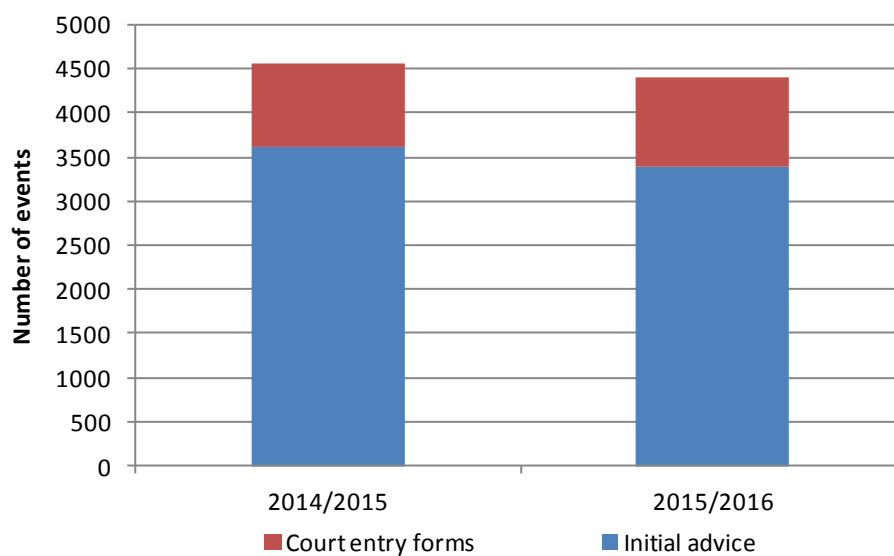
There are two components to FLAS: Initial advice and assistance in filling out court entry forms.

Initial advice informs parents about their rights and responsibilities regarding children, legal options regarding their care, and what Family Justice services are available and how to use them.

A large number of people have been through FLAS since the reforms. In total, 6,914 people engaged with FLAS for the first time in 2014/15 and 2015/16; 3,616 and 3,298 respectively.

The number of finalised FLAS events that took place in 2014/15 and 2015/16 is shown below. The vast majority of events were initial advice sessions (78% across the two years). People are able to have one initial advice session, and one court entry form session each year, for each dispute they have.

**Figure 7: Finalised FLAS events, by type, 2014/15-2015/16**

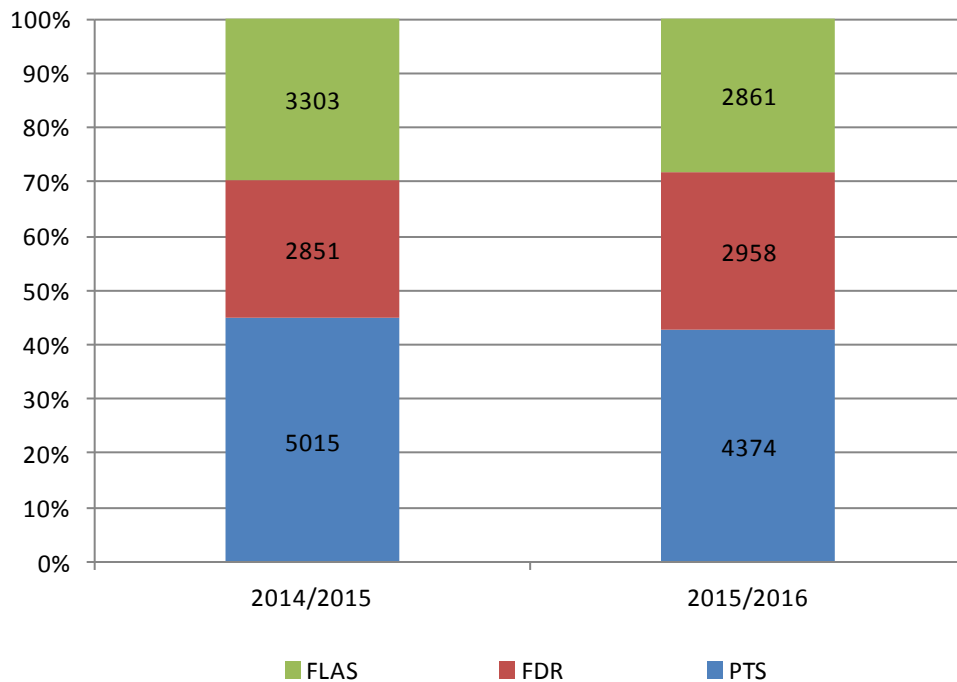


## Out-of-court access

### Access channels

FDR is only one component of the out-of-court system. Since the reforms have been in place there have been a number of channels which people can use to access Family Justice. There are three access points in the out-of-court Family Justice arena: FDR, PTS and FLAS.

**Figure 8: People’s first interaction with the Family Justice system out-of-court, by financial year of first interaction**



Though there is reasonable spread among the different potential streams for first interaction with the out-of-court Family Justice System services, PTS is the area with which most people first interact. PTS had 44% of first contacts, over 2014/15 and 2015/16 combined, with FLAS having 29% and FDR having 27%.

Prior to making contact with the out-of-court Family Justice System, or the Family Court, people may engage other avenues for information and advice. Information sources include the Citizens Advice Bureau (CAB), personal lawyers, Child, Youth and Family lawyers, community law centres, courts or other ministry staff, and the ministry website.

Depending on the advice received via these avenues people might decide which out-of-court service to attend, or whether to apply directly to the court for assistance.

#### Combinations of out-of-court services accessed

After initial access of the out-of-court Family Justice System services people may disengage from further use of the services, or they may use one of the other services which are available outside of court.

Though FDR is often a focus of the discussion around out-of-court services, many people have accessed out-of-court services without ever accessing FDR.

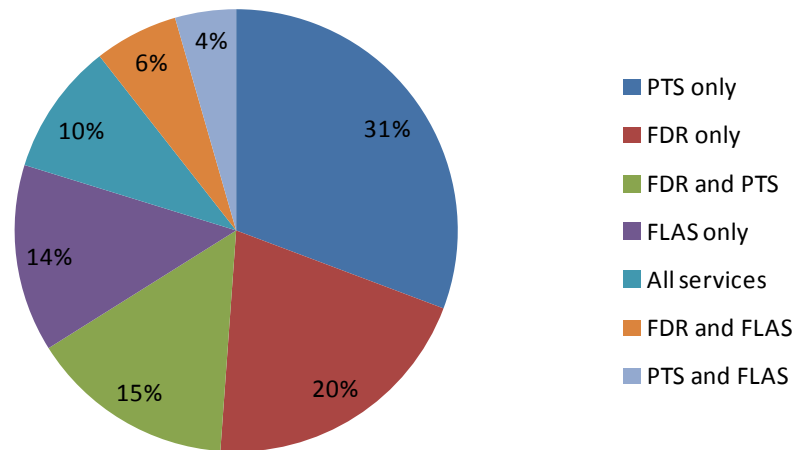
As Figure 9 below shows, since the reforms have been in place, 31% of people who entered the system had only accessed PTS services up until the end of May 2017, and 14% had accessed only FLAS.

These people may have disengaged with the system because they had positive outcomes, or they have moved on to the court system, or they did not want to enter mediation or the cost of FDR was too high. These people also may have yet to engage in FDR.

In total, 20% had contact with only FDR, and 35% had some combination of FLAS, FDR and PTS by the end of May 2017. When looking at contact with out of court services in this way, it seems that there

may be an argument made that the services provide “different strokes for different folks”. Also not everyone may need to go through to using FDR.

**Figure 9: Proportion who first made contact with out-of-court services from 2014/15 and 2015/16, split by services contacted up to 31st May 2017.**



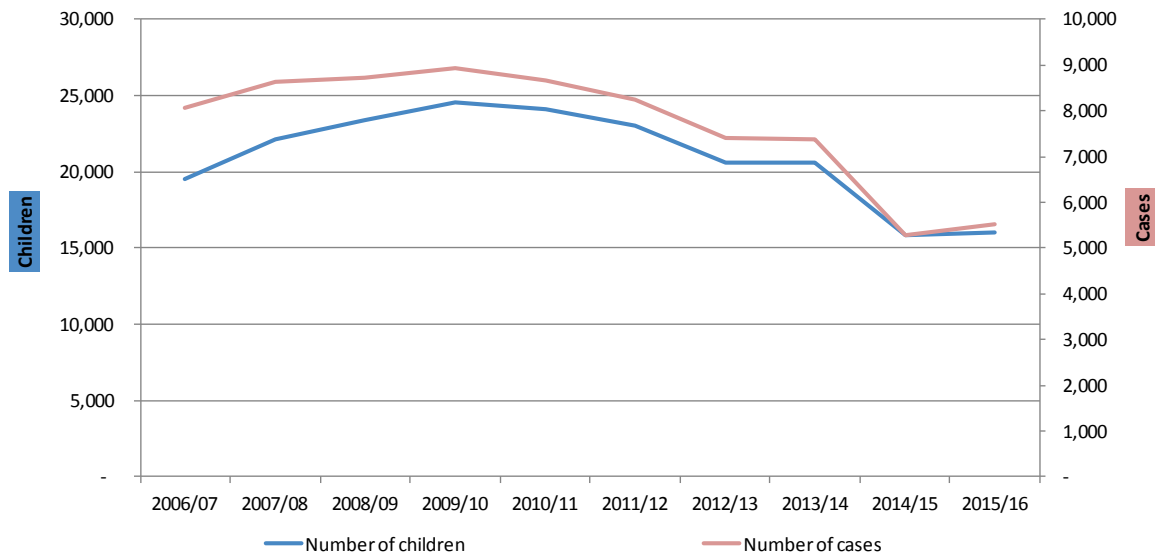
## Children

Alongside the goal of 1,200 cases being diverted from courts through FDR, there was an estimate that this would affect 2,000 children.

The number of children associated with guardianship cases each year can be seen in Figure 10. There was a sharp decline of almost 4,800 between 2013/14 and 2014/15, with numbers levelling out in 2015/16. The reforms could have contributed to this decline.



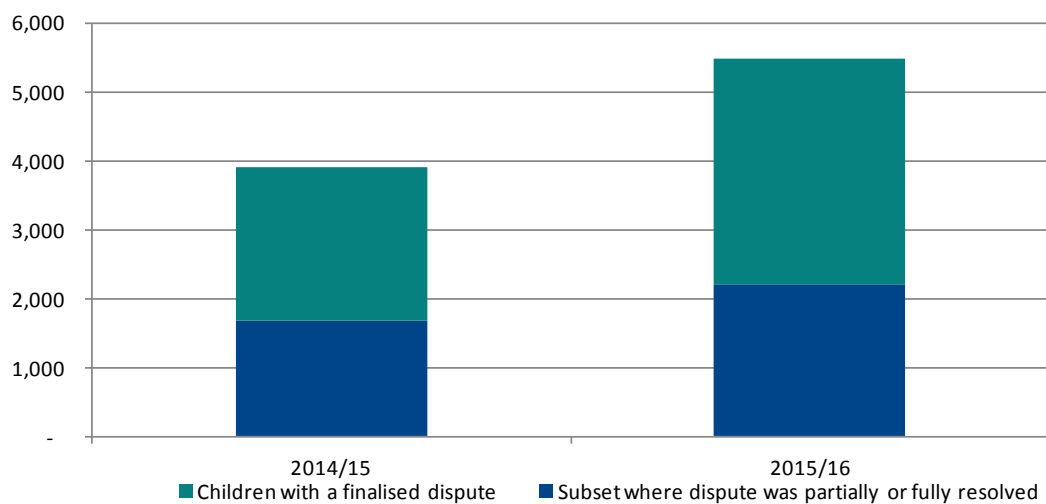
**Figure 10: Number of children<sup>17</sup> associated with guardianship cases, by financial year**



Out-of-court data suggests the reforms have reduced the number of children involved with CoCA court cases. There were almost 4,200 children linked to finalised FDR disputes in 2014/15.

This number increased to just under 5,900 in 2015/16. The number of children involved in disputes where there was partial or full resolution (i.e. those potentially diverted from court) was 1,677 in 2014/15 and increased to 2,200 in 2015/16. This was above the 2,000 predicted when proposing the reforms.

**Figure 11: Number of children associated with finalised disputes<sup>18</sup>, 2014/15-2015/16**



<sup>17</sup> Children are counted once under each year in which they had an application filed.

<sup>18</sup> Children are counted by year in which the dispute to which they were associated was finalised.

Information relating to the number of children associated with PTS attendees is not collected.

## Lawyer for the child

One of the goals of the reforms was a reduction in the costs of “lawyer for child” assistance. Lawyers for children are available as a part of the in-court process.

The lawyer for the child:

- represents the child in the court process and any negotiations between parties to the case
- explains the court process to the child in a way they can understand
- makes sure the Judge is told what the child thinks and is told about all the things relevant to the child’s welfare and best interests
- explains the judge’s decision to the child and talks with them about how it will affect them.

Multiple issues were seen with the lawyer for the child prior to the reforms. These included a duplication of roles between lawyer for child and counsel to assist, no clear role definition for lawyer for the child (now clear as detailed above), and no clear direction on when to appoint a lawyer for the child.

It was expected that with a reduction in the business going through the Family Court, fewer lawyers for children would need to be appointed (except for the most vulnerable children), and associated costs would decrease. In addition, the fees that a lawyer for child could charge would be restricted.

Though not in the proposals for the Family Court reform, the expectation was that the reduction would be particularly evident in simple track proceedings.

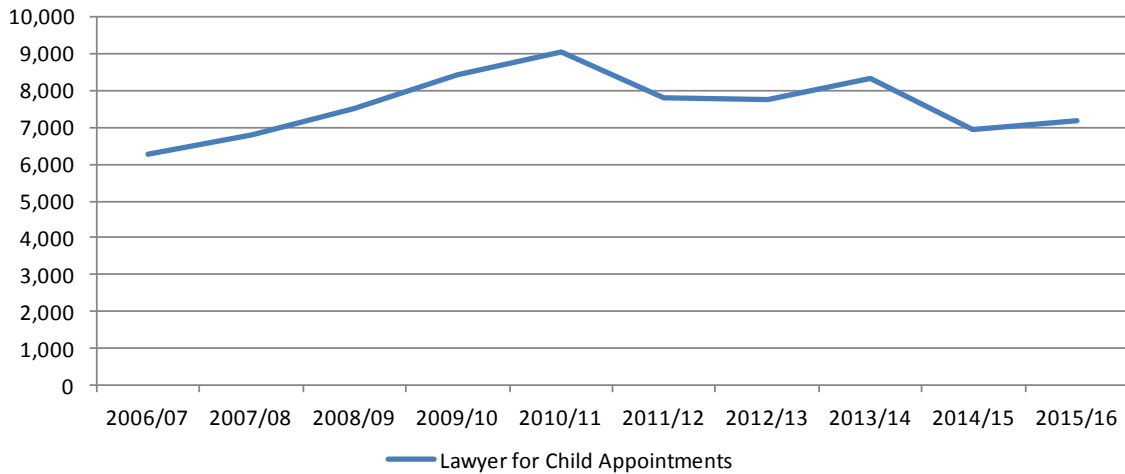
The reforms may have had a small effect on the volumes of lawyer for child appointed for CoCA cases.

Following an increasing number of CoCA lawyer for child appointments between 2006/07 and 2010/11, numbers had started declining by the time the reforms were implemented. There was a spike during the implementation year of the reforms, consistent with the increased volume seen in court applications just prior to the reforms, then a decrease in appointments.

The number of CoCA lawyer for child appointments in 2014/15 (6,915) was at its lowest since 2007/08 (6,810). From 2012/13 (the financial year prior to implementation) to 2014/15 (the first full financial year following implementation) there was an 11% drop in the number of appointments.

This drop may have been due to the reforms, but it is hard to attribute it directly to the reforms due to the declining number of appointments in the years prior to implementation. During the period post reforms there has since been a 3.9% increase from 2014/15 to 7,185 in 2015/16.

**Figure 12: Number of appointments for lawyer for the child under the Care of Children Act, by financial year**



*Goal: Lawyer for child would be appointed in 30% of cases on simple track and 70% of cases on standard track.*

To get an idea of which tracks require a lawyer for the child, we examined the track which each case was on when it was disposed and counted the number of cases in each of those tracks which had required a lawyer for child at any time during the life of the case.

Post-reform proportions of disposed CoCA cases with lawyer for child services indicate the goal of lawyer for child appointments on only 30% of simple track cases and 70% of standard cases may not have been achieved. Post-reform proportions show 63% of cases disposed in 2014/15 on the simple track and 78% of cases disposed on the standard track required a lawyer for child at some time during the life of the case.

The proportion of disposed cases with a lawyer for child on the without notice track increased from 84% to 86%, in 2015/16 compared to the previous financial year. The proportion also increased for the simple track from 63% to 71%.

Other tracks decreased from 77% to 59% for no track/other, and 78% to 76% for standard track, respectively.

**Table 5: Total proportion of disposed CoCA/ Hague cases based on total number of cases with a lawyer for child per track by financial year**

Track	FY of Disposal Financial Year of Case									
	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16
No track/other	37%	45%	49%	56%	65%	62%	63%	68%	77%	59%
Simple								60%	63%	71%
Standard								72%	78%	76%
Without Notice								83%	84%	86%

*Goal: the system would be responsive to vulnerable people and children.*

The figures suggest that, although there may have been a slight reduction in the appointment of lawyer for children due to the reforms, it was not a major decrease.

In addition, the expectation that few simple-track cases would need a lawyer for the child has not been met. The evidence does suggest that the system continues to be responsive to the needs of children. A lawyer for child is appointed when deemed necessary by the court. It is hypothesised that judges want to be satisfied that, even in simple track cases, the agreement reached by parents in dispute is in the best interests of the children involved. Though this might be contrary to the expectation created by the reforms in terms of cost reduction, it shows the value and importance that continues to be placed on continuing to protect the rights and representation of children.



# Costs

**C**ost is an important consideration when evaluating whether the reforms have delivered as intended. If the reforms were otherwise effective, but costs were well over expectation, then the reforms could be considered to have failed in their intent.

In-court and out-of-court costs related to dealing with CoCA related issues have been tracked from 2010/11 to the 2015/16 financial year to examine whether the reforms have met expectation in terms of costs, and, where possible, in terms of proposed savings.

Proposals for the reform were based on data ending in 2010/11.

Prior to proposing the reforms, alongside the volumes going through the courts, Family Court costs had been increasing substantially.

Also as seen with volumes, costs had already started trending down between proposal and implementation.

Costs<sup>19</sup> across the system have generally decreased since the reforms; but, costs began reducing in the two years immediately prior to the reforms. During the period examined they dropped 8.9% from 2010/11 to 2011/12 and by 8.5% from 2011/12 to 2012/13. The largest drop in costs since 2010/11 occurred between the implementation year of 2013/14 and 2014/15 (14%). If examining the drop from the last full financial year prior to implementation i.e. 2012/13 to 2014/15 then the drop was 17%.

**Table 6: Family Justice System costs related to CoCA: (actual) 2010/11 – 2015/16 (\$millions)**

FY	2010/2011	2011/2012	2012/2013	2013/2014	2014/2015	2015/2016
In-Court Costs	44.2	38.1	34.3	34.0	27.2	29.4
Legal Aid - Care Of Children	17.7	17.5	15.8	14.7	10.8	10.0
Legal Aid - Guardianship	11.4	11.3	11.1	9.9	8.6	7.0
<b>Total In-court</b>	<b>73.4</b>	<b>66.9</b>	<b>61.2</b>	<b>58.6</b>	<b>46.6</b>	<b>46.4</b>
FDR - Funded	0.0	0.0	0.0	0.1	2.1	3.3
FDR - Top Up	0.0	0.0	0.0	0.0	0.7	0.7
PTS	0.4	0.3	0.3	0.4	0.7	0.7
FLAS	0.0	0.0	0.0	0.2	1.1	1.1
<b>Total Out-of-Court</b>	<b>0.4</b>	<b>0.3</b>	<b>0.3</b>	<b>0.6</b>	<b>4.5</b>	<b>5.8</b>
<b>Total Costs</b>	<b>73.8</b>	<b>67.2</b>	<b>61.5</b>	<b>59.2</b>	<b>51.2</b>	<b>52.3</b>

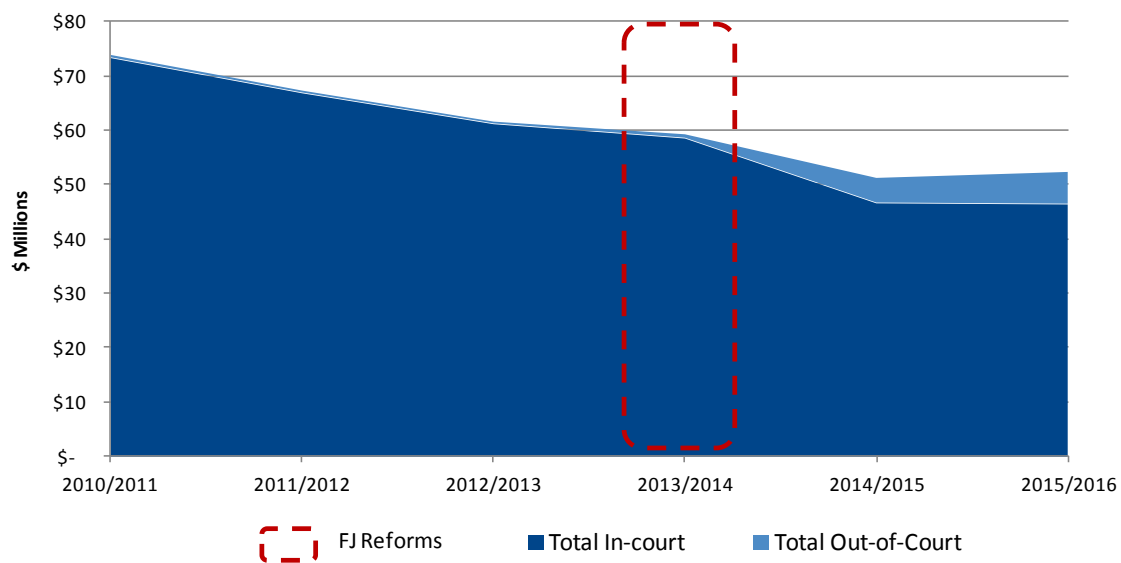
Note: In court costs are also known as Professional Services.

Note: legal aid costs include both finalised and non-finalised cases as at April 14<sup>th</sup> 2017. Non-finalised cases are subject to change as additional costs can be incurred on those cases.

Note: Cost contributions toward court services, which parties can be ordered to make, are excluded from costs reporting.

Following the drop in costs from pre reform to post reform period, there has been a slight increase in cost post reform (2.1%) from 2014/15 to 2015/16.

**Figure 13: Family Justice System costs by financial year, 2010/11-2015/16**



FLAS has cost much less than originally budgeted in April 2013.

FLAS was expected to cost \$2.8 million in 2013/14 and \$3.7 million in each of the two years following. Instead, it cost \$0.2 million in 2013/14 and \$1.1 million in each of the two years following.

It is hypothesised that this is due to the increase in without notice applications and, for those matters that are on notice, applicants being able to get a judge's direction that they could have legal representation in more instances than anticipated. Therefore, FLAS was not being used as much as predicted.

*Goal: Information and PTS were expected to cost \$4.5 million over the four years from 2012/13-2015/16.*

As noted in Table 6, PTS cost \$2.1 million over the four years from 2012/13 to 2015/16.

Publishing and advertising costs of \$1.5 million added to PTS costs gives a total \$3.6 million over the period. This is \$0.9 million less than of the budgeted \$4.5 million.

*Goal: Cost of subsidising FDR would be \$3.3 million in 2013/14 and \$4.4 million in subsequent years.*

The cost of funding FDR (including subsidies and provider related costs) was \$2.8 million in the first full financial year in operation (14/15), and \$4.0 million in the next financial year (15/16).<sup>20</sup>

*Goal: Reduce legal aid costs.*

One of the goals of the reforms was to that there would be reduced legal aid costs by introducing mandatory self-representation for some parts of the court process, and because applications would be reduced by the out-of-court options available.

At the same time as the reforms were implemented there was a review of the legal aid fee schedules. Combining the two sets of changes made good sense – providers did not have to cope with changes to legal aid fixed fees schedules that had a staggered release over time and the changes to the CoCA fixed fees supported the Family Justice reforms. It was considered cost-effective to make the changes to the systems at the same time.

<sup>20</sup> This has come in under appropriation as set out in cabinet minute CAB Min (12) 25/10.

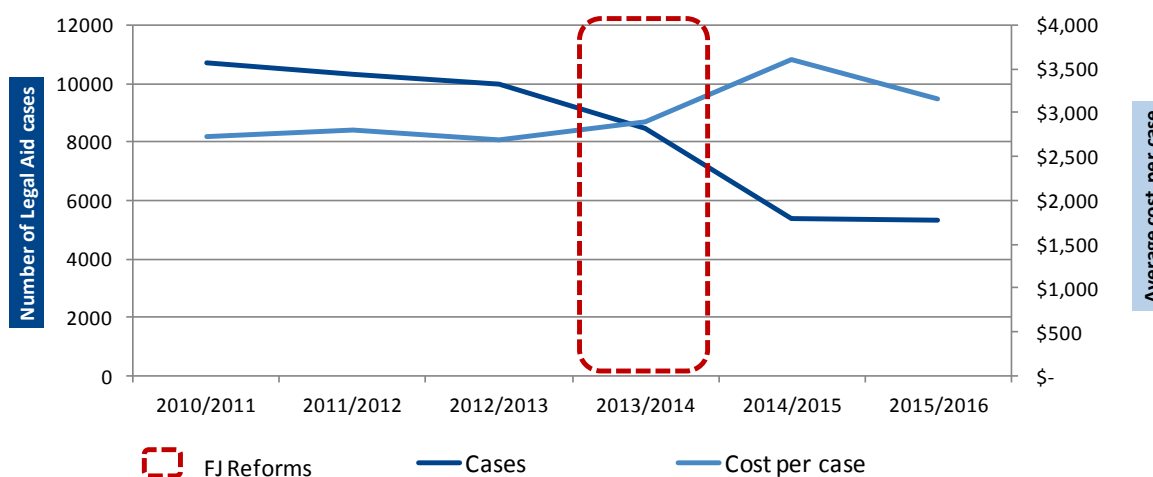
Legal aid costs for CoCA and Guardianship cases have decreased since the reforms have been in place.

The average cost per year between 2010/11 and 2012/13 was \$28.3m. The average in the two years following the implementation year for the reforms was \$18.2m.

The overall costs over six years dropped from \$29.1 million in 2010/11 to \$17 million in 2015/16, representing a 42% decrease. Due to the legal aid changes occurring at the same time as the reforms, and the declining trends that lead up to the reforms, we cannot directly attribute the decline in costs to the reforms alone.

We can see in Figure 14 that the reductions are due to fewer legally aided guardianship and care of children cases going through the courts. However, the average cost per case for these cases has increased. This may be due to the changes to the fixed fees and the increased complexity of the cases coming through the system. Those cases which may have taken less time, and cost less, before the reforms may now be being dealt with out of the courts.

**Figure 14: Legally aided CoCA cases<sup>21</sup>, 2010/11 - 2015/16**



Note: Includes both finalised and non-finalised cases as at April 14<sup>th</sup> 2017. Non-finalised cases are subject to change as additional costs can be incurred on those cases

*Goal: Reduced costs of lawyer for the child.*

One of the goals of the reform was a reduction in the costs of “lawyer for child” assistance. It was expected that, with a reduction in the business going through the Family Court, fewer lawyers for children would need to be appointed and the cost would decrease.

In the cabinet paper proposing the reforms it is mentioned that the cost of Lawyer for child had reached \$25.4 m in 2010/11. Assuming that the costs in Table 7 below are those mentioned in the document, then after a 16% decline in costs from 2010/11 to 2012/13, there was a spike in the year which the reforms were implemented (11% increase from 2012/13 to 2013/14).

This spike is consistent with the increases in applications in 2013/14. In the first year following implementation of the reforms (2014/15) the costs of lawyer for child assistance dropped to their lowest levels in the 6 year period examined. This drop in costs, which is likely to be due to the reforms, was not large, and has not been sustained. The 2015/16 actual costs are in line with the actual costs from 2011/12 and 2012/13; the two financial years immediately prior to the reforms.

<sup>21</sup> Defined as having a primary matter of ‘guardianship’ or ‘care of children’.

**Table 7: Lawyer for child costs (actual) 2010/11 – 2015/16 (\$millions)<sup>22</sup>**

Description	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16
Total Lawyer for Child Costs	25.4	22.0	21.4	23.7	20.9	22.0

## Timeliness

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**T**he reforms were intended to make the justice system more effective and efficient. To examine whether they are more efficient, we look at the time it takes from assessment to completion of FDR mediations and compare this to timeliness to dispose applications in court prior to the reforms.

## Courts

### Timeliness in disposing CoCA applications

With the changes brought about by the reforms the number of applications going through the courts has decreased. Since the reforms, the time taken to dispose of cases with CoCA applications has increased.

As Figure 15 shows, the 12 monthly average time taken to dispose these cases dipped in March 2014 but has risen following the reforms and has remained higher than the period pre-reforms presented below.

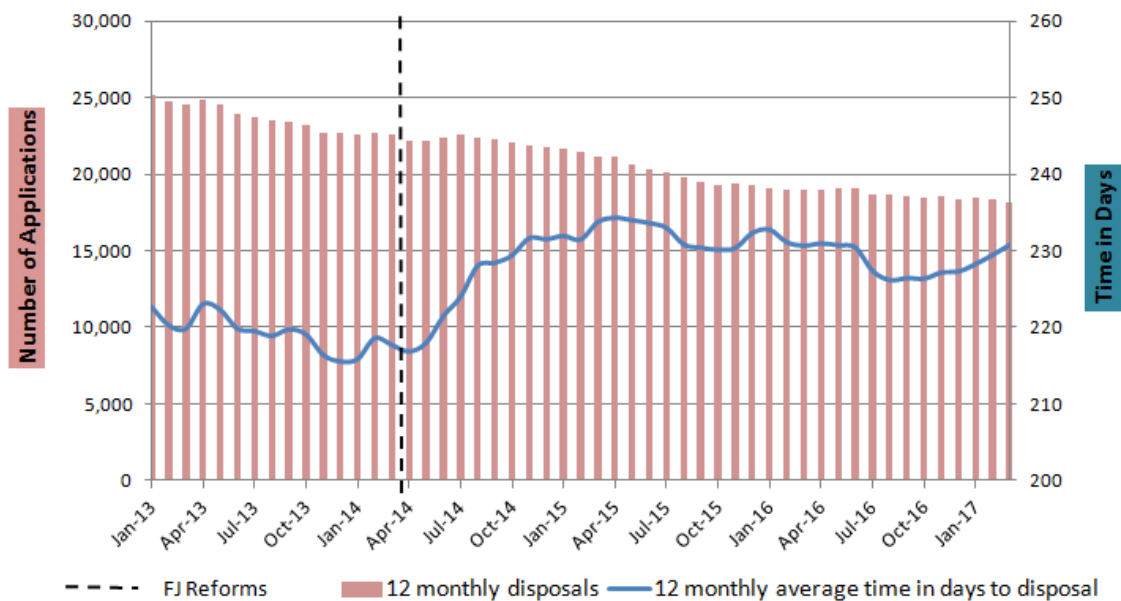
The overall average in the 26 months pre-reforms was 220 days and this average has increased to 232 days on average across the 36 months post reforms.

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<sup>22</sup> Does not account for revenue from cost contributions which parties can be ordered to make.



**Figure 15: 12 Monthly CoCA applications disposed and average time in days**



This increase is expected, as the simpler, or less acrimonious, disputes are potentially handled out of courts following the reforms as intended. The more difficult disputes, due to either complexity or relationship breakdown, are more likely to progress into courts. They are also likely to take longer to dispose and consequently drive the court disposal times up.

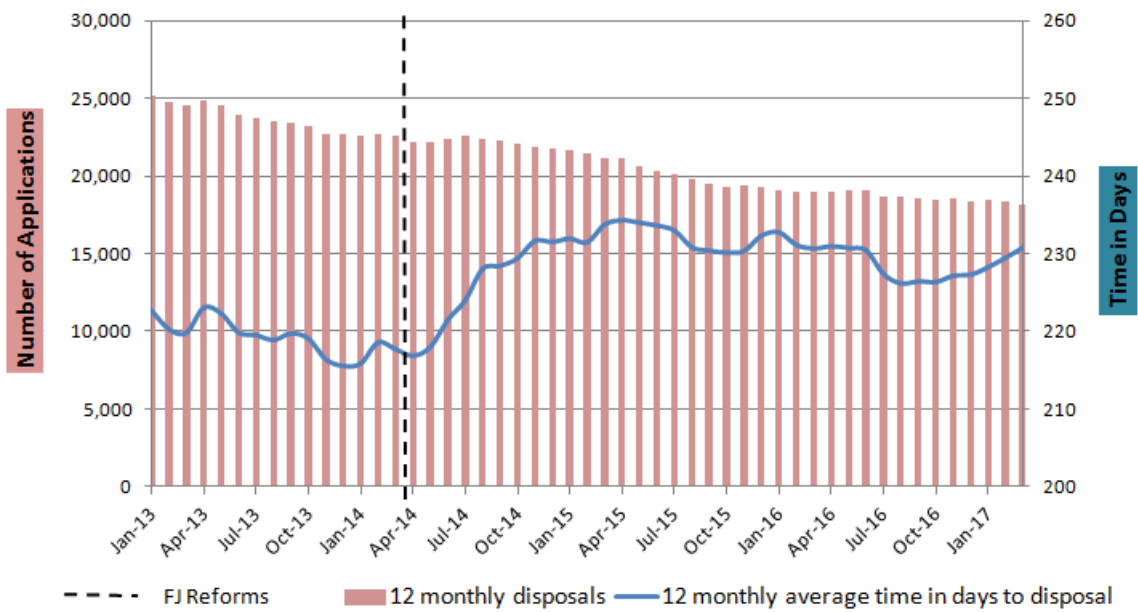
In addition, qualitative research into without notice applications indicates that, since the reforms, without notice applications and associated processes are congesting the system and delaying less urgent, but still necessary, work toward disposing cases.

There is also a view that applications from self-represented applicants require more judicial time because their applications are more likely to be incomplete or difficult to understand (Wehipehana, Spee & Akroyd, 2017).

#### Timeliness in disposing total applications in Family Court

The relationship between the reforms and timeliness in the Family Court overall is less clear than that for the CoCA applications. This is not surprising as the reforms were aimed primarily at affecting CoCA applications, and these applications only made up 32% of all new applications filed in the Family Court in 2015/16.

**Figure 16: 12 Monthly Family Court total applications disposed and average time in days**

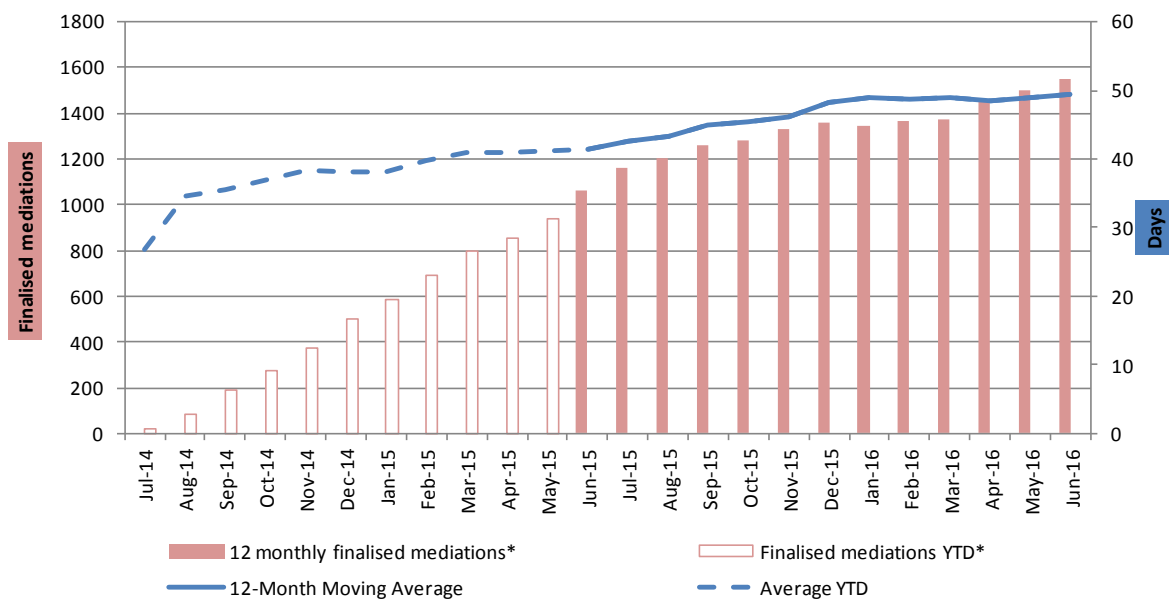


## Out-of-court

PTS and FLAS only have one or two events and the time taken between these events is not considered to be reflective of system efficiency. Time taken from first contact with a provider or supplier to the delivery of the course or advice would be more indicative but that information is not currently available.

### Timeliness in resolving disputes through FDR

**Figure 17: 12 Monthly FDR mediations finalised and average time to finalise in days**



\*based on finalised date

The length of time it takes to complete an initial FDR mediation is much shorter than time to dispose a CoCA application in the court.

Over the 2014/15 and 2015/16 years the average disposal time for CoCA applications in courts was 232 days, and for the 26 months prior to the reforms it was 220 days.

In comparison, the average time to finish an initial mediation<sup>23</sup> was approximately 46 days.

At face value, these results suggest that the reforms may have made dealing with issues in the Family Justice System more timely, however, people having an initial mediation may go on to have multiple mediations and people who complete mediation, whether successful or not, could go on to court anyway.

For these people, the time taken out-of-court would need to be added to their in-court disposal times to get a true picture of whether the system is any more efficient to before the reforms.

The time it takes for people to progress through the current system, out-of-court and in-court, compared to the system before the reforms, essentially courts alone, has not yet been examined. More research and analysis is required in this area.

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<sup>23</sup> A dispute can have multiple mediations and a mediation can consist of multiple sessions spread over time. We have only examined initial mediations for each dispute.

# Family Justice Profiles

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**O**ne of the broad intended benefits of the Family Justice reforms was greater responsiveness to vulnerable people and children.

We examined the profiles of applicants and respondents going through Family Court against those out-of-court to get an idea of whether different, and potentially more vulnerable, populations are more likely to appear in one or another.

If there were significant differences, then further investigation would be required into whether what is being offered is appropriate.

This section looks at the profiles of those people who have made contact with the in-court<sup>24</sup> and out-of-court justice system. The out-of-court system figures include those people who did not go on to complete courses or mediations, but engaged with the system at some point to make an initial contact.

## Ethnicity

### **Ethnic group: First contact with out-of-court services**

The ethnicity information of many people who make contact with out-of-court Family Justice services is unknown.

This is particularly true for PTS and FLAS entries into out-of-court services.

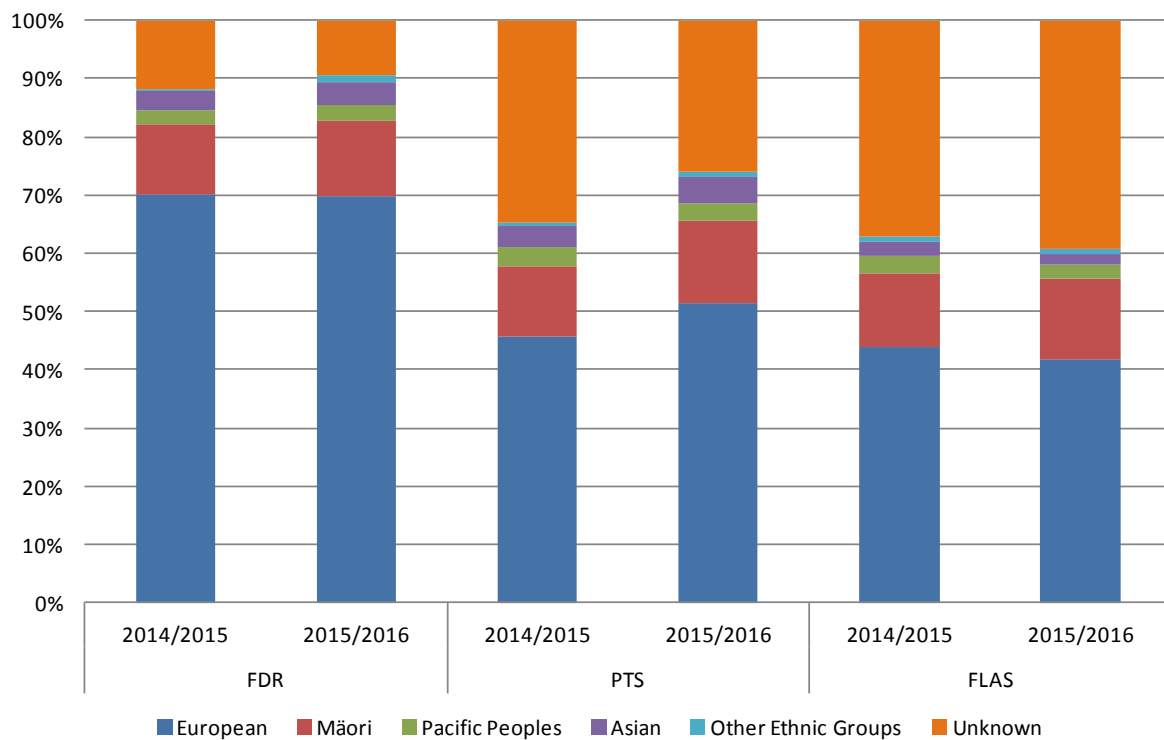
Across 2014/15 and 2015/16 an average of 10.5% of people first making contact through FDR had no ethnicity information. There was no ethnicity information for an average 30.4% of those whose first contact was through PTS, and an average 38% of those whose first contact was through FLAS.

We believe that the nature of FDR disputes, and the collection practices of the providers, are the reason why there is more complete ethnic group information for FDR.

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<sup>24</sup> All in-court service demographic information relates to anyone who has been to court with a CoCA application (whether disposed or not).

**Figure 18: First contact with out-of-court Family Justice services split by channel and ethnicity for 2014/15 and 2015/16**



Across the three services the proportion of Māori, Asian, Pacific peoples, and Other Ethnic Groups has stayed stable.

Across the three services the Unknown group occupies a smaller percentage within the FDR service, indicating that FDR services are recording more of their client’s ethnicity data. After discounting the Unknown group the FDR services show a slightly different ethnic makeup than the other two services due to a slightly greater percentage of Europeans using the service and a smaller percentage of Māori.

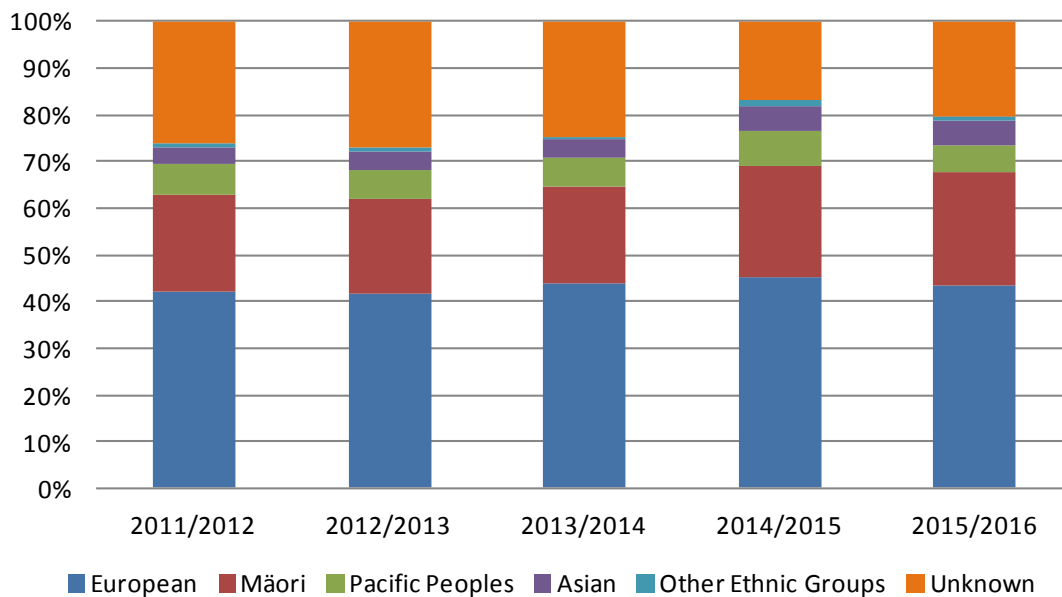
Due to the large proportion of people with Unknown ethnicity, it is difficult to make meaningful comparisons among different initial points of contact, or with the ethnicity of those who enter courts. While it is possible that when the Unknown group is excluded we are still capturing accurate data, it is also possible that some groups are less likely to have their ethnicity recorded, which would skew these results.

#### Ethnic group: CoCA in-court services

For CoCA cases, the proportion of Europeans exceeds other ethnic groups, showing the highest proportion followed by an Unknown ethnic group, Māori, Pacific Peoples, Asian and Other Ethnic groups for post and pre-reform.

The proportion of all ethnic groups remained relatively stable across five financial years - Europeans at an average of 43%, followed by Unknown Ethnic Groups (23%), Māori (22%), Pacific Peoples (7%), Asian (4%) and Other Ethnic Groups (1%).

**Figure 19: Ethnicity of applicants and respondents for all CoCA cases by financial year, 2011/12–2015/16<sup>25</sup>**



When discounting for the Unknown category for CoCA cases, Māori respondents had the largest increase between 2011/12 and 2015/16 increasing from 28% to 30%. The European group had the largest decrease over the same period, decreasing from 57% to 55%. The proportion of all the other ethnic groups has remained relatively stable even with the Unknown category discounted.

As with out-of-court services, Europeans are the largest user group, making up a similar proportion to Europeans in FLAS. Once again there are large unknown groups within the sample, so reaching any meaningful conclusion is difficult.

### Comparing in-court and out-of-court

Both in-court services and out-of court services are similar with respect to the proportions of ethnic groups accessing the services: Europeans are the largest, followed by Māori. However, the proportion of in-court service users who are Māori is much larger than the proportion of Māori in any of the three out-of court services.

Though this may indicate a preference by Māori to use in-court rather than out-of-court services the large percentage of service users with unknown ethnicities in all programmes means there is insufficient evidence to reach any conclusions on similarities or differences between the services.

<sup>25</sup> Based on financial year of first application filing date.

# Gender

## Gender: First contact with out-of-court services

Overall, there is a larger proportion of females making contact with out-of-court services than males. In 2014/15, 51.6% of initial contacts with out-of-court services were by females, 36.3% by males, and 12.2% unknown. In 2015/16 this was similar – 53.9% female, 38.6% male and 7.5% unknown.

**Figure 20: Gender split of first contact with out-of-court services, 2014/15 and 2015/16**



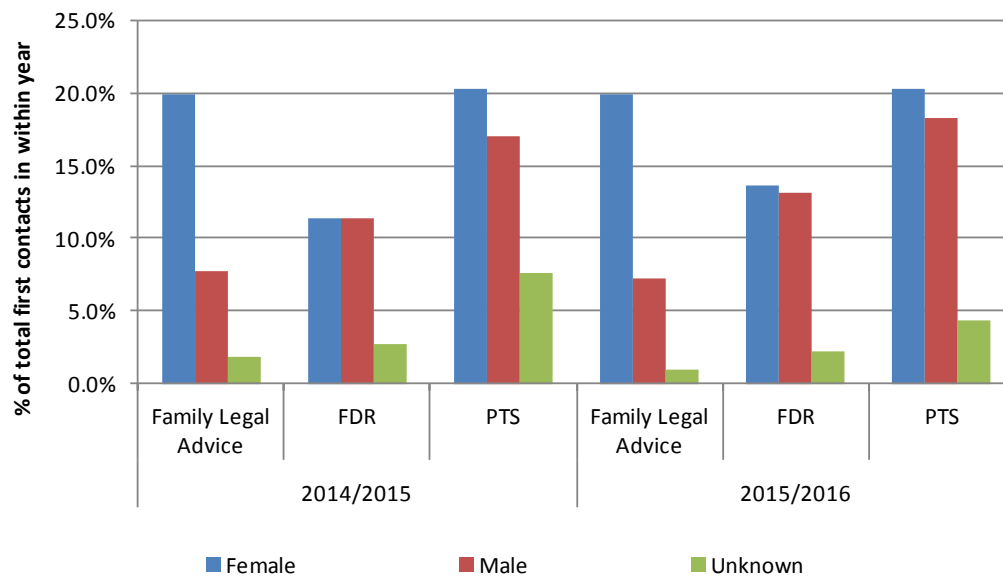
The channel of first contact with out-of-court Family Justice services varies depending on gender, though PTS is the most likely first point of contact for both women and men; with female PTS contact making up 20.3% of all first contacts in 2014/15 and 2015/16, and male PTS contact making up 17.0% of first contacts in 2014/15 and 18.3% in 2015/16.

Initial contacts through the FLAS channel were mostly female; 19.9% of all first contacts in 2014/15 and 2015/16, compared to 7.8% (2014/15) and 7.2% (2015/16) of all first contacts being male FLAS contact.

It is unclear what the reasons behind this are. It may be that the gender gap in income means more women tend to qualify for FLAS and so use it. Another possibility is that FLAS has been better marketed for women, or that women are more interested in knowing their legal rights regarding custody and care of children in general.

Figure 21 below shows how all first contacts are split for the 2014/15 year, and again for the 2015/16 year.

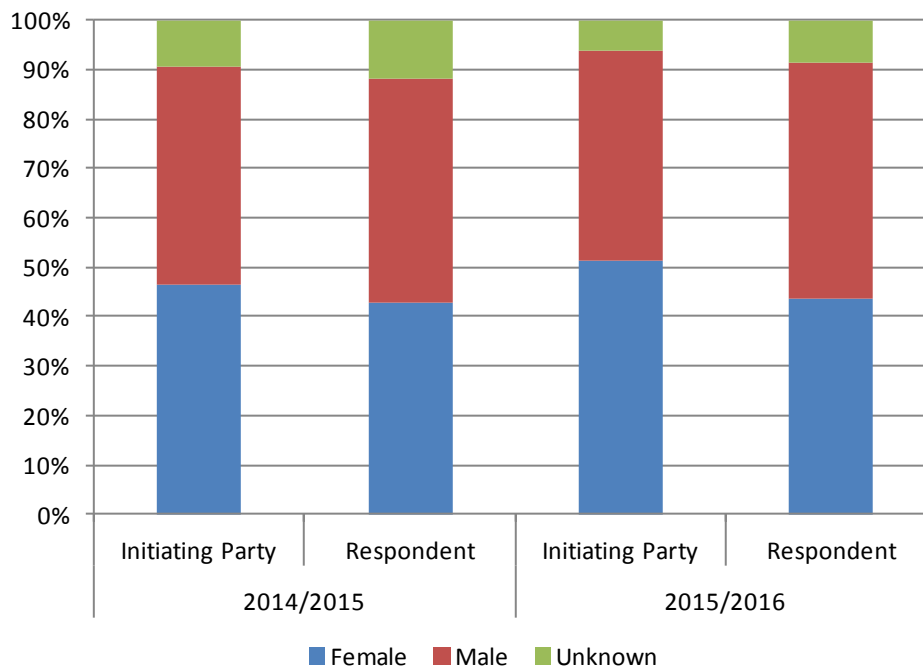
**Figure 21: First contact with out-of-court Family Justice services split by channel and gender for 2014/15 and 2015/16**



Of all the out-of-court Family Justice services, females were least likely to have first contact through FDR, but they were slightly more likely than males to initiate the contact.

Figure 22 shows the relationship. If aggregating across 2014/15 and 2015/16, then 49.4% of FDR first contact was females initiating the dispute, compared with 44.3% males initiating the dispute. The gender of the remaining initiators was unknown.

**Figure 22: FDR first contact split by gender and role, 2014/15 and 2015/16**

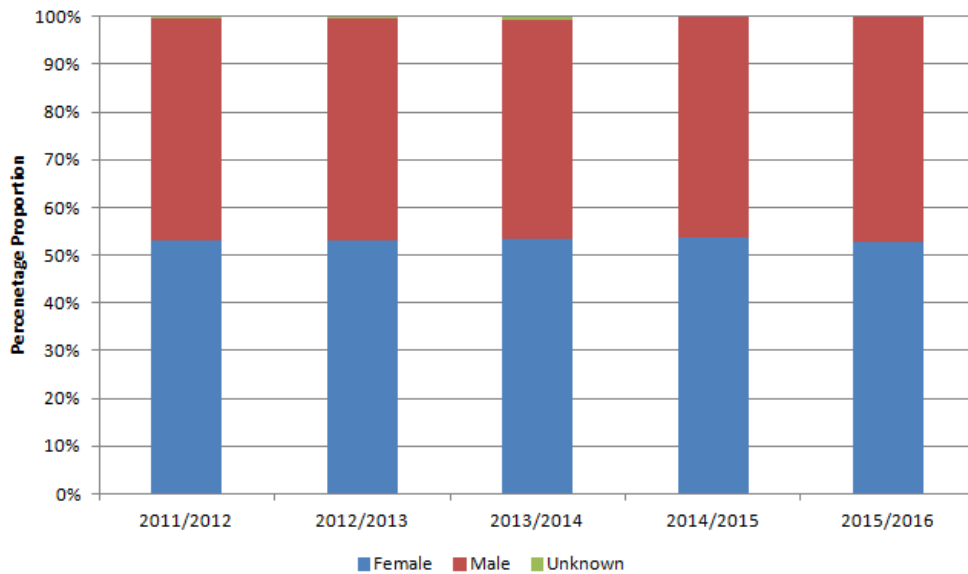




## Gender: CoCA in-court services

There is consistent trend of higher proportions of females involved with CoCA applications compared to males. The proportion of females to males has remained relatively stable, at an average of 53% and 46% from 2011/12 – 2015/16, respectively. This difference has remained stable from pre-reform to post-reform.

**Figure 23: Gender of applicants and respondents for all CoCA cases by financial year, 2011/12–2015/16<sup>26</sup>**



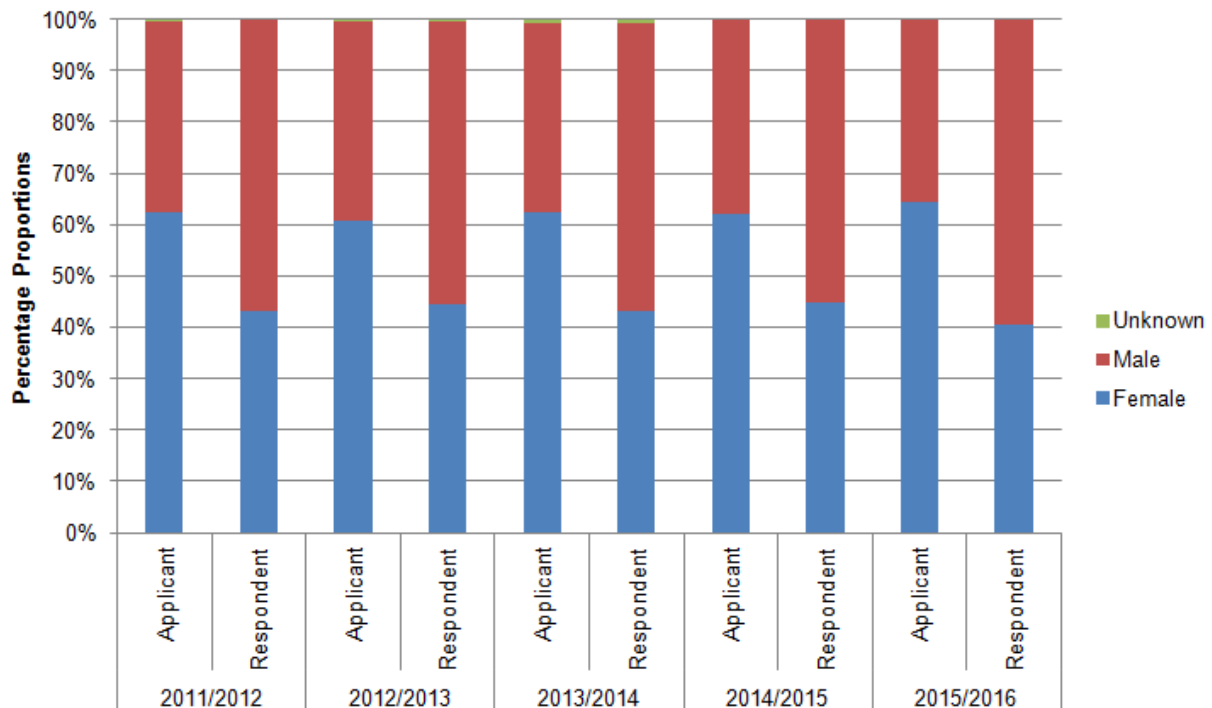
For CoCA cases, there are a higher proportion of female applicants, increasing from 36% in pre-reform to 39% in post-reform against all female and male applicants and respondents. In comparison, the proportion of female respondents decreased slightly from 14% in 2012/13 pre-reform to 13% post-reform in 2014/15.

Male applicants increased from 24% in 2012/13 to 26% in post-reform. Male respondents decreased from 24% in 2012/13 to 22% in 2014/15.

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<sup>26</sup> Based on financial year of first application filing date.

**Figure 24: CoCA cases split by gender of Applicants and Respondents by financial year, 2011/12 – 2015/16<sup>27</sup>**



### Comparing in-court and out-of-court

While the percentage of females accessing Family Justice services has remained consistent across years for in-court services and all three out-of-court services, the percentage of males accessing the out-of-court services is significantly lower than those applying for in-court systems. This implies that females are more likely to initiate contact with both the in-court and the out-of-court systems

As with ethnic differences, the large percentage of people accessing Family Justice services with unknown genders makes it difficult to come to any meaningful conclusions about whether the profiles of users differ across services.

## Age

### Age: First contact with out-of-court services

The majority of individuals making first contact with out-of-court Family Justice services through PTS and FDR are predominantly in the 30-39 year age group.

In 2014/15, 36.0% of PTS first contacts were 30-39 years, followed by 29.5% being 40 -49 years. The 2015/16 age distribution for PTS first contact is almost identical. FDR follows a similar pattern with 35.1% of FDR first contacts during 2014/15 aged 30-39 years, and 31.5% from 40-49 years.

<sup>27</sup> Based on financial year of first application filing date.

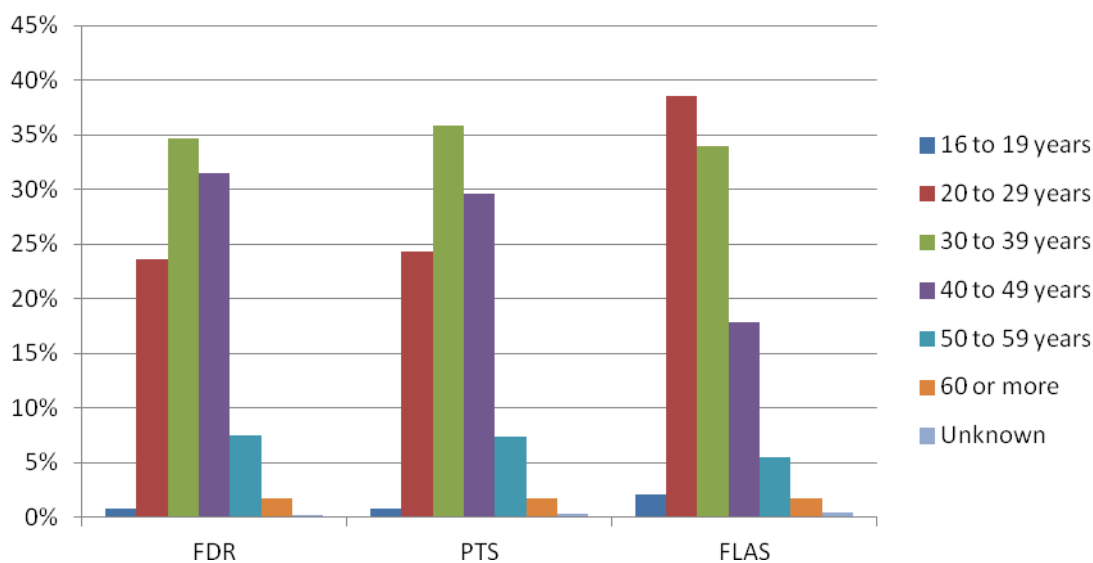
Again, the distribution was very similar in the 2015/16 financial year.

FLAS first contacts have a different age distribution than other channels, with the majority in a younger age group than PTS and FDR.

In the 2014/15 financial year, 38.6% of FLAS first contacts were with individuals aged from 20-29 years, and 33.3% aged 30-39 years. Finally, 18.1% of FLAS first contacts were aged 40-49 years.

As the age profiles of all three out-of-court services have remained consistent, the data presented in Figure 25 have been averaged over the two years of available data to provide a clearer picture of the age profiles.

**Figure 25: Age distribution of those making contact with out-of-court services, averaged over 2014/15 and 2015/16**



### Age: CoCA in-court services

The highest proportion of applications and respondents is shown to be in the 20-29 years bracket at an average of 30% across the last 5 financial years, followed by 30 -39 years (30%), and 40-49 years (16%).

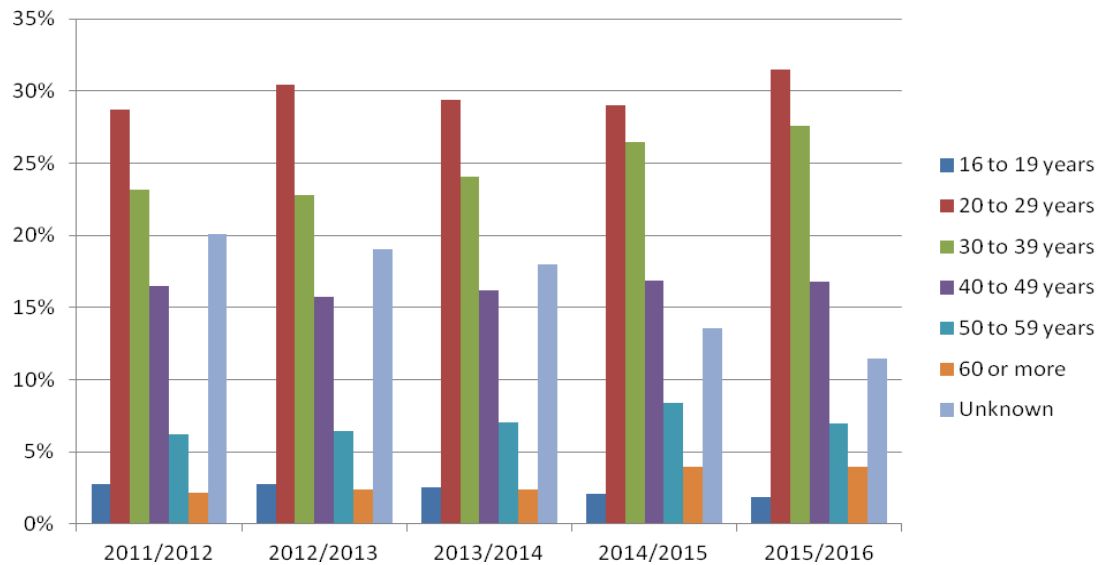
Across all age groups across CoCA are fairly stable, indicating a slight growth in the 20 to 29 years band by 2% in post-reform from 2014/15 to 2015/16, and a 2% increase in the 30 to 39 years band from 2014/15 to 2015/16.

A comparison with pre and post-reform volumes for CoCA applicants and respondents indicate a growth in the major age bands, where 20 to 29 years band increased from 29% - 30% in 2011/12 – 2012/13 to 29% - 31% in 2014/15 – 2015/16.

The 40 to 49 years band increased from 16% in 2011/12 – 2012/13 to 17% to 2014/15 – 2015/16.

The highest increase was seen for the 30 – 39 years band, increasing from 23% in 2011/12 – 2012/13 to 26%-28% from 2014/15 – 2015/16.

**Figure 19: Proportion for all CoCA cases with applications by Age Group for Applicants and Respondents by financial year based on first Application Filing Date from 2011/12 – 2015/16**

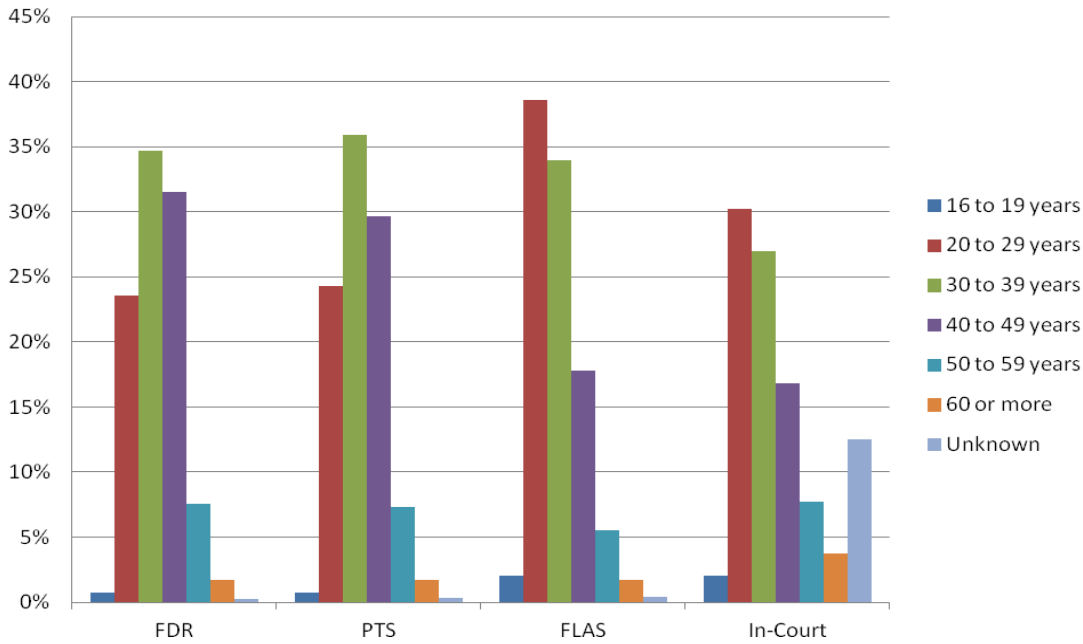


The age profile of applications and respondents has remained consistent over time. While there have been small fluctuations in each individual proportion the overall profile has not changed.

The largest change has been the decrease in the amount of applications that have applicants of unknown age. This decrease may be one of the factors driving the small fluctuations in the percentages of the other age groups as the demographics may not have changed significantly, we may simply be capturing more of the existing data.

### Comparing in-court and out-of-court

**Figure 20: Age distribution of those making contact with in-court and out-of-court services, averaged over 2014 /15 and 2015/16**



The age profiles of people accessing the in-court and the out-of court system have some notable differences between services. Both FLAS and the in-court system have a higher percentage of people initially contacting the service when younger. As demonstrated in Figure 20, FDR and PTS have similar client age profiles, as do FLAS and the in-court system.

There are two differences between the FLAS client age profile and the in-court client age profile. Firstly, the large number of clients with unknown ages in the in-court system. While this does mean there may be some variability in the actual age profile of clients it should not affect the overall distribution.

Secondly, is the higher percentage of users from later in life. Of the people contacting FLAS 7% were aged 50 or over, whereas 12% of CoCA applicants and respondents were 50 years of age or over.

# Conclusions

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Currently available data shows that there has been a reduction in volumes through the Family Court since the reforms have been in place, especially for CoCA related cases and applications. This comes with a caveat that the number of without notice (urgent) applications has greatly increased. Research has been commissioned by the Ministry to gain some insights into why this is occurring (see Wepihana, Spee, & Akroyd, 2017).

The proposals suggested that Family Dispute Resolution (FDR) would be the reason for the reduction in cases through the Family Court. The number of disputes through FDR does suggest that the two are related, but further work is needed in this area to track the flow of people between the out-of-court system and in-court system.

In addition to FDR, advice through Family Legal Advice Services (FLAS) and education via Parenting Through Separation (PTS) programmes may have assisted people in resolving their issues without resorting to court or FDR mediation. Many people only had contact with PTS or FLAS and have not required mediation since. This may mean that they resolved their issues and did not need to engage with FDR, but it may also mean that they disengaged without resolving issues, or that they ended up leaving the out-of-court process and entering the court.

Costs of the Family Justice System overall have reduced since the reforms, and the expected costs of the new out-of-court services are within expectations. The reductions in costs following the reforms have been minor in some areas. Lawyers for Children continue to be appointed for the majority of CoCA cases on both the standard and simple track. The costs have not greatly reduced for lawyer for child. Legal aid savings have also been less than expected.

Average timeliness to dispose CoCA applications in the Family Court has increased since the reforms. This was expected because more simplistic issues were expected to be dealt with out of court, with the without notice and complex applications going through the courts.

Qualitative research indicates that the nature of work required due to the increase of without notice applications, and the additional judicial time taken to review applications from self-represented applicants, may play a role in this increase. Both these factors mean that other court work is delayed.

On average, the time it takes to complete mediation through FDR is a lot quicker than the time it takes to resolve a CoCA dispute (disposing an application) in the court. A cohort analysis is underway to track parties through the Family Justice System and provide a better idea of the time it takes to complete different pathways through the system.

In trying to gauge who our clients are, and whether vulnerable groups were more likely to seek out certain types of help, we examined the demographic profiles of those going to court and those making contact with out-of-court services.

For the data we could compare we saw similar demographics for people using in-court service and contacting out-of-court services. Court applicants and FLAS users were slightly younger than those making contact with the other out-of-court justice services available. Additional more evaluative research could get a better sense of whether the system is responsive to vulnerable people.

Further work is also required to examine the flow from out-of-court services into the courts, and to further evaluate the experience that users of the Family Justice System, and professionals providing those services, have of the different parts of the systems. Work on a comprehensive evaluation of the reforms, is underway by the University of Otago and it is likely to be released to the New Zealand Law Foundation in mid-2019. This research will answer a number of the deeper questions about the success of the reforms.

# References

## REFERENCES

Ministry of Justice. (2015). *Evaluation of Family Dispute Resolution Service and Mandatory Self-representation: Qualitative Research Findings*. Wellington: Ministry of Justice.

Robertson, J. & Pryor, J. (2009). *Evaluation of the 'Parenting Through Separation' Programme*. Wellington: Ministry of Justice.

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## Glossary of Acronyms

CoCA – Care of Children Act 2014

FDR – Family Dispute Resolutions

FLAS – Family Legal Advice Services

FJ – Family Justice

PTS – Parenting Through Separation

## Glossary of Terms

**Disposed/disposal:** when an application receives a final outcome.

**Family Court Substantive Applications:** are made up of applications grouped under the following case types: Adoption, Alcohol & Drugs, Child Support, Children Young Persons and their Families (CYPF), Dissolution/Marriage, Domestic Violence, Estates, Family Proceedings, Guardianship (Care of Children), Hague Convention, Mental Health, Protection of Personal and Property Rights (PPPR), Relationship Property and Miscellaneous. Substantive applications exclude applications made under the Family Court Rules, registrations under the Joint Family Homes Act and section 9 requests for counselling under the Family Proceedings Act.

**Substantive Hearing:** the hearing at which the outcome of a matter is expected to be decided.





## Appendix 1 – Financial Eligibility Thresholds

The following maximum before tax income levels, based on civil legal aid income thresholds, apply for the Family Legal Advice Service and also the Family Dispute Resolution Services

Dependants	Maximum annual income (before tax and any deductions) \$	Maximum fortnightly income (before tax and any deductions) \$	Maximum earnings over past 3 months (before tax and any deductions) \$
0 (you have no dependants)	23,326.00	897.15	5,831.50
1 (partner or child)	36,940.00	1,420.77	9,235.00
2 (partner and/or children)	53,119.00	2,043.04	13,279.75
3 (partner and/or children)	60,363.00	2,321.65	15,090.75
4 (partner and/or children)	67,453.00	2,594.35	16,863.25
5 (partner and/or children)	75,404.00	2900.15	18,851.00
6 or more	Add \$6,976.00 for each extra dependant	Add \$268.31 for each extra dependant	Add \$1,744.00 for each extra dependant