

Quality Practice Framework

Family Dispute Resolution: Child-inclusive Mediation

Commissioned by the Ministry of Justice

Developed by Ripple Research Design & Evaluation Limited

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Introduction

Quality Practice Framework

This Quality Practice Framework (framework) was commissioned by the Ministry of Justice (the Ministry) and developed by Ripple Research Design & Evaluation Limited (Ripple), and customised and finalised by the Ministry, in consultation with key stakeholders and suppliers.

About Family Dispute Resolution (FDR)

FDR is a family mediation service that aims to remove the stress, conflict, and expense of court involvement, and help people develop skills to resolve issues regarding the care of their children.

In 2021, the duties of FDR Providers (mediators) were modified by the Family Court (Supporting Children in Court) Act 2021.¹ The legislation change requires mediators to make sure that children, who are the subject of an FDR dispute, are given 'reasonable opportunities' to participate in the decisions that affect them.

The change in legislation aligns with Article 12 of the United Nations Convention on the Rights of the Child² (UNCRC) that establishes the right of the child to have their views heard and considered in all matters that affect their lives, including judicial proceedings.

There is considerable **research** showing the benefits of involving children in the mediation process, including greater stability in care arrangements for children, less conflict between parents and children feeling empowered.

What does this mean for FDR and mediators in Aotearoa?

In accordance with the Family Court (Supporting Children in Court) Act 2021, the mediator is responsible for deciding what level of participation is appropriate to best uphold the right of the children to be heard in decisions about them. Mediators should be guided by the legislation and Article 12 when determining the level of participation of children in FDR and whether there are sound and well-documented reasons to exclude this possibility.

Making a difference for children in Aotearoa

In Aotearoa, the principles of the UNCRC are applied in the context of Te Tiriti o Waitangi (Te Tiriti). Processes for engaging with children should be guided by Te Tiriti and support the safety and wellbeing of all children, including tamariki and rangatahi Māori. Specific guidance

¹ Section 11(2)(ba) [Family Dispute Resolution Act 2013 No 79 \(as at 16 August 2023\)](#), Public Act 11 [Duties of FDR providers – New Zealand Legislation](#)

² [Convention on the Rights of the Child | OHCHR](#)

for engaging with tamariki Māori is not included in this framework and is an area of the framework which requires further development.

Framework purpose

This framework is to assist the Suppliers and mediators, who are contracted by the Ministry to deliver the FDR service, in their efforts to meet their legislative requirements, and to bring a positive outcome for the children and their whānau or family accessing the service.

The processes and practices described here constitute broad guidelines and are intended to complement the Ministry's **FDR Operating Guidelines** by providing guidance for child-inclusive mediation and helping children to be heard.

In recognition of the constant developments occurring in the field of children's participation, the framework is intended to be a living document. It will continue to be informed by the Suppliers and practitioners who are responsible for working directly with children in FDR.

Using the Framework

The framework details specific strategies and activities practitioners can use when engaging with families and children, including:

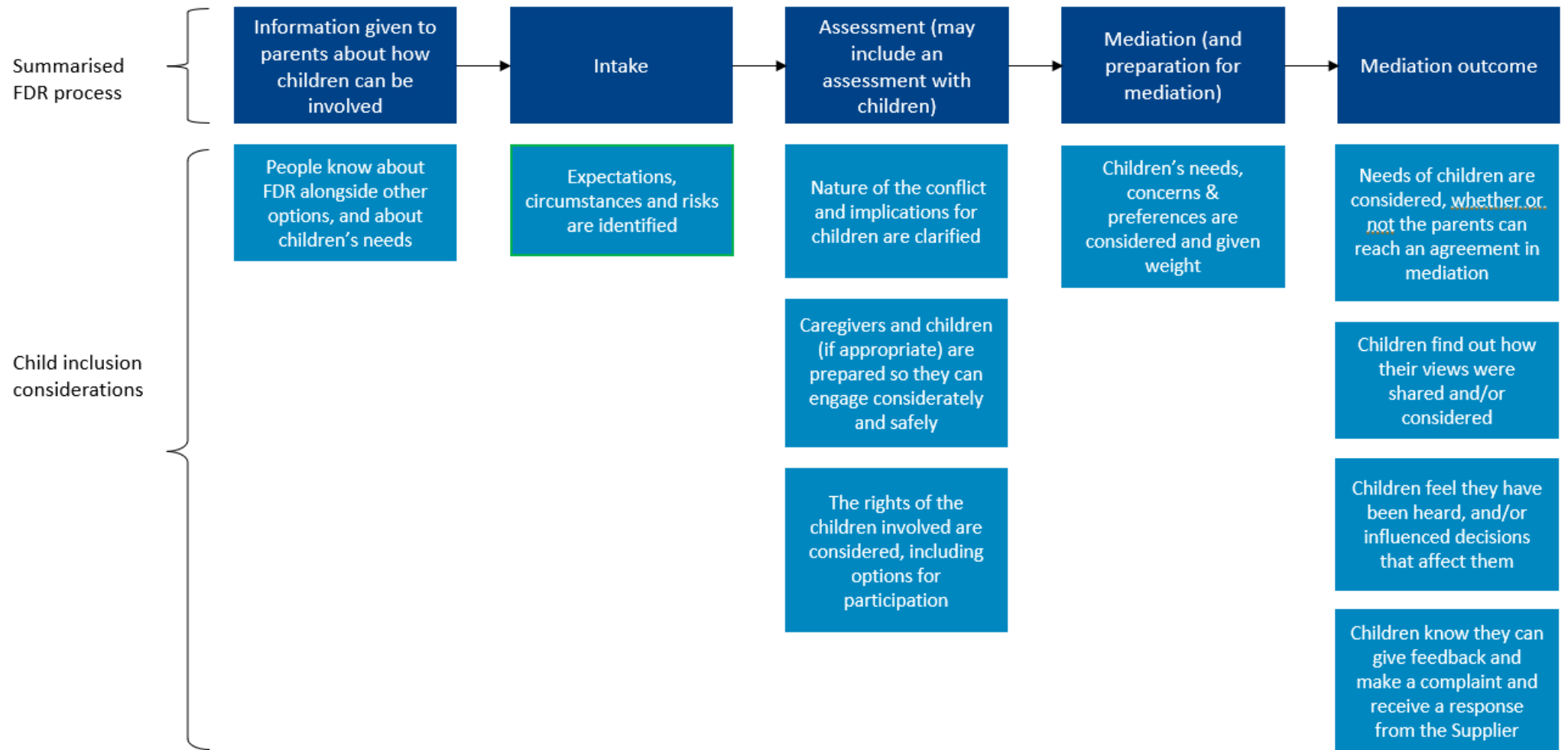
- Providing information to parents and children
- Understanding the needs of children
- Being responsive to the ages and stages of children's development
- Assessing if child participation is appropriate and safe
- Gaining informed consent and assent

Throughout the framework, links to resources and further reading are underlined and bolded. For example: **Resources for children**

Information contained in this quality framework is not intended to be considered legal advice and you should seek independent legal advice from a qualified professional should you require it. The Ministry reserves the right to change this document as required.

An overview of the child-inclusive FDR process

The diagram below shows the key stages of the FDR process, as well as key considerations for a child-inclusive process at each stage:



Definitions

Below is a list of key terms used in this document:

Term	Explanation
Assent and consent	<p>Assent refers to a child’s affirmative agreement to participate. It is not merely the absence of objection, but an active affirmation. For the purposes of this framework, the term ‘assent’ has been used in recognition of the fact that children may not be able to give informed consent.</p> <p>Consent refers to a formal agreement from an individual (such as adult parents and caregivers) to participate.</p> <p>Because a Child Specialist or Voice of Child practitioner may talk to children directly;</p> <ul style="list-style-type: none"> • assent needs to be sought from the child • consent needs to be sought from their parent or guardian as they have ultimate responsibility for the care and safety of their children.
Child/children	For the purposes of this document, children and young people are referred to as ‘children’ as defined in section 5 of the Children’s Act 2014, unless otherwise specified.
Child needs/wellbeing	Refers to a child’s welfare and best interests, as set out in section 5 of the Care of Children Act 2004.
Child Specialist	A skilled person employed or contracted by a Supplier to engage children directly (or support other FDR practitioners, such as a Voice of Child Practitioner) so that the children who are the subject of a family dispute can participate in FDR in an age-appropriate and safe way.
Family Dispute Resolution (FDR)	<p>A service provided by a family dispute Provider for the purposes of:</p> <p>(a) assisting parties to a family dispute to resolve the dispute without having to pursue court proceedings, and</p> <p>(b) ensuring that the parties’ first and paramount consideration in reaching a resolution is the welfare and best interests of the children.</p>

FDR Party	<p>(a) an eligible person who wishes to apply for a Parenting Order, or</p> <p>(b) a guardian of a child who is unable to agree with another guardian of the same child, on a matter concerning the exercise of their guardianship, in respect of which one or more of them seeks a direction from the Court.</p> <p>It does not include a child or anyone who attends FDR to provide support to an FDR Party.</p>
FDR Provider (also referred to as a mediator)	<p>A person who is appointed as a Family Dispute Resolution Provider under section 9 of the FDR Act 2013.</p> <p>In the context of child-inclusive mediation, mediators are required to ensure children’s perspectives are sensitively and effectively included and communicated in the mediation process.</p>
Parent	<p>Parents, caregivers and/or whānau who are responsible for making decisions for the child. In some cases, this could include grandparents or other guardians.</p>
Practitioner	<p>Refers to suitably qualified people (such as Child Specialists, Voice of Child Practitioners or mediators) who are responsible for ensuring a child-inclusive mediation process.</p> <p>The guidance in this document is intended for the practitioners who engage children as part of FDR.</p>
Supplier	<p>An organisation that is contracted by the Ministry to provide the FDR service.</p>
Voice of Child Practitioner	<p>A person employed or contracted by a Supplier who assists with capturing the voice of the child.</p>
Whānau	<p>Family or community. The terms ‘whānau’ and ‘family’ are used interchangeably throughout this document.</p>

Child-inclusive mediation

This section of the framework includes guidance for practitioners to consider the needs of children at all stages of mediation. This includes giving children the opportunity to have a say about the decisions that affect them.

A **child-inclusive approach** recognises that parents (as the FDR parties) lead the process but that all decisions and choices are made with the child's best interests at heart. It enables the child to have a voice and for their view to inform those decisions and choices in a suitable, appropriate and empowering way for that child.

Principles for child-inclusive mediation

Any process for child participation should be:

- **Safe** for children and not put them at risk of harm.
- **Voluntary** with informed consent from parents and assent given by the child.
- **Responsive** to the child's age, stage and developmental needs.
- **Transparent and informative** with children understanding what will happen with the information they share and how it will be used, as well as opportunities for feedback and complaints.
- **Understanding** of the importance of family and whānau being involved as needed.

Given that FDR is voluntary, it must be emphasised that every child and whānau is different and taking a non-prescriptive approach is crucial to effective engagement while following some key considerations. Whānau-led and responsive processes that are suited to a child's particular situation are most likely to achieve constructive family resolutions.

Child participation models

Children can be involved in the mediation process in a variety of ways, and the best method for engaging with a child will depend on the child's preferences, the family's needs, culture, background and wishes, and how complex the family situation is. Each Supplier will have a different model for child participation.

With assent from the child and consent from the parents, child participation could look like:

- A Child Specialist talking to the child, and the Child Specialist sharing the child's insights on the situation, informed by the child's views,
- A Voice of Child practitioner meeting with the child,

- The child writing down their thoughts and sharing this with the Child Specialist or Voice of Child practitioner,
- A mediator and Child Specialist meeting with the parents together, after a Child Specialist or Voice of Child practitioner has met with the child.

Even if the child cannot be engaged with directly, alternative options could be used to keep the child’s needs in mind, such as:

- A Child Specialist or Voice of Child practitioner giving advice to the mediator on helping the parents to consider their child’s needs during the mediation process,
- A representative (for example a trusted adult) of the child attending the mediation sessions, having spoken directly with the child.

Child-inclusive mediation – actions and outcomes

Child-inclusive mediation can be supported by different team members at various points in the mediation process:

Action:	Outcomes:
<p>Reassuring parents</p> <p>At intake, parents receive initial information, setting the stage for the process.</p> <p>In the assessment, a practitioner explains the process, ensuring parents understand the benefits and importance of child participation.</p> <p>A mediator may meet parents early on, to offer a first-hand experience of who will be interacting with their child, building trust and alleviating concerns.</p>	<p>Parents encouraged and reassured</p> <p>Through the combined efforts of the team, parents are more likely to feel informed, reassured, and encouraged about the benefits and safety of child participation.</p>
<p>Comforting and preparing children</p> <p>Child Specialists or Voice of Child practitioners engage with children in a manner that makes them feel safe, understood, and prepared to participate.</p>	<p>Children comforted and participating</p> <p>A Child Specialist or Voice of Child practitioner will make sure children feel comforted, prepared, and empowered to share their perspectives, ensuring their voice is central to the mediation process.</p>

<p>Seeking children's perspectives</p> <p>The Child Specialist or Voice of Child practitioner ensures children share their perspectives and preferences in a comfortable environment. They also guide children in deciding how their views will be shared in the mediation process, giving children some autonomy and making sure their participation is voluntary.</p>	<p>Informing mediation outcomes</p> <p>Children's input helps to shape a parenting agreement that focuses on the child's needs and best interests.</p>
<p>Including children's views in mediation</p> <p>The mediator ensures that children's input is central to mediation discussions.</p>	
<p>Feedback and concerns</p> <p>Feedback can be gathered post-mediation.</p> <p>Practitioners may receive feedback directly from parents and children and should make sure any concerns or complaints are addressed promptly and appropriately.</p>	<p>Feedback mechanism</p> <p>Concerns, including complaints, are promptly addressed and the FDR process remains transparent, accountable, keeps improving and maintains or restores trust and reputation.</p>

Information for parents and children

Informing parents and children about child-inclusive mediation

Parents need to be fully informed and confident in the process of engaging children to give their permission as legal guardians. This can be achieved through:

General information - information that is directed at families to inform them of FDR. It should focus on the importance of child-inclusive mediation and what it involves, leading to more informed decisions about participating in the FDR process.

Tailored information - information that is shared with children that can be given to parents who are considering child participation. This information should reassure and empower children, educating them about their rights and the support systems available to them.

Information should be...

- **Child-focused:** Information should present the FDR process as prioritising the child's best interests and emphasise the well-being, safety, and rights of the child. The language, images, and formats used should be developmentally appropriate and easily accessible.
- **Consistent:** The information should provide a consistent message to help build trust and understanding between the whānau and the practitioner.
- **Inclusive:** The design and methods of sharing information should cater to a broad range of participants, including those with physical and intellectual disabilities and learning difficulties.

General information for parents, whānau and children

Parents and whānau	Children
Information to support participation	
<p>Understanding why and how their child will participate:</p> <ul style="list-style-type: none"> ○ Provide details about the FDR process such as the purpose, what's involved and the legal implications and requirements. ○ Provide a strong rationale for why child inclusion is important and options for child inclusion. ○ Provide parents with tools, strategies and resources to communicate effectively and make informed decisions. 	<p>Understanding what is expected of them:</p> <ul style="list-style-type: none"> ○ Provide children with comprehensive, yet simply put, details about their right to participate in the FDR process. ○ Provide information about the purpose, voluntary nature of participation, and options available to them, including the potential consequences. ○ Make it clear when, where, and how they can share their opinions. Explain how their views are valued and shared, what happens with the information, and the implications of expressing their views in the decision-making process.
Information to increase understanding and comfort	
<p>What to expect:</p> <ul style="list-style-type: none"> ○ Who the parents and their children might meet during the process. ○ How children can be involved in the process. ○ Emphasise that FDR will help them work together to make decisions which are in the child's best interests. <p>Rights and responsibilities: Parents should know their rights and responsibilities during FDR.</p>	<p>What to expect:</p> <ul style="list-style-type: none"> ○ Who they might meet during the process. ○ Where the session will happen and how their comfort in choosing a location matters. <p>Rights and responsibilities: This should include their right to feel safe, to be treated with respect, to express their feelings, and their responsibility to respect others.</p>

Support available: Information about the support available to them can also be reassuring, such as counselling or helplines.

Avoid information overload: Newly separated parents could be overwhelmed by too much information. Start with a clear overview of the process and where and how to find more.

Support available: Information about the support available to them can also be reassuring. This should include their right to choose a support person, as well as other resources or support services they can access.

Methods and communication channels

Printed materials: This can include leaflets, posters, or booklets.

Digital channels: Websites (e.g., FDR Supplier, online government or parenting websites), social media platforms or forums, website FAQ pages, or email newsletters can be useful.

Video and audio: Auditory or visual information (diagrams, flowcharts, and illustrations), videos or audio recordings may help to simplify complex processes or ideas.

Real-life examples: Include anonymised stories or testimonials that provide insight into the FDR process, helping parents and whānau understand the benefits of child-inclusive mediation.

Given that children may not have heard of FDR, any information aimed at children should give some context to help them understand. This may involve introducing the idea of “conflict resolution” and presenting FDR as a special kind of help for parents and children.

Printed materials: This can include leaflets, posters, or booklets.

These can be made available in school libraries and school health and well-being centres, healthcare facilities and youth clubs or recreation centres.

Digital channels: Websites, social media platforms, or email newsletters can be useful, especially for older children.

Video and audio: For children who prefer auditory or visual information, videos or audio recordings can be beneficial.

Relatable material and real-life examples: Provide information related to how children might feel during an FDR process and relate it to emotions they experience in other parts of their life (e.g., sadness, confusion, or hope). Include anonymised stories or testimonials that provide insight into the FDR process, helping children relate and understand better.

Critical information

It is important for parents and children to understand these key details:

Confidentiality

What it means: FDR is a confidential and privileged process between parties. This extends to the children who share their views with a Child Specialist or Voice of Child practitioner to inform the mediation.

This means that parents should not expect to be told exactly what their children have said when they met with the Child Specialist or Voice of Child practitioner. Where appropriate, parents may be provided an update on how the engagement session went and, with the child's agreement, provided with information about how the child is feeling.

When engaging parents and children: It is best to inform children that while their comfort and feelings are a priority, the Child Specialist or Voice of Child practitioner may need to share information about the session and how they are feeling. This information would be shared, with their consent, to help their parents come to an agreement. There may also be situations where it's important to share what they have said for safety or legal reasons (such as disclosures of abuse).

What information is shared with the Family Court?

Due to the confidential nature of FDR, detailed information shared by parents or children will not be provided to the Family Court. The FDR outcome form³ however, may note whether the child participated in the process or not. The form is not considered privileged or confidential, and parents and children should be made aware of this.

Privacy

What it means: The views of children, when shared as part of child-inclusive mediation, are personal information and protected by the Privacy Act 2020 (the Act). FDR Suppliers are considered 'agencies' for the purposes of the Act.

When engaging with children: It should be carefully explained to them in a way that is appropriate to their age and stage;

- Why they are being asked questions.
- What the information will be used for and how they will hear back about the outcomes of their participation.

³ The FDR outcome form contains information about the FDR decision, such as whether FDR was completed and whether matters were resolved.

- If they consent to the information being shared with certain people (such as the mediator or their parents).
- If they have any concerns.

Requests for personal information: Parents or guardians can request their child's personal information from Providers as their representative under the Act.

Any requests from parents to access information about their children should be assessed by the Supplier on a case-by-case basis, in line with the provisions of the Privacy Act and the consent given by the child. The welfare and best interests of the child should be prioritised in this assessment. Suppliers may decide to decline a request if a relevant exception under the Act applies. For example, see section 49 *Protection, etc., of individual as reason for refusing access to personal information.*

Expressing concerns

How to do it: Clearly indicate how parents and children can communicate any concerns or questions they may have during or after the FDR process.

When to do it: Make it clear that it's always okay to voice their concerns, including during sessions with practitioners, during mediation, immediately after, or even days later.

Lodging a complaint with the Supplier

Procedure: Outline the steps to follow if they want to lodge an official complaint. Generally, this may involve providing a contact name, phone number, and email address. Depending on the age or stage of the child however, this could include providing easy to read and simple information, the use of multi-media such as social media or texting, and/or letting them know they can talk to a trusted adult who can contact the organisation on their behalf.

No repercussions: Assure them that making a complaint is their right and that for children, they won't be punished for doing so.

Sources of further information and support

Immediate assistance: Offer emergency contact numbers for immediate help or concerns.

Ongoing support: List contacts for ongoing emotional or psychological support, such as counsellors, or helplines.

Additional resources: Mention where they can find more information, whether it's a website, pamphlet, or other educational material.

Note: These themes need to be clearly repeated and reinforced in all subsequent communication with parents.

Further resources: **Information for children**

Promoting the value and benefits of child participation

Practitioners can share the following points with parents to help them understand the value of child participation:

Explain that for FDR, every effort should be made to include the views of children in the resolution process.

- **A child’s concerns and priorities are not the same as those of parents.** Often, parents in dispute don’t fully realise what their children are experiencing or concerned about, or what insights they have.
- **There is considerable research showing the benefits of child participation.**
Numerous studies confirm that parenting plans are better for children when their views are actively considered – the plans are less likely to break down, and children are generally happier with care arrangements and parents’ interactions.

The benefits of child participation	The risks of not participating
Child empowerment	Marginalisation
Better, sustainable outcomes	Increased stress
Reduced conflict	Potential for misunderstandings
Strengthened parent-child bonds	Parenting plan is not in the child’s best interests
Positive impact on wellbeing	

Intake and screening

The intake process for FDR should also involve providing information about child inclusion and referring parents to resources which provide further information.

Assessing suitability for FDR, with a focus on the child

Parents being accepted into mediation does not necessarily mean the child should participate. Child Specialists and Voice of Child practitioners need to keep the safety and best interests of the child in mind when considering whether children should participate in FDR.

Important points to consider include:

- **Acting in the child’s best interests:** Emphasising their immediate safety and wellbeing.
- **Minimising conflict:** Choosing a path that minimises conflict and hostility, including agreeing on the most constructive setting for resolving issues in the child’s best interests.

- **Preserving relationships:** Considering the impact of the chosen path on preserving and nurturing the child’s relationships with their parents.

Assessment is an ongoing process in child-inclusive mediation.

After the initial assessment stage, observations from practitioners will continue to inform the decision about the suitability of the appropriateness of children’s participation.

For example, some of the following indications of “case complexity” may not be picked up early on (at intake screening or initial assessment) or may only emerge over time through engagement in FDR. A general guide is provided below to help practitioners identify different case complexities.

Case complexity	Child-related criteria ⁴
Low	<ul style="list-style-type: none"> • Child capabilities and understanding: Children can communicate their views and understand and participate in the FDR process. • Safety and security: Children are generally protected from parent conflict and tension. No evident exposure to trauma, family violence, neglect, or maltreatment. • Family structure and dynamics: Family size, minimal cross-cultural differences and uncomplicated family structure.
Medium	<ul style="list-style-type: none"> • Child capabilities and understanding: Some communication difficulties and uncertainty as to their level of understanding of the FDR process. • Safety and security: Some exposure to tension or conflict between parents. Possible exposure to trauma, family violence, neglect, or maltreatment. • Family structure and dynamics: Family size, multiple young children. Some cross-cultural tensions between parents confuse children. Split loyalties among siblings may also be present. One or both parents re-partnering and/or being part of one or more blended families is a source of stress for children. Stressors such as family financial difficulties and/or housing instability may be impacting children.
High	<ul style="list-style-type: none"> • Child capabilities and understanding: Significant communication difficulties and limited ability to understand the FDR process. • Safety and security: Children experiencing high and entrenched conflict between parents. Presence of trauma, family violence, neglect, or maltreatment. • Family structure and dynamics: Family size, multiple young children. Substantial cross-cultural differences are a source of conflict involving children. Strong split loyalties among siblings and/or significant tensions associated with being in a blended family further complicate family dynamics and dismay children. Multiple family stressors are negatively impacting children.

⁴ These criteria were compiled by Ripple. A full list of references is available from the Ministry on request.

Engaging parents: scene setting for child-inclusion

Initial parent meetings

The practitioner can meet with the parents individually to outline the process, gain informed consent, and understand how to engage their children effectively. These initial meetings must be set up carefully to build the foundations for child engagement.

Enough time to make a human connection

Allow enough time for:

- Whanaungatanga, enabling the mediator and parents to get to know each other and start building a positive and constructive working relationship.
- Parents to gain a clear understanding of what the Child Specialist or Voice of Child practitioner will do and why.
- Parents to have their questions answered, ensuring they have plenty of opportunities to express any concerns or reservations and for the mediator to respond to these.

Allowing for support people

Usually, a support person or people for the parent is welcome provided the mediator and other parent agrees. For some cultures and families, the whole family is present at an initial appointment, so the mediator should be prepared and comfortable with this.

Make it welcoming

Making the space more welcoming can make parents more open to the process.

Explaining child-inclusive mediation

How in-depth this explanation needs to be will depend on what parents already know about child-inclusive mediation. Some examples to help “set-the-scene” include:

- Find out if they know about or use the **Parenting Plan Workbook** (or something similar) and explain how this tool can help with problem-solving and agreement on care arrangements.
- Ask about parents’ efforts to date to work through their post-separation differences regarding the care of their children such as a Parenting Through Separation course, counselling or previous mediation. This speaks to their readiness to undertake child-inclusive mediation.
- Gauge the parents’ level of understanding of FDR and child-inclusive mediation. Ask about their reasons for engaging in FDR, how they have attempted to resolve disputes

previously, and what their main questions and concerns are when including their children's views.

- Explain that the child-inclusive mediation process involves making decisions and choices with the child's best interests at heart. This requires a thorough consideration of children's needs and the co-parenting arrangements that affect their development, happiness and general wellbeing.
- Clarify that children's safety is the most important element when they are participating in the process.
- Reassure parents that they are the main drivers of the process and, as a child's legal guardians, they make the decisions about their care.

What if parents are reluctant to have their children involved in the process?

If parents are ambivalent or resistant to the idea of child participation, explain the importance and value of seeking children's views whilst ensuring a no-harm approach. It may be helpful to mention the values and benefits of child inclusion, as noted earlier in the framework.

Explain the working relationship between the mediator and the Child Specialist or Voice of Child practitioner

In cases where a Child Specialist or another practitioner is involved, explain that these roles work towards the same goal - a plan that:

- reflects children's essential needs,
- includes important co-parenting considerations, and
- is a workable parenting plan.

Explain to parents that the Child Specialist or Voice of Child practitioner engaging with the children:

- Seeks the views of children and wants to understand their needs and what is in their best interests in the context of a dispute between parents.
- Communicates the child's views in the mediation process – or supports children to do so – to help parents make the best decisions together for their child.
- Provides advice and guidance to the mediator, as necessary, regarding care arrangements to support the best interests of the child.
- Is not a fact finder, investigating what is "true", and doesn't assess parents.
- Does not take either parent's side.

Reinforcing a no-harm approach

Emphasise that safeguarding children's safety and wellbeing is paramount and is monitored throughout by confirming:

- Safety is prioritised with a focus on a “no-harm” approach.
- Child Specialist and Voice of Child practitioners are highly skilled and experienced professionals who specialise in working with children. They are trained to facilitate a rewarding experience for children and to minimise and sensitively respond to children's discomfort and distress.
- Parents may be able to meet the practitioners who will engage with their child to understand who they are and how they work, and to discuss their children and how best to introduce them to the process. This meeting can help build trust.
- Permission from parents and children is required before the child is interviewed or engaged to seek their views.
- Children decide how much or how little they want to be involved. They can:
 - withdraw at any time,
 - choose which views they want to express and negotiate how these will be communicated, or
 - decide to keep their views entirely private.
- Child-friendly feedback and complaints processes are in place, and any input from children is followed up where possible and taken seriously.

Assessment

Assessment, in the context of child-inclusive mediation, should include:

- Children's and parents' readiness for children's participation. Parents need to understand what child-inclusive mediation involves from the assessment stage through to the end of the process.
- Comprehensive risk assessment.

Assessing the appropriateness of child participation

Every encounter with FDR professionals should guide parents towards understanding their children's experience, needs, and participation.

Children should be able to participate unless there are sound and documented reasons for participation to be excluded. As the FDR Provider, the mediator is ultimately responsible for deciding whether direct engagement with a child is appropriate.

Child participation guidance tool

This tool can help Child Specialist and Voice of Child practitioners to make sure every child has the opportunity to have their say except where there are compelling reasons not to offer this.

The five judgement criteria are:

1. The child's willingness and readiness to participate.
2. Parental support for the child's participation.
3. Level of parental conflict.
4. Child's emotional and psychological wellbeing.
5. Availability of support systems.

There may also be other factors to consider when assessing the appropriateness of child participation.

The following section provides indicators against each of the criteria to guide judgements about whether seeking to engage and interview children should be ruled out, and how to proceed with or without their direct involvement.

The purpose of this guidance tool is to ensure that there is a thoroughly considered and documented reason to rule out child participation.

Child's willingness and readiness to participate		
Good to go	⚠ Extra preparation needed	Ruled out
The child expresses a clear desire to be involved and demonstrates an understanding of the mediation process.	The child shows some interest but may have reservations or lack understanding of the mediation process and the implications of being involved.	The child is either indifferent, shows clear signs of distress at the idea, or has limited ability to form a view and share it.
Parental support for child's participation		
Good to go	⚠ Extra preparation needed	Ruled out
Both parents are supportive, see the value in the child's input, and believe it will be in the child's best interest.	One parent is supportive while the other is neutral or has minor reservations that can be addressed.	At least one of the parents are persistently and strongly against the child's participation, fearing it may be detrimental.
Level of parental conflict		
Good to go	⚠ Extra preparation needed	Ruled out
Low to moderate conflict levels where parents are generally cooperative.	Moderate conflict levels but with some instances of cooperation or willingness to collaborate for the child's sake.	High conflict levels with little to no cooperation, risking the child being caught in the crossfire.

Child's emotional and psychological wellbeing		
<p>Good to go</p> <p>The child is emotionally balanced, showing resilience and coping well with the separation/divorce.</p>	<p>⚠️ Extra preparation needed</p> <p>The child shows some signs of distress but has coping mechanisms or support systems in place.</p>	<p>Ruled out</p> <p>The child is showing significant signs of distress, or other psychological issues related to the separation/divorce and parent conflict.</p>
Availability of support systems		
<p>Good to go</p> <p>There are robust support systems in place, including counselling, therapy, or support groups for the child to mitigate periods of distress and adverse experiences.</p>	<p>⚠️ Preparation needed</p> <p>Some support systems are available, but they may not be specialised for the child's specific needs.</p>	<p>Ruled out</p> <p>Lack of adequate support systems to help the child navigate the emotional challenges of mediation.</p>

Additional considerations to the guidance tool⁵

Overburdening the child: There's a risk of placing too much responsibility on the child, making them feel they are deciding their fate and potentially causing guilt or regret later.

Manipulation: In high-conflict situations, parents might try to manipulate or influence the child's opinions to favour their side.

Emotional distress: The process might be emotionally taxing for the child, especially if they feel torn between both parents.

Planning and preparation grid

The following table is intended to help practitioners:

- document their reasons for ruling out child participation and the efforts made to enable participation before coming to a decision, or
- identify extra preparatory steps they may need to take as they seek to engage children.

⁵ The tools in this section were compiled by Ripple. A full list of references is available from the Ministry on request.

JUDGEMENT CRITERIA	Go	Preparation needed	Ruled out
Child's willingness and readiness to participate	[Y/N]	[Y/N]	[Y/N]
Parental support for child's participation	[Y/N]	[Y/N]	[Y/N]
Level of parental conflict	[Y/N]	[Y/N]	[Y/N]
Child's emotional and psychological wellbeing	[Y/N]	[Y/N]	[Y/N]
Availability of support systems	[Y/N]	[Y/N]	[Y/N]
Decision to engage child	[Y/N]	[Y/N]	[Y/N]
Notes: [or more detail on reasons not to engage]			

Key considerations for different levels of child inclusion

The table below provides further information for practitioners to decide whether, and how, to engage with children.

Key considerations	Practitioner approaches
<p>Child's willingness: The child is eager and willing to share their views without any external pressures.</p> <p>Child's clarity: The child has a clear understanding of their feelings and views and can articulate them effectively.</p> <p>Absence of external pressures: There's no evidence of the child being influenced or coerced by external parties.</p>	<p>Direct communication: The Child Specialist or Voice of Child practitioner should facilitate direct communication between the child and the mediator, ensuring the child's views are as unfiltered as possible.</p> <p>Minimal interpretation: The Child Specialist or Voice of Child practitioner should avoid adding additional interpretations to the child's statements, except to connect or clarify how the child's views relate to care arrangements in dispute.</p> <p>Supportive environment: Child Specialists or Voice of Child practitioners should make sure the child feels safe and supported throughout the process.</p>

Child's ambivalence: The child may be unsure or confused about their feelings and views or may not want to share them.

Potential for harm: There's a risk that involving the child could exacerbate existing tensions or conflicts.

Child's reluctance: The child might be willing to share with the Child Specialist or Voice of Child practitioner but not with the broader mediation process.

Sensitive information gathering: The Child Specialist or Voice of Child practitioner should approach the child with sensitivity, ensuring they don't feel pressured to share.

Interpretation with caution: If the child agrees, the Child Specialist or Voice of Child practitioner can share general insights with the mediator, ensuring they clarify what's directly from the child and what they have inferred.

Regular check-ins: The mediator should regularly check in with the Child Specialist or Voice of Child practitioner to gauge the child's comfort and willingness to continue.

Potential trauma: The child might have experienced trauma, making direct participation potentially harmful.

Strong resistance: The child is adamant about not participating or sharing their views.

External influences: There's evidence that the child's views are heavily influenced by external parties, or they are being coerced.

Focus on parents: The mediator should emphasise understanding the child's needs through discussions with the parents.

Child Specialist's role: If involved, the Child Specialist might work closely with the mediator during parent interviews, offering insights into the potential impacts of the dispute on the child.

Child's wellbeing: All practitioners should prioritise the child's wellbeing, ensuring decisions made are in the child's best interest.

Additional things to consider:

Age consideration: A child's age is a significant factor in determining how best to engage them and what participation actually involves. Younger children might not have the vocabulary or cognitive ability to articulate their feelings, while older children might be more capable but also more susceptible to external influences.

Child's preferences and strengths: The child's unique personality and strengths are an important factor to take into account when determining how best to engage with them and enable them to participate fully.

Cultural sensitivity: Cultural backgrounds can influence how children perceive their role in family disputes and their willingness to participate. All Child Specialists or Voice of Child practitioners working with children should be aware of these nuances.

Consent and assent

Understanding assent and consent

Assent: A child's affirmative agreement to participate. It's not merely the absence of objection but an active affirmation. The term 'assent' has been used in recognition of the fact that children may not be able to give informed consent.

Consent: A formal agreement from an individual to participate.

Seeking assent and consent in the FDR process

Before engaging with children, FDR professionals need to gain consent from the parents/guardians who have ultimate responsibility for their children. Informed assent from the child is then also required, prior to any formal engagement.

Consent for children's participation

Obtaining consent for child participation requires clear communication and preparation by practitioners and openness and careful deliberation from parents.

Even if parents agree, there may be overriding considerations such as children's safety, wellbeing and self-determination that rule out their active involvement.

The following table summarises the necessary communication with parents:

Communication with parents	Parent's role
<ul style="list-style-type: none">Clearly explain the purpose and importance of the child's involvement in the mediation process. Support this with clearly written material at the time.Discuss the potential benefits and risks associated with the child's participation.Emphasise the voluntary nature of the process and the child's right to withdraw.Provide parents with resources or contacts for further information or support.	<ul style="list-style-type: none">Consent: For children under 18, a parent's consent is required alongside the child's assent.Informed decision: Parents should be provided with detailed information about the mediation process, its objectives, and potential outcomes. Note information needs to cater to diversity among parents.Support: Parents should support their child's decision on whether to participate or not. They should not exert undue influence or pressure.Presence during mediation: Depending on the child's age and comfort level, parents (or another adult the child feels comfortable with) might be asked to be present during the mediation or interview process involving their child.

Gaining assent from children

Before engaging with children, appropriate assent must be obtained from the children themselves. This guide provides a clear and concise overview of the steps and considerations involved in this process.

Children must be given clear and accessible information as a condition of informed assent, covering, at a minimum, the right or expectation to:

- have a say and the importance of their voice in mediation.
- privacy, explaining the limits of confidentiality.
- choose to participate, including to what extent.
- safety.
- respectful engagement.
- responsiveness to questions.

Assent can be given verbally or in writing, depending on the child's stage of development of capability.

Age-specific guidelines

Under 7 years: Children at this age are generally considered too young to provide assent. Child Specialists or Voice of Child practitioners should still explain the process in age-appropriate language before engaging in exploratory play and discussion.

Ages 7-12: This age group should be given a clear, age-appropriate explanation of the mediation process (written, audio-visual and/or verbal). For example, see **Sample Information for Children on FDR**, pitched at 8-year-olds. Their assent should be sought, ensuring they understand and voluntarily agree to talk with a Child Specialist or Voice of Child practitioner. Depending on their level of maturity, assent could be verbal or given in writing.

Ages 13 and above: Teenagers are more capable of understanding the mediation process and can provide more informed assent. They should be given detailed information, similar to adults as the basis for their decision to participate in an interview. Depending on their capability, their assent should be recorded in writing, otherwise verbally.

An example is provided below, of information which could be given to children:

Kia ora, hello! Before you decide to talk openly with [Child Specialist or Voice of Child practitioner], you need to know your rights and what to expect from us. Here are the main things we need to tell you about.

1. You have a voice

You can share your feelings, thoughts, and wishes.

Your views are important and will be taken seriously.

2. What happens to the information I share?

We might share some of what you tell us with your parents and [the mediator] to help them understand what is best for you, but only if you want us to.

If we are worried about your safety or the safety of others, we might need to tell someone about this.

3. It's your choice

You can choose whether or not to participate.

You can change your mind and stop at any time.

4. Safety first

Your safety and wellbeing are the most important things.

If you ever feel uncomfortable, let someone know. You can make a complaint.

5. Respect for you

You will be treated with respect and understanding.

Your culture, language, and beliefs will be honoured.

If you feel you are not being listened to, let someone know. We want your feedback.

6. Who comes with me?

You will meet with [Child Specialist or Voice of Child practitioner].

[if applicable] Your brother / sister will also meet with [Child Specialist or Voice of Child practitioner] at another time.

It's okay if you want to bring someone else with you, like [name of trusted adult].

7. Ask questions

If something is unclear, ask!

You have the right to understand everything that's happening.

About the needs of children

This section outlines six categories of children's needs⁶. This information can be used to support the following activities:

- informing and guiding parents to focus on the needs of their children as they set goals for mediation,
- interactions between practitioners, parents, and children – having a common language and reference point centred on children's needs,
- connecting whānau and child assessment with creating parenting plans, gathering children's input, and monitoring children's wellbeing and FDR's responsiveness to children throughout the process.

The six categories of children's needs:

1. Physical wellbeing
2. Emotional and psychological wellbeing
3. Educational and cognitive development
4. Social development
5. Values and principles development
6. Cultural and identity development

Across all these categories, care arrangements should also be **responsive** to the child's:

- developmental stages
- disability, health needs, or communication challenges

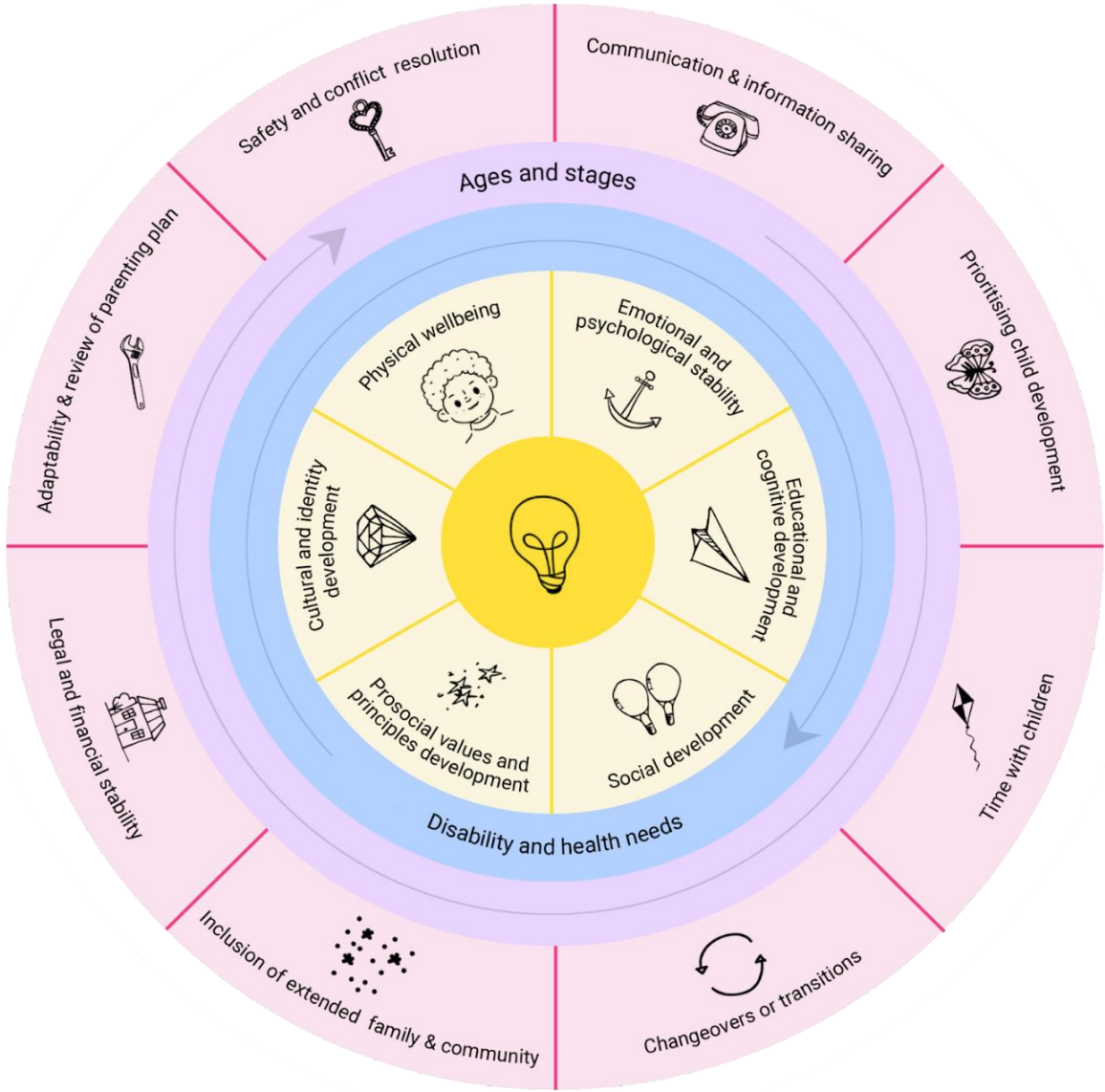
Co-parenting considerations for negotiating care arrangements should include:

- safety and conflict resolution
- communication and information sharing
- prioritising child development
- time with children
- changeovers or transitions
- inclusion of extended family and community
- legal and financial stability
- adaptability and review of parenting plan.

⁶ The tools in this section were compiled by Ripple. A full list of references is available from the Ministry on request.

Children’s needs and co-parenting considerations graphic

The following graphic displays all the key elements that need to be focused on when undertaking child-inclusive mediation. A **summary pamphlet** provides an example of a communication tool that can be consistently referred to throughout the mediation process.



Refer to: **Appendix 3. About the needs of the child pamphlet**

Connecting the needs of the child to co-parent planning

The table below can be used alongside the [Parenting Plan Workbook](#), published by the Ministry in 2022, to connect the needs of the child to co-parenting plans.

Children’s needs

Children’s essential needs	Tensions and resolutions
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Physical wellbeing

Definition:
Ensuring children’s health, nutritional, and safety needs are met, considering both physical and environmental aspects that contribute to overall well-being.

- Co-parenting responsibilities:**
- providing nutritious meals.
 - ensuring safety.
 - attending to health needs while respecting cultural dietary practices and traditional health beliefs.
 - facilitating physical activities, sports and consistent age-appropriate sleep routines.

- Nurturing/protective behaviours:**
- ensuring a safe and healthy home, regular health check-ups, and a balanced diet.
 - respecting children’s emerging autonomy regarding their physical bodies, especially in the context of gender identity.
 - ensuring children’s physical development and engagement in healthy activities.

Possible tension points:
Disagreements on dietary choices and physical activity, healthcare decisions, living conditions, and respecting a child’s gender identity.

- Positive strategies:**
- establishing clear and consistent routines and standards for physical care.
 - aligning on dietary needs, healthcare provisions, physical activities, device use and sleeping arrangements.
 - ensuring a safe living environment, even if parents have different living standards and rules.

Emotional and psychological wellbeing

Definition:

Providing emotional support, ensuring mental health, and maintaining secure attachment and stable relationships with parents.

Co-parenting responsibilities:

- offering emotional support.
- ensuring a stable environment.
- respecting and supporting children's emotional responses related to their identity.
- maintaining consistent and positive relationships with children.

Nurturing/protective behaviours:

- being emotionally available.
- providing reassurance.
- seeking professional help when needed.
- validating children's feelings and experiences.
- supporting with emotional regulation skill development.
- ensuring children feel secure in their relationships with parents.

Possible tension points:

Differing views on emotional support, exposure to parental conflict, or involvement of new partners and children.

Positive strategies:

- shielding children from conflicts and providing a stable emotional environment.
- agreeing on how to introduce and involve new partners and step-siblings in the child's life.
- ensuring their emotional and psychological needs are prioritised. This may require the committed involvement of extended family and trusted friends.

Educational and cognitive development

Definition:

Supporting educational endeavours and cognitive development.

Co-parenting responsibilities:

- ensuring regular school attendance.
- supporting learning.
- respecting cultural and religious educational needs.

Nurturing/protective behaviours:

- engaging in educational activities.
- providing a helpful learning environment, including active assistance and encouragement.
- respecting children's own pace and style of learning.

Possible tension points:

Choice of school, educational methods, or addressing learning difficulties.

Positive strategies:

- collaborating on educational decisions.
- ensuring consistency and stability in the child's educational journey while also reviewing and supporting what works best for the child in their view. This extends to agreeing on a school, and aligning on educational methods as the child develops.
- collaborating on addressing learning difficulties and learning support needs.

Prosocial values and principles development

Definition:

Guiding the development of prosocial values and principles that foster positive behaviours and discourage antisocial or harmful actions.

Co-parent responsibilities:

- modelling prosocial behaviour.
- teaching values and principles.
- monitoring exposure to potentially harmful or antisocial behaviours, ideas, and language.

Nurturing/protective behaviours:

- promoting empathy and understanding.
- encouraging positive peer interaction.
- providing a safe and supportive environment.

Possible tension points:

Differing beliefs and practices related to prosocial behaviours, values, principles and differing religious, spiritual or faith-based practices.

Positive strategies:

- respecting diverse beliefs.
- agreeing on a unified approach to promoting prosocial development.
- addressing antisocial exposure collaboratively.

Cultural and identity development

Definition:

Nurturing a sense of cultural belonging, identity, and understanding of heritage while respecting diverse cultural practices and beliefs.

Co-parenting responsibilities:

- exposing children to their cultural heritage.
- facilitating identity development while respecting and validating their emerging gender identity and sexual orientation.

Nurturing/protective behaviours:

- engaging in cultural practices and encouraging exploration of identity.
- providing a safe space for children to explore and express their gender identity and sexual orientation.

Possible tension points:

Differing cultural practices, identity beliefs, religious practices, or involvement in cultural activities.

Positive strategies:

- respecting and acknowledging each other's cultural practices and beliefs.
- ensuring that the child is exposed to and has the opportunity to engage with the world both parents value – negotiating a balanced approach.
- communicating positively (or at least neutrally).
- collaborating on how cultural practices and identity development will be facilitated.

Co-parenting considerations for negotiating care arrangements

These co-parenting considerations are a guide to support parents with developing care arrangements. These themes relate primarily to how co-parents interact and what they argue about when negotiating care arrangements.

Safety and conflict resolution

Definition:

Ensuring children's safety and keeping conflict away from children who will inevitably be distressed by it.

Co-parenting responsibilities:

- prioritising the child's needs above their disagreements.
- minimising their dispute's negative impact on the child – ensuring clear co-parenting arrangements and communicating respectfully.
- engaging with professional support as needed.

Nurturing/protective behaviours:

- prioritising the child's safety and emotional well-being during conflicts.
- providing additional support for the child, such as counselling or support groups, to manage challenges associated with parental conflict.

Possible tension points:

- disagreements that escalate into conflicts in the presence of children, e.g., during pickups and drop-offs or when making arrangements over the phone within children's hearing.
- criticising the other parent in front of children.
- making children keep secrets, relay hostile messages or ask upsetting questions about the other parent.
- expecting children to hide positive feelings about the other parent.

Positive strategies:

- using conflict resolution strategies to ensure the child is shielded from arguments by discussing problems when children are not present.
- letting them know they are not the problem and that you are working on solutions.
- when necessary, seek professional support.
- engaging with professionals such as psychologists, counsellors, or social workers to navigate conflicts while focusing on the child's well-being.
- participating in parenting programs (e.g. Parenting Through Separation) or workshops to enhance parenting skills and help navigate through conflicts effectively.

Communication and information sharing

Definition:

Ensuring consistent, clear, and constructive communication regarding the child's activities, health, and overall wellbeing.

Co-parenting responsibilities:

- keeping each other informed about the child's activities, health issues, experience of school, social dynamics and any other relevant information.
- keeping communication civil.

Nurturing/protective behaviours:

- using positive communication strategies.
- ensuring the child is not a messenger between parents.

Possible tension points:

- miscommunications or withholding information when negotiating or changing care arrangements or provisions for children – in-person, via email, phone or chat.

Positive strategies:

- establishing clear and respectful styles and channels of communication.
- agreeing to and maintaining regular updates about the child's wellbeing and activities.
- using communication books or platforms dedicated to discussing child-related matters.

Prioritising child development

Definition:

Acknowledging and incorporating the child's experiences and views in co-parenting decisions, fostering their growing sense of self-determination.

Co-parenting responsibilities:

- actively encouraging and listening to children's thoughts, feelings, and preferences about scheduling, holiday planning, and activity selection and considering them in decision-making processes.
- providing appropriate avenues for the child to express themselves.

Nurturing/protective behaviours:

- validating children's emotions and experiences, even when their preferences cannot be accommodated.
- providing safe opportunities to share their thoughts and feelings without fear of judgement or repercussions.

Potential tension points:

Disagreements on the weight given to a child's input and differing parental expectations regarding the child's autonomy.

Positive strategies:

- aligning on how to appropriately involve children in decisions.
- respecting each parent's insights into children's expressions and views.
- finding a balanced approach to honouring children's growing autonomy while maintaining parental roles and decision-making responsibilities.

Time with children

Definition:

Ensuring the child has quality time with each parent and other significant individuals, maintaining a balance that supports their wellbeing and development.

Co-parenting responsibilities:

- creating and adhering to a schedule that ensures children have ample time with each parent and other significant family members, considering the child's school, social, and extracurricular activities.

Nurturing/protective behaviours:

- ensuring that the time spent with children is quality time – primarily being present and emotionally available.
- engaging in activities that support children's development and emotional wellbeing.
- following the agreed-upon schedule.

Possible tension points:

Disagreements on scheduling, holidays, special occasions, and the involvement of new partners or other family members.

Positive strategies:

- establishing a clear, flexible, and mutually agreed-upon schedule.
- communicating and planning for holidays and special occasions well in advance.
- agreeing on the involvement of new partners and other family members.

Changeovers or transitions

Definition:

Managing the logistics and emotional aspects of the child moving between different parental homes or care environments.

Co-parenting responsibilities:

- establishing clear, consistent, and child-friendly routines for transitions.
- choosing neutral and comfortable locations for handovers.
- ensuring timely and reliable adherence to agreed-upon schedules.
- ensuring smooth, stress-free transitions for the child between different homes or care environments.
- managing logistics like transport, timings, and handover points.
- limiting who attends handovers to only necessary people who the child feels safe with.
- no video or audio recording of each other during handover.

Nurturing/protective behaviours:

- providing emotional support during transitions.
- maintaining a positive or neutral demeanour during handovers.
- ensuring the child is prepared and understands the transition process including what they need for each stay (e.g., clothing, schoolwork).

Possible tension points:

Disagreements or inconsistencies in handover times and locations, emotional distress during transitions, and logistical challenges, especially in long-distance co-parenting.

Positive strategies:

- establishing and adhering to a mutually agreed-upon transition plan.
- maintaining open communication about any changes or issues.
- ensuring that the child is shielded from any potential conflict or stress during handovers.
- using the Parenting Plan Workbook to detail specific schedules, including days, times, and locations for changeovers, and any specific routines or items needed for each.

Inclusion of extended family and community

Definition:

Ensuring the child maintains relationships with extended family and community.

Co-parenting responsibilities:

- facilitating and respecting the child's relationships with extended family and community members.

Nurturing/protective behaviours:

- encouraging relationships with extended family and involving the child in community activities.

Possible tension points:

Disagreements on the involvement of certain family or community members. Organising holidays, special occasions, after-school and childcare arrangements.

Positive strategies:

- communicating and agreeing on the involvement and role of extended family and community in the child's life. This includes discussing concerns about the potential negative influence of certain people or the child's safety and wellbeing in particular situations.

Legal and financial stability

Definition:

Meeting children's financial needs and respecting their legal rights.

Co-parenting responsibilities:

- agreeing on and adhering to financial contributions and legal documentation.
- ensuring that parenting plans and interventions comply with legal requirements and safeguard children's legal rights.

Nurturing/protective behaviours:

- establishing a stable financial environment and ensuring all legalities are adhered to for the child's protection and stability.

Possible tension points:

Disagreements on financial contributions, purchases, legal decisions, or guardianship matters, e.g., who keeps the passport or allocation of costs for school uniforms and activity fees.

Positive strategies:

- establishing a clear financial plan.
- aligning on legal decisions.
- ensuring all legal documentation is transparent and agreed upon.
- engaging in mediation to resolve conflicts and ensure that the child's needs are prioritised.
- if necessary, gain legal support to establish clear co-parenting arrangements and ensure adherence.

Adaptability and review of parenting plan

Definition:

Ensuring the parenting plan remains relevant and adaptable to the child's evolving needs and circumstances.

Co-parenting responsibilities:

- regularly reviewing and adapting the parenting plan as needed, taking the child's needs, views and development into account.

Nurturing/protective behaviours:

- being open to change and adapting the plan to best suit the child's current and evolving needs.

Potential tension points:

Resistance to change or disagreements on adaptations.

Positive strategies:

- establishing a regular review process and being open to feedback and adaptations to the plan.
 - seeking agreement on.
 - time frames for review.
 - a neutral or acceptable place to meet.
 - involving neutral people to help facilitate discussion; and
 - if and when to involve children who may benefit from seeing co-parents cooperatively discussing their needs.
-

Responsiveness to the child

When focusing on understanding children's needs or negotiating co-parenting arrangements, Child Specialists or Voice of Child practitioners should consider the child's developmental stage and any disability, health needs or communication challenges.

Ages and stages

This section aims to highlight and help address the unique needs and concerns of children at different developmental stages.

This guide offers general advice for Child Specialists or Voice of Child practitioners engaging with children, recognising that the needs of children will vary across whānau. Child Specialists or Voice of Child practitioners need to keep in mind that cultural differences, backgrounds, and life experiences will impact on the children and their "stage".

Further reading for each age group can be found [here](#).

Pre-schoolers (3-5 years)

Defining characteristics and capabilities

- Developing an understanding of the abstract, such as right and wrong.
- Having active imaginations, which can make it hard to tell the difference between what's real and what's imagined.
- Enjoy listening to and creating (often exaggerated) stories.
- Beginning to express themselves verbally with increasing complexity.
- Developing social skills.
- Very curious and will ask lots of questions, trying to understand what is going on in their lives.
- Relying on the sense of security parents provide as they explore new experiences.
- Forming basic concepts of family structure and relationships.

Possible effects of parental separation/conflict

- Feelings of guilt or responsibility for the separation.
- Sleep disturbances, nightmares, or bedwetting.
- Depending on temperament, children may sulk, talk back or get angry, or become overly compliant and timid.
- Regressive behaviours, such as thumb-sucking.
- Expressing fear of abandonment or being left alone.

Constructive parent responses

- Talk to them about their feelings and encourage the expression of feelings.
- Listen and observe closely and respond with care and understanding.
- Offer reassurance that the child is loved and not at fault.
- Maintain open communication about changes – providing simple and practical explanations.
- Create a visual calendar to help them understand visitation schedules.
- Manage transitions with care – prepare children, keep it straightforward and be reassuring.
- Keep conflict away from children.
- Don't disparage the other parent in front of children. At a minimum, maintain a neutral tone.

Parent preparation and support for their children

- Discuss upcoming meetings with the Child Specialist or Voice of Child practitioner in a positive light.
- Use storybooks to explain the concept of discussing feelings with someone.
- Encourage open expression of feelings and concerns.

Strategies for Child Specialists or Voice of Child practitioners

- Use play and art-based techniques to facilitate expression.
- Offer a safe space for the child to express feelings without judgement.
- Use visual aids, like drawings or charts, to help them articulate their feelings.

Specific physical resources

- Drawing and colouring materials.
- Playsets, dolls, figures, blocks, plasticine, and lego to act out feelings and scenarios.
- Comfortable seating and a child-friendly environment.

Primary school age (6-12 years)

Defining characteristics and capabilities

- Developing a deeper understanding of relationships and emotions.
- Forming stronger peer relationships outside the family.
- Beginning to understand complex feelings and situations.
- Developing a sense of self and personal identity, and, particularly for preteens, an increasing sense of independence.

Possible effects of parental separation/conflict

- Feelings of guilt, sadness (expressed as crying or withdrawal), or anger.
- Behaviours such as aggression, impulsivity, or manipulation. Bullying of siblings or school peers may become (increasingly) evident.
- Night-time issues, including sleeping difficulties, nightmares, and bedwetting.
- Possible academic or behavioural challenges in school.
- Withdrawal from friends or extracurricular activities.
- Confusion or feelings of being torn between parents.
- Preteens may favour one parent over the other.
- Expressing physical complaints – stomach or headaches, or simply “not feeling well”.

Constructive parent responses

- Maintain open communication and encourage questions.
- Reassure the child of their importance to both parents – of how loved they are.
- Encourage expression of feelings and provide a safe space for discussions.
- Maintain consistency in routines and discipline (authoritative parenting style is commonly recommended – nurturing, responsive, and supportive, but with firm limits) across households.
- Encourage and support communication with the other parent – phone calls and appropriate online contact.
- Support contact with trusted adults and keep in touch with teachers to enable monitoring and extra care.
- Include them in social activities and support their social lives – invite friends to play.

Parent preparation and support for their children

- Discuss the role of the Child Specialist or Voice of Child practitioner and the importance of honesty.
- Encourage children to ask questions and express concerns they might have.
- Provide age-appropriate resources or books about family changes.
- Collaborate with the Child Specialist or Voice of Child practitioner on the most suitable setting and conditions for meeting with children.

Strategies for Child Specialists or Voice of Child practitioners

- Use open-ended questions to facilitate discussion.
- Offer a non-judgmental and safe space for discussion.
- Use age-appropriate activities, such as visual resources, lego, games, journaling or role-playing, to facilitate exploring and expressing children’s views.

Specific physical resources

- Journals or diaries.
- Age-appropriate resources on family changes.
- Worksheet on children's needs for this age group.
- Comfortable seating and a neutral discussion setting.

Young people (13-18 years)

Defining characteristics and capabilities

- Developing independence and forming a unique identity distinct from that of their parents.
- Strongly influenced by their peers, they experiment with different ways of presenting and being.
- Understanding complex emotions and relationships.
- Forming deeper peer relationships and seeking peer support – spending less time with parents and more with friends.
- Reduced communication with parents and other adults about what is going on for them.
- Beginning to plan for the future and make long-term decisions.
- Desire for autonomy in decisions and having a say in family matters, with the understanding that their views may change over time.

Possible effects of parental separation/conflict

- Anger is a commonly expressed emotion – directed at various people or property – and can result in acting out and risk-taking.
- Conflicting emotions can range from confusion, disappointment, anger, sadness to relief.
- Conflicted thoughts and communication – conflicting loyalty, being angry at the parents they love, saying everything is fine while needing and wanting care and protection.
- Taking a parent leaving personally.
- Possible challenges in forming personal relationships – can love last, is a happy relationship possible?
- Uncontrolled expression of anger or distress is normalised or learning that feelings need to be suppressed.

Constructive parent responses

- Openly discuss the separation and living arrangements with children together and separately.
- Provide support and understanding without forcing discussions.
- Respect children's autonomy by acknowledging needs and negotiating reasonable limits – get better at compromising.
- Help teenagers maintain their friendships.
- Learn more about adolescence.
- Encourage healthy coping mechanisms and seek external support if needed.
- Understand that adolescents/teenagers may not want to spend less time with either parent as friends and social activities become more of a priority.

Parent preparation and support for their children

- Discuss the importance of the mediation process and their role in it.
- Encourage open communication with the Child Specialist or Voice of Child practitioner. .
- Enable straightforward and private access to the Child Specialist or Voice of Child practitioner.

Strategies for Child Specialists or Voice of Child practitioners

- Respect teenager's autonomy and offer a collaborative approach.
- Provide resources for further support and understanding.
- Use discussions and open-ended questions to facilitate teenagers expressing themselves.

Specific physical resources

- Informational pamphlets or books, online and graphic materials on family changes.
- Worksheet on children's needs for teenagers.
- Resources for external support, such as counselling or support groups.

Including children with disabilities and communication challenges

Practitioners must ensure that child-inclusive mediation does not inhibit participation from children with disabilities or communications challenges due to barriers or accessibility issues.

Some children have specific communication or health needs that make traditional communication methods ineffective or inappropriate. Practitioners should be aware of potential barriers to communication and be prepared to adapt their approach accordingly.

When reading through the examples below, it should be noted that some behaviours differ across cultures.

The following information draws directly from the Ministry's **Communication Assistance Quality Framework**⁷

Possible challenges facing children that may require additional support include:

- a known or suspected disability or impairment,
- neurodiversity (for example, autism, a brain injury, dyslexia, FASD, ADHD or another condition that affects their ability to communicate),
- a mental health condition,
- experience of mental distress, trauma-induced anxiety or stress that impacts their communication,
- a recent report from a psychiatrist or psychologist that indicates communication difficulties, intellectual disability, poor processing speed, high suggestibility, or high stress, and/or
- hearing impairment or deafness, vision impairment or blindness.

Signs of potential comprehension challenges include:

- an apparent inability to understand questions or confusion around what is happening,
- an apparent inability to repeat back what is being said in their own words or follow instructions,
- a focus on irrelevant small points or expression of strange ideas,
- an apparent inability to understand common everyday expressions, and/or
- an eagerness to please/saying 'yes' quickly and frequently without seeming to understand.

⁷ Ministry of Justice, A. (2021). *Communication Assistance Quality Framework*. Ministry of Justice: <https://www.justice.govt.nz/assets/Documents/Publications/Communication-Assistance-Quality-Framework-FINAL.pdf>

Signs of potential expression challenges include:

- vague, un-detailed responses to questions or difficulty staying on topic,
- repetition of what was said to them, or parts of what was said,
- forgetting or contradicting previous accounts,
- taking a long time to respond, frequently reformulating sentences,
- talking too much or not enough – using short, simple sentences or rambling,
- no speech or limited speech or is difficult to understand, and/or
- using signs and gestures or augmentative (low or high technology) methods to communicate.

Signs of potential behavioural and sensory challenges include:

- a lack of eye contact, appearing disengaged or physically withdrawn, covering head, eyes or ears with hands or clothing, or fidgeting,
- inappropriate or unusual emotional responses such as smiling, laughing, or humour,
- an apparent short attention span, distractedness or restlessness when listening,
- saying they do not remember or “I don’t know” a lot or repeatedly changing the subject,
- sensitivity to light and noise, including background noise, lots of activity and people, and/or
- disproportionate frustration, defensiveness, verbal or physical aggression or apparent over-excitement/exuberance.

Literacy challenges include:

- not being able to read or write well – will be most relevant to older children, as limited literacy is more likely to be assumed in younger children.

There is no universally accepted and consistent naming system for the broad range of neurodiverse conditions, learning disabilities, or intellectual disabilities found in our society.

If the practitioner suspects that a child has communication challenges, they should be offered additional support, even in the absence of a formal diagnosis.

Sources of support and resources for organisations**Talking with parents about including children’s views**

Talking with parents is a crucial step in preparing for the involvement of a child with communication issues. Practitioners should actively seek information from parents about the best ways to communicate with their child.

Conversations with parents can help the practitioner gain a deeper understanding of the child's unique needs and circumstances, including insight into the following:

- Background information related to the child's history, including any previous assessments, diagnoses, or therapies related to their communication issues.
- The child's current communication abilities and preferences, including any communication methods or devices the child may already be using, such as sign language, augmentative and alternative communication devices, or specific communication strategies that have proven effective.
- Triggers or challenges that may exacerbate the child's communication difficulties, such as stressors related to the family dispute.
- Parents' communication goals for their child's participation in the FDR process.

Building a trusting and collaborative relationship with parents is important. This ensures that the practitioner and parents work together as a team to support the child's participation effectively.

Developing rapport with the parents enables practitioners to achieve important goals in the FDR process, including:

- Better communication and understanding with parents and children. Parents are often the primary communicators for their children with disabilities or communication challenges.
- Addressing parental questions and anxieties about involving their child in FDR.
- Working with parents to make a plan for ongoing communication throughout the FDR process. Regular updates and feedback can help ensure that everyone is on the same page and that the child's needs are being met effectively.

Engaging children to support them to share their views

Before engaging with the child, there should be a discussion of the child's communication abilities, preferences, and any specific challenges they may have.

When engaging with children, particularly those with disabilities or communication challenges, the following practices could be helpful:

A safe and supportive environment: Ensure that the physical and emotional environment is comfortable and non-threatening. This can include choosing a quiet and neutral location, minimising distractions, and providing any necessary accommodations, such as sign language interpreters or communication devices.

Language children can understand: Tailor your language to the child's developmental level and communication abilities. Use simple, clear, and age-appropriate language. Avoid jargon or complex terms that the child may not understand.

Active listening: Actively listen to the child's attempts at communication, whether verbal, nonverbal, or through alternative communication methods (e.g. drawings). Show genuine interest and empathy and give the child time to express themselves.

Respect for nonverbal communication: Some children with communication issues may rely on nonverbal cues, gestures, or expressions to convey their thoughts and feelings. Pay close attention to these nonverbal signals and consider them as valid forms of communication.

Visual aids: Visual aids such as pictures, diagrams, or social stories, can help simplify complex concepts and make it easier for the child to express themselves or understand the FDR process.

Choice and control: Whenever possible, offer the child choices and opportunities to control the communication process. For example, you can ask if they prefer to write, draw, or use specific communication tools to express their views.

Ask open-ended questions: Use open-ended questions to encourage the child to share their thoughts and feelings. Avoid questions that can be answered with a simple "yes" or "no." Instead, ask questions that invite discussion and exploration.

Patience and flexibility: Children with disabilities or communication issues may take more time to express themselves or require breaks. Be patient and adapt your communication style and pace to meet the child's needs.

Trusted support persons: If the child has a trusted caregiver or support person, involve them in the communication process. This person can help facilitate communication and provide emotional support to the child.

Confidentiality and assent: Explain the importance of confidentiality to the child and seek their assent to share their views with relevant parties. Assure them that their privacy will be respected as much as possible, while also explaining any limits to confidentiality.

Document, review and confirm understanding: Document the child's views and preferences accurately and in a way that respects their communication style. Periodically check in with the child to confirm their understanding of the process and ensure they feel heard and valued.

Useful resources for engagement

Child-focused goal setting

Having a structured process for agreeing on goals or outcomes increases the likelihood that a final parenting plan will:

- be informed by what the child needs and wants.
- be solutions-focused and practical.
- provide structure and certainty.
- be sustainable while being time-bound and age-appropriate.
- encourage positive interactions/negotiations between parents.
- if necessary, decrease interactions/negotiations between parents – reducing stressors.

The Child Specialist or Voice of Child practitioner can use a goal-setting tool, for example goal attainment scaling, to help parents identify, prioritise and address issues impacting their child's wellbeing. Ideally, this should help parents negotiate a plan that reflects their children's best interests.

Using a goal setting template as a facilitative tool

A goal setting tool fits with the usual ways that a practitioner would work with parents as they begin to focus on negotiating a workable parenting plan by:

- Identifying the areas of concern from both perspectives, draw on a prepared parenting plan, and identify similarities and significant differences.
- Exploring options, starting with broad outlines, encourage ideas and take a non-judgemental position.
- Getting parents to look at the plan from the perspective of their child or children – considering their age, their expressed needs and wants, and how these will change and need to be accommodated over time.
- Prompting evaluation: What would X think of this? How does the plan address their needs? What would make it work better for them?

Facilitating children's input in mediation sessions

The form of children's input, their support needs, and timing are the main considerations in having children's views shared in mediation.

Children's input should be sought as early in the mediation process as the parents' readiness permits. The goal is to maximise the likelihood that children's views are thoroughly considered and incorporated into parenting planning.

Child-inclusive strategies in mediation

There are many ways to make mediation sessions as child-inclusive as possible. Mediators can bring children's needs to mind in all discussions with parents by using the examples outlined below:

- **Whanāu mapping:** Mapping out each child on a whiteboard with contributions from all involved. Put the child's name in the centre (with a photo if possible) and all the different personality traits, interests, activities, likes, dislikes.
- **Symbolic items and representations:** Use items that symbolise the child, such as their favourite book or toy, placed visibly in the mediation room. These items, in addition to photos, can serve as a tangible reminder of the child's interests and presence.
- **Parental reflections:** Ask each parent to share a positive story or memory about the child, which can help bring a humanising and personal element to the discussions.

- **Visual timeline:** Create a visual timeline of the child's life, including key milestones and future events, to help parents understand the impact of their decisions on the child's journey.
- **Empty chair technique:** Reserve an empty chair in the room as a symbolic representation of the child. This can serve as a constant visual reminder of the child's unseen presence.
- **Role reversal exercise:** Encourage parents to engage in a role reversal exercise where they speak or advocate from their child's perspective, fostering empathy and a deeper understanding of the child's needs.
- **Values clarification:** Facilitate a discussion where parents identify and clarify their core values regarding parenting and how these can guide their decisions in the best interest of the child.
- **Impact statements:** Have each parent prepare a statement on how they believe their proposed solutions would positively impact the child, encouraging a focus on the child's welfare.
- **Child's future self:** Invite parents to imagine and discuss what their child, as an adult, would say about the decisions made during mediation, considering the long-term effects of their choices.
- **Periodic check-ins:** Throughout the mediation, periodically pause discussions for a 'child-centric check-in' where the mediator asks how the current topic or decision relates to and affects the child.
- **Child's voice recording:** If appropriate, a short audio recording from the child expressing general feelings or thoughts can be played. This should be done sensitively and with the consent of both parents and the child.

Engaging with children directly

This section offers guidance and options for engaging with children directly, particularly for a face-to-face interview. This process will most likely be undertaken by a Child Specialist or Voice of Child practitioner, due to the time commitment required.

Deciding how to engage with children

Determining where to meet

Parents should be asked about the best place to meet with their child – somewhere they will be most comfortable.

Spaces such as one parent's home are considered more susceptible to bias or influence from one or the other parent and can also present challenges for maintaining confidentiality. When the parents or children don't nominate a preferred space, arrange a neutral, child-friendly office or community space to meet – a place with a warm and welcoming atmosphere suitable to the child's stage of development.

The initial warm-up meeting (which involves providing information, responding to questions and gaining children's assent to talk further) could begin with a Child Specialist or Voice of Child practitioner speaking with all the siblings together, and then separately. Such arrangements would need to be sensitive to the family dynamics and the practicalities of getting everyone involved together at the same time.

Where possible, it may be beneficial to make time to:

- meet with the child or children and parent(s) together
- talk with one or more children on their own.
- meet with parent(s) to speak freely without children present to express any of their concerns and worries.

Information gathering for child engagement

Clarify expectations and limits of the role.

The Child Specialist or Voice of Child practitioner who engages with the children should make clear to parents they do not provide counselling or therapy. However, if parents have concerns about their child's development, behaviour, or mental health, the Child Specialist or Voice of Child practitioner may be able to provide information about appropriate services.

Seek an initial understanding of the child(ren), including the impacts of separation.

The Child Specialist or Voice of Child practitioner should learn about the child's personality, strengths and interests, and communication ability and preferences. Some children may love to play games, have particular interests that will help build rapport and engagement or have dislikes that are important to avoid when engaging them.

Calm parental concerns about meeting with their children.

Some parents may worry their child will not want to engage with a stranger. While this is a common parental concern, children are often happy to engage.

Some children take longer to feel comfortable and engage with newcomers than others. Therefore, start with the assumption that a support person won't be needed. If worries arise or persist, then a practitioner would discuss with parents how best to support the child to engage and who would be the most suitable and acceptable support person. Such discussion should include helping the child to transition into a more direct one-on-one relationship with the child where possible.

Clarify the issues in dispute and the perceived effects on the children.

The Child Specialist or Voice of Child practitioner should gain an understanding of the particular issues in dispute and the potential impact on the child. This information gathering might involve the mediator sharing information gained from parents via the intake and assessment process.

This foundational information helps:

- confirm that proceeding to interview the child is appropriate, and
- target their questions to provide the best opportunity for the child to express their views on matters in dispute and any other priority concerns.

Determine approach to engage siblings.

As a general rule, siblings should be interviewed separately, as previously outlined. However, there may be exceptions and decisions about this should be made with input from whānau. Every effort should be made to ensure:

- Each child has the same opportunity for engagement.
- Meetings are scheduled as close together as possible.
- Children understand the conditions of confidentiality, specifically that whatever they say will not be shared with their siblings.

Decide whether to involve support people and make provision for this.

If there is a support person that the child wants there (a person both parents agree to) then the child has a right to have them present.

Clearly communicate the expectation that support people will not provide answers on behalf of the child or introduce questions. In some cases, they can support a very reluctant child in understanding better and/or responding.

Some children with disabilities or who have English as a second language may need an interpreter present.

Set up to involve a support person.

Make initial contact with the appropriate support person to clarify expectations. Someone who knows and advocates for the child is often ideal.

Clarify the following with the support person:

- Their relationship to the child.
- If they have supported a child with this kind of interview or interaction before. Knowing this will guide the level of preparation needed, as below.
- That, as part of the FDR process, the Child Specialist or Voice of Child practitioner should hear from the child as directly as possible. This means the support person does not speak for or shape the answers of the child.
- Should they have a view or interpretation to offer, they can speak with the Child Specialist or Voice of Child practitioner separately.

Securing informed consent

The following steps assume that informed consent was not secured by other FDR personnel at intake.

If parents have previously given their informed consent, the practitioner must ensure that consent is revisited and confirmed, at least verbally, before proceeding as family circumstances and dynamics are changeable.

Limited confidentiality

A key consideration when gaining informed consent involves discussing the limits of confidentiality. Specifically, that information will not be confidential if there are safety concerns regarding themselves or their child.

The bounds of confidentiality should be explained to each parent.

Gaining consent

Informed consent should be gained from all legal guardians before children are engaged – biological parents and any additional guardians.

Children must also “assent” (in a manner appropriate to their age) before a Child Specialist or Voice of Child practitioner engages with them.

This involves reminding them of your role, the purpose of talking to them and the fact that they are allowed to change their mind, e.g., decide not to participate in an interview, take time to think about it some more, and/or stop the interview at any time without explanation, or opt for an alternative option of engagement. This applies to children of every age.

Determine when informed consent or assent is not possible.

Engagement with children who cannot understand what giving their consent or assent means should not go ahead. Informed consent or assent needs to be meaningfully obtained.

Affirm children’s control over their information.

Children should be told that the information they provide will only be shared if they want it to be (within the limits of confidentiality). They will get to make decisions, with guidance from the Child Specialist or Voice of Child practitioner, about what gets shared, in what form, and by whom. They can also decide not to share their views at all. The child might just be relieved to talk to someone trained to listen to their concerns and to be given the option to communicate their views to parents.

This needs to be explained very simply and directly for young children. Older children, depending on their development, may be able to ask clarifying questions or understand what they might want to share or keep to themselves. The Child Specialist or Voice of Child

practitioner can help the child make these decisions by guiding them to think about how their parents might respond to their views.

Ensure children don't feel pressured to talk.

Children should be told that they can say "I don't know", "I can't remember", or "I don't want to talk about that".

Conducting child interviews

Warming up into the interview

- Spend some time on 'light' activities such as drawing who is in the house at each home, engaging around a game or toys, and getting to know each other.
- Allow ample time for exploring the child's world and comfort zone. This ensures the child can ask questions and the Child Specialist or Voice of Child practitioner can gain an understanding of the child's perspective on their day-to-day experiences, roles and responsibilities within their home(s).
- The Child Specialist or Voice of Child practitioner should try to make statements rather than asking questions during this time. Phrase these broadly rather than asking closed questions (although these are fine for clarification).
- Be alert for emerging signs of trauma that indicate the interview needs to stop, for example, if the child shuts down or runs from the room.
- To reduce the child's stress, consider:
 - giving children the option of taking a break, perhaps by removing yourself from the room for a short while
 - your positioning in the room and how that might be contributing to the dynamic
 - whether interference from another person may be influencing the situation
 - "sitting" with the uncertainty of the situation, letting it run its course, and shift to a wind-down activity.

Seeking specific information

Considerations when gathering information:

- Ask open questions about the issues the child is experiencing, which may also be directly related to their parents' dispute. Ask children about their hopes, worries, and wishes. Give plenty of time for the answers.
- Questions should not be repeated more than once.
- If a child says "I don't know" several times in a row, this suggests that they are not engaged, and a return to games/lighter activities is recommended.
- Children should be allowed to decline to answer the questions.

Responding to distress or children's sadness

- **Bring the interview to an early close**

If the child becomes distressed, the interview should be brought to a close and you should switch to an enjoyable activity before ending the session.

- **Acknowledge the child's feelings and experience**

If the child shares distressing or sad information, this should be acknowledged kindly and sensitively. Providing empathetic and kind responses in the moment is essential.

- **Anticipate and act on disclosures**

Some children may disclose the risk of harm to themselves or others. This situation requires the Child Specialist or Voice of Child practitioner to undertake a risk assessment to ascertain whether parents, Oranga Tamariki, the Police, or mental health services need to be notified. In such cases, the Child Specialist or Voice of Child practitioner needs to tell the child that they are worried about safety and that some more help is needed, which means letting other people know.

Concluding the interview

- **Clarifying the views of the child.** At the end of the interview, the Child Specialist or Voice of Child practitioner should summarise what the child has said and adjust their understanding based on the child's feedback.

- **Children get to decide on sharing their views with the mediator and parents.** At this point, children can be asked to:

- Agree to their views being shared or to keep these to themselves.
- Decide which parts they might want to withhold.
- Nominate how they want their views shared, i.e., in writing, expressed on their behalf or directly by the child. A variation on this last option could be agreeing to share a recording so they can rehearse and refine what they want to say without the pressure involved in giving their views in person.

- **Children can change what is shared.** Children should be reminded that they can add information or change their minds about something later. They can ask their parent to make another time to finalise what they want to say.

- **Finishing with care.** Children should be able to choose an enjoyable activity to finish with, then be thanked before saying goodbye. If the child asks whether they will see the Child Specialist or Voice of Child practitioner again, the Child Specialist or Voice of Child practitioner should be honest about that likelihood depending on where they have got to in the process.

Sharing the child's views with a mediator

Summarise the information to share with the mediator and parents

The Child Specialist or Voice of Child practitioner should produce a narrative summary of the child's views on the particular issues, checking that the account aligns with what they have told the children they will share.

Formulate advice for the mediator to inform their discussions with parents about care arrangements if the Child Specialist or Voice of Child practitioner believes that the best interests of the child will be undermined without this extra input.

The intention to provide advice should be discussed with children so that an understanding can be reached (to the extent their maturity and capability allow) on the following:

- Children offer additional information they are prepared to share with the mediator and parents that covers the concerns. The Child Specialist or Voice of Child practitioner's advice therefore becomes unnecessary or can be minimised.
- Children see that the advice serves their needs and wellbeing and therefore should be communicated along with the child's agreed input.
- The Child Specialist or Voice of Child practitioner decides not to provide advice, or to change their advice, in response to children's strong objection or a sense that providing such advice would be detrimental.

The Child Specialist or Voice of Child practitioner collaborates with the mediator to platform children's views. This may involve:

- Attending mediation sessions to convey a child's viewpoint in person with each parent.
- Attending mediation session(s) as a child's preferred support person in the event children want to directly express their views.

Note. It is ultimately up to the mediator to determine how any advice is used in mediation sessions.

Prepare the child to advocate for themselves (if age appropriate) and seek reputable support when and if they need it. They may be somewhat apprehensive about how their parents feel about what they have expressed, and not know who to talk to once the relationship with the Child Specialist or Voice of Child practitioner ceases or where to seek answers to common questions.

Prepare for and manage the parents' responses to children's input.

- If the parents ask questions about the children's views, the response should be cautious (i.e. the practitioner needs to stick to what is summarised).
- Before getting into the details, parents should be reminded that the child's views should be heard and taken seriously. They should also be reminded that many children feel uncomfortable with being questioned after these sorts of interviews and asked to refrain from doing that. In particular, some children may have requested that their parents not talk to them about this.
- Parents should be supported through their reactions. It may be that some of the information is hard to hear, but, in many cases, they may know most of it already.
- Emphasise that parents' reactions represent a profound opportunity to convey their care and support through being as open and affirming as possible in response to their children's expressed views.
- Be alert for potentially harmful responses from parents, despite every care in setting up the session involving the child's input. Parents should not scold or berate their children for information shared, even if they believe it is untrue or hurtful.

Strive for clarity and maintain the relationship. It may be that further iterations of children's input are required as various circumstances change and options for care and contact arrangements are re-developed. Ideally, the relationships remain warm, positive and professional so that children can continue to be engaged as needed.

In some cases, parents may have spoken to the child about what was said despite the request from the practitioners not to. This may mean that the child declines to meet the Child Specialist or Voice of Child practitioner again or feels mistrustful.

Closure, including feedback

Children should receive feedback which talks about how their views have been communicated to the adults, and/or how they've been taken into account.

The Child Specialist or Voice of Child practitioner needs to organise a feedback session with the child once a final parenting plan has been settled and/or the mediation process involving parents has run its course. This requires:

- The mediator and the parents agree on a process for giving feedback to the child, so the child understands how their input was received and reflected in the final parenting plan.
- Undertaking a final session with the child to seek feedback on their experience of the FDR process (as well as provide it, as above). Be clear that:
 - Their feedback can be shared with the mediator and/or be provided anonymously.
- Advising that they have the right to make a complaint and if this is what the child wants to do they must be supported to undertake the process. Parents should also be made aware of the process if they would like to make a complaint about their child's experience.

Feedback and complaints

Feedback process for children

Seeking feedback from children requires:

- an open-minded and appreciative stance from practitioners,
- a child-friendly (i.e. understandable and easy to use) feedback gathering process and tools,
- an effective information system for collating and analysing children's feedback and complaints,
- an observable organisational commitment to using children's input for service development.

Child-focused complaints and resolution mechanism

A transparent and effective complaints and resolution mechanism ensures that children can and will raise issues and that these are promptly addressed. This should result in an increased likelihood that a child's trust and confidence will be restored and will help maintain the overall quality and credibility of the service.

Follow-up should be immediate and long-term, addressing immediate grievances while collecting long-term feedback that can inform future service improvements.

The following aspects help to create a child-friendly and responsive feedback or complaints process:

Promotion: Ensure children are aware of the process and its purpose. Use child-friendly methods to explain the process.

Acknowledgment: Every piece of feedback should be acknowledged when feasible. This makes children feel valued and heard.

Distinguishing feedback from complaints and how to enable both:

- Train staff to recognise when feedback is actually a complaint.
- When feedback hints at specific grievances or deeper issues, it should be treated with the urgency and sensitivity of a complaint.
- If a child realises that their feedback is actually related to a grievance, it should be easy for them to transition from providing feedback to making a complaint.
- Children should be aware of the complaints process and how making a complaint differs from providing feedback from the outset of their engagement. Additionally, there should be:
 - information about the complaints process in any documentation or content related to feedback, and
 - links to the complaints process in any online documentation and feedback forms.

- Note that children should always be encouraged to provide feedback. If a child wants to make a complaint, this shouldn't negate being able to easily provide feedback as well, without feeling pressured on either account.

Feedback review: Regularly review the feedback to identify areas of improvement. Communicate the outcomes of any complaint to the child and make any necessary changes to the service.

Involvement of children: If possible, seek children's feedback on the processes themselves.

Timing: Timely responses are crucial for children to feel valued and heard. Send an acknowledgment within 24 hours of receiving a complaint. Within 3-5 working days, provide an overview of the next steps and an estimated timeframe for resolution. Aim to address and resolve the complaint within 10-30 days, depending on its complexity. A few weeks post-resolution, check in with the child to ensure satisfaction and gather feedback.

Staff training: Any staff working with children should be adequately trained to interact effectively with them and handle their complaints. This includes understanding child psychology, legal obligations, and effective communication skills tailored to children.

Monitoring and review: Establish a secure database to collect and analyse complaint data. Establish a mechanism for children to provide feedback on the process itself, ensuring it remains effective and relevant.

Documentation: Maintain records of feedback and complaints, ensuring confidentiality. This helps in tracking trends and areas of concern.

Differences between feedback and complaints processes

Feedback	Complaints
Key aspects	
<p>Purpose:</p> <p>This process captures a broad range of inputs from children about their experiences, feelings, and perceptions. The primary goal is to gather insights to improve services, programmes, or processes.</p>	<p>Purpose:</p> <p>This process is specifically designed to address and resolve specific grievances, concerns, or issues that a child might have experienced. The primary goal is to take corrective action based on the complaint and ensure that the child's rights are protected and any harm is addressed.</p>
<p>Nature of input:</p> <p>Children provide general feedback about their experiences, positive or negative, without necessarily pointing to specific issues.</p>	<p>Nature of input:</p> <p>Children raise specific concerns or problems they've encountered.</p>

<p>Response expectation:</p> <p>Feedback is typically used for longer-term improvements and might not result in immediate changes. However, while immediate action might not be taken, it's important to acknowledge the feedback and let children know it's valued.</p>	<p>Response expectation:</p> <p>There's an expectation that the organisation will take immediate action to address the complaint. There should be a clear pathway for how complaints are handled, investigated, and resolved.</p>
<p>Confidentiality and sensitivity:</p> <p>While feedback can be sensitive, it might not always be as sensitive as specific complaints. However, confidentiality should still be maintained.</p>	<p>Confidentiality and sensitivity:</p> <p>Given the nature of complaints, there's often a higher level of sensitivity involved. Ensuring confidentiality and protecting the child's identity can be crucial.</p>
<p>Outcome:</p> <p>The desired outcome is the enhancement or improvement of services, programs, or processes based on the feedback received.</p>	<p>Outcome:</p> <p>The desired outcome is the resolution of the specific issue or concern raised by the child.</p>

Methods for communicating about the process

- **Printed materials:** This can include leaflets, posters, or booklets. These can be made available at schools (through guidance counsellors or on notice boards), libraries, healthcare facilities (paediatrician or GP offices, hospital waiting rooms or information desks), counselling centres, social services offices or community centres.
- **Digital channels:** Dedicated child-inclusive FDR websites or portals, school websites or portals, social media campaigns, online forums or discussion groups for children.
- **Video and audio:** Auditory or visual information (drawings, illustrations, animation) – videos or audio recordings may help to simplify complex ideas, making them easier to grasp.
- **Child helplines:** Information could be provided during calls, chats, or via helpline websites or associated resources.
- **Real-life examples:** Incorporate anonymised stories or testimonials derived from feedback that provide insights into the feedback or complaints process, helping children relate and understand the benefits.

Summary – a focus on the best interests of children

Practitioners are responsible for ensuring that the best interests of children are served by the child-inclusive mediation process. In addition to safety, Child Specialists or Voice of Child practitioners must actively promote, monitor and evaluate the wellbeing and positive development of children throughout the FDR process.

Quality practice for child participation could be a process where Child Specialists or Voice of Child practitioners:

- Have ensured that child participation is encouraged, with options tailored to the child's individual circumstances, and have, when necessary, made repeated efforts to clarify what participation involves.
- Have facilitated comprehensive discussions about the child's needs across all dimensions, drawing on a range of information resources to support discussions.
- Have engaged with the child in a fully responsive manner, with all interactions sensitive to the child's needs, ensuring meaningful engagement.
- Use a child-friendly method to inform the child of their rights. Informed assent is sought through developmentally appropriate discussions, ensuring the child understands their right to participate, refuse, or withdraw at any point.
- Uphold the child's right to confidentiality with clear explanations of any limitations for safety reasons. The child is empowered to make informed decisions about what information they wish to share, and the Child Specialist or Voice of Child practitioner respects and advocates for these choices throughout the mediation.
- Ensure the child's views are clearly documented and shared and form a central part of the parenting plan.
- Make sure that participation is in line with the child's best interests, raising any concerns as they come up.
- Make sure children are fully informed about the feedback process and are sensitively encouraged and supported to provide feedback without duress. Feedback is acknowledged, where possible, and follow-up is offered and provided.
- Make sure children are fully informed about the complaints process and are supported in making any complaints. All complaints are followed up promptly by the right people, with suitable action taken to remedy concerns.
- Support regular service reviews and planning which involves transparently documenting improvements made in response to the analysis of children's feedback and complaints.

Progress will always be affected by parental responsiveness and a child's capability and willingness at each stage in the process.

Resources

This section of the framework outlines tools, resources, and further information which can be used in child-inclusive mediation.

Information for parents and whānau

Aotearoa resources

Parenting Plan Workbook: To help you decide what's best for your child after a separation or change in family situation.

Published by the Ministry in 2022, this resource helps parents to systematically plan for and document care arrangements with the above considerations in mind.

International resources

Because It's For The Kids

An e-book that argues the case for FDR and child inclusion in the context of effective parenting, based on the Australian McIntosh model (Children Beyond Dispute). Educates parents about the effects of separation and conflict on children. It also primes parents in advance of engaging in mediation with a series of reflective questions.

Children And Separation

A general but useful guide for parents about separation, from Australia's Family Relationships Online initiative.

Family Mediators Association

A video that explains child-inclusive mediation to parents, from the Family Mediators Association in the UK.

How Family Mediation Can Help You

Sample leaflets about the benefits of family mediation, from the UK's National Family Mediation organisation.

Information for children

International resources

Tom's Game

A video aimed at helping kids understand what child inclusion is, and why they might want to do it, based on the [Australian McIntosh model \(Children Beyond Dispute\)](#).

Tom's story

A video for older children/youth outlining their rights when their parents separate from *The Rights Idea?*, a collaboration between the University of Exeter, The National Youth Advocacy Service (NYAS) and The National Association of Child Contact Centres (NACCC).

Mediation Is Not Only For Adults

Brief online information for children about mediation, developed by the [Family Mediation Council](#) in the UK.

Assessment of parents, whānau and children

Aotearoa resources

Resources | Mana Mokopuna

Resources from Mana Mokopuna – Children & Young People's Commission, including resources to plan for engaging with children.

International resources

An international resource which practitioners could use for screening parents and whānau is the DOORS (Detection of Overall Risk Screen) tools developed by Dr Jennifer McIntosh for family screening and assessment ([Children Beyond Dispute](#)):

DOOR 1: Parent Self-Report

DOOR 2: Practitioner Aide Memoire

Family Law DOORS E-Handbook

The Continuum of Including Children in ADR Processes – A Child-Centred Continuum Model

A document with an alternative assessment framework for both children and parents, from the [International Centre for Children and Family Law website](#).

Engaging children

Aotearoa resources

Parent Help

Outlines typical behaviours for children according to age group:

Preschoolers (3 to 5 Years)

School age (6 to 12 years)

Teenagers (13 to 18 Years)

Using scaling questions (Oranga Tamariki-Ministry for Children)

A resource from Oranga Tamariki detailing the use of scaling questions for children and parents.

Three Houses engagement tool (Oranga Tamariki-Ministry for Children)

Designed to encourage children and young people to communicate about their thoughts, feelings, and experiences.

Talking Trouble:

COAT: Communication Observation Assessment Tool

Can be used by practitioners to identify barriers to communication and opportunities for improvement.

Communication Passports

Designed to enable individuals to express which factors support their communication and which factors represent obstacles. The passports can be personalised for each child.

<https://www.talkingtroublenz.org/resources>

Talking Trouble's resource page.

Communication Assistance Quality Framework (Ministry of Justice)

Aims to enable effective participation in court proceedings and equal access to justice.

Aspects are applicable to the process of engaging children with communication challenges in Family Dispute Resolution.

Engaging with children and young people – best practice guidelines

A publication with guidance on interviewing children and young people, from the Office of The Children's Commissioner.

Engaging Youth Voice - Resources, Tools, and Reports

Resources from the Ministry of Youth Development.

Mana Mokopuna – Children & Young People's Commission

Index of child and youth engagement reports

New Zealand-based engagement reports from 2018 onwards, which feature insights and perspectives of children and young people, from Child and Youth Wellbeing.

International resources

Raising Children Network

Contains information on children from toddlers through to teenagers.

Child Inclusive Mediation and Counselling (CIMC) resource library

A library of resources from Children Beyond Dispute.

Reflective questions for evaluating parenting plan suitability

A list of questions for mediators assessing the developmental appropriateness of parenting plans. Developed by Children Beyond Dispute.

CAFCASS

Responsible for advising the Family Court in the UK about the welfare of children. Resources include:

Resources for professionals

Originally designed for court-required reports, also serve as valuable tools for involving children in creating materials for use in mediation.

Top tips for professionals

A range of resources for professionals working with children and young people, including disabled and gender-diverse children.

Resources for assessing child refusal/resistance

A guide that describes the range of possible causes for resistance and/or refusal.

Signs of Safety?

The “Signs of Safety” provides an approach to relationship-based, safety-focused methodology in child protection practice.

East Sussex County Council: Children’s participation toolkit for social workers and early help practitioners.

This toolkit serves as a comprehensive guide for social workers and early help practitioners. It provides practical strategies, tools, and techniques to engage children effectively, ensuring their voices are heard and considered.

Child and Youth Participation Toolkit. Tusla - Child and Family Agency, Ireland

This toolkit focuses on promoting the participation of children and youth in various settings. It offers a structured framework, practical exercises, worksheets and case studies to guide professionals in creating an inclusive environment.

The Social Worker's Toolbox.

A UK webpage with resources for Child Specialist or Voice of Child practitioners engaging children. Includes:

The Kids Central Toolkit

A collection of 30+ tools, information and resources for child-centred practices, as part of the Social Worker's Toolbox, UK.

Save the Children's Resource Centre - Homepage

A comprehensive collection of information on Child Rights. Includes:

Nine Basic Requirements for Meaningful and Ethical Children's Participation

General Comment No. 12 (2009) The right of the child to be heard | Save the Children's Resource Centre

Complaints And Feedback Policy and Procedure

An example complaints and feedback process from Family Planning New South Wales, Australia.

Appendices

This section of the framework includes examples of tools developed for child-inclusive mediation in the New Zealand context, which can be adapted as required.

The tools in these appendices were compiled by Ripple. A full list of references is available from the Ministry on request.

Appendix 1. [Example] Sample information for children on FDR ⁸

What's Going On? A Guide to Family Mediation for Kids

Hey there! So, you've heard that your family is going through something called "mediation," and you might be wondering what that means for you. Don't worry, I'm here to help you understand it all, step-by-step. And remember, whatever is happening is not your fault. You're important, and people want to hear what you have to say.

What is Mediation?

Imagine you and a friend can't agree on what game to play. You might ask a teacher or another friend to help you decide, right? Well, mediation is like that. It's when a special helper, called a "mediator," talks to your parents to help them agree on important things, like where you'll live or how much time you'll spend with each parent.

Questions You Might Have:

Will I have to choose between my parents?

No way! Your parents will make the decisions, but you can share your thoughts.

Why Should I Be Part of It?

You're part of the family, so your thoughts matter! The law even says you should have a say in things that affect you. But guess what? If you don't want to join in, that's okay too.

What if I don't know what to say?

That's okay! Even if you don't have strong feelings, sharing how you feel can help everyone understand you better.

⁸ Written for 8-10-year-old English language speakers, drawing on [CAFCASS](#) (UK) resources.

How Does It Work?

You'll get to talk to the mediator or maybe a "Child Specialist," who's like a super-helper trained to understand kids. You can chat before everything starts, while decisions are being made, and even after everything's settled to see how you feel about it.

Will I have to go alone?

No! Your brothers or sisters might be there too, and sometimes a family member – a parent or someone else you trust.

What Will We Do When We Meet?

You can draw, play a game, make a video, or just talk to share how you feel. The meetings can be online or in an office, and they're usually pretty short and relaxed.

What About My Privacy?

After you talk, you get to decide if you are okay with other people hearing what you have said. The only time this rule is different is if we are really concerned about your safety.

Can I keep some things private?

Absolutely! You can choose what you want to share and what you want to keep to yourself.

What Happens Next?

After all the talking, there's a final meeting where you'll hear what decisions were made. You'll see how your thoughts were considered, and you can still share how you feel about it all.

Will things be better after this?

The goal is to make things better for everyone, including you!

So that's about it. Mediation is a way for your family to work things out with the help of a special person. And remember, your voice matters. If you have more questions, it's okay to ask. You're not alone, and people are there to help you.

Appendix 2. [Example] Information to provide parents around child-inclusive mediation

Why Your Child's Participation Matters

Navigating family disputes can be tricky for all concerned, but a growing body of research highlights the importance of involving children in the resolution process. Here's why your child's participation in FDR is important and worthwhile.

The main benefits of including your child:

- **Building confidence and self-worth:** Children feel valued and acknowledged when they have a say, fostering their self-confidence and sense of self-worth.
- **Better, sustainable outcomes:** Agreements that take account of children's views are more likely to be in their best interests and are less likely to break down.
- **Reduced conflict:** Direct insights from children can clarify their needs, potentially reducing misunderstandings and conflicts.
- **Strengthened parent-child bonds:** When children feel heard, it fosters trust and strengthens family relationships.
- **Positive impact on wellbeing:** Children who felt they had a say in the decision-making process reported better psychological wellbeing.

The risks of overlooking your child's perspective:

- **Marginalisation:** Exclusion can lead to children feeling neglected or unimportant.
- **Increased stress:** Without a platform to express their feelings, children might experience heightened stress.
- **Potential misunderstandings:** Without direct input, there's a risk of not fully understanding or addressing children's true feelings or needs.

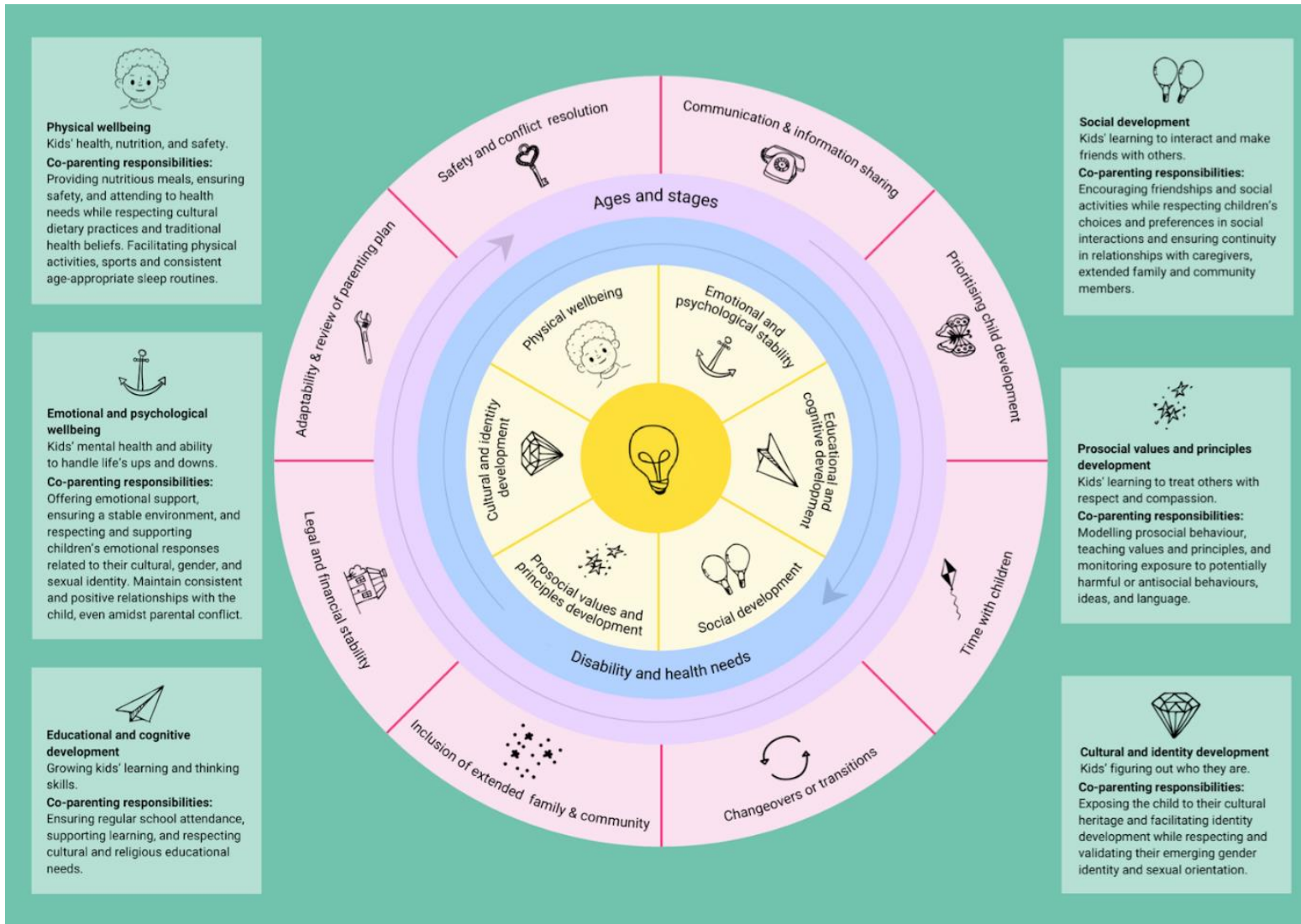
Benefits for children in speaking with a practitioner, such as a Child Specialist:

Research shows that children benefit just from speaking to a skilled third party when their parents are involved in FDR. Even if your child chooses not to share their views after speaking with a Child Specialist, speaking to a skilled outsider can be beneficial for the following reasons:

- **Emotional outlet:** Children often feel caught in the middle of parental disputes. Having a neutral third party to talk to gives them an emotional outlet to express their feelings without fear of judgement or repercussions.
- **Validation:** Speaking to a Child Specialist or Voice of Child practitioner can help children feel validated. When their feelings and concerns are acknowledged, it can boost their self-esteem and confidence.
- **Reduction of stress:** Verbalising concerns and feelings can be therapeutic. It can help reduce stress associated with family disputes.
- **Empowerment:** Engaging with an advocate empowers children by giving them a sense of agency when they might feel powerless – knowing they can have a say if they choose to.
- **Clarification:** Children might have misconceptions or misunderstandings about the family dispute. Talking to a third party can help clarify any misconceptions and provide a clearer understanding of the situation.
- **Support in decision-making:** While children shouldn't bear the responsibility of making decisions in family disputes, discussing their feelings and concerns can help them feel more prepared and supported if they choose to participate in decision-making processes.

Appendix 3. About the needs of the child pamphlet

Children's essential needs	Co-parenting considerations	A guide for parents, caregivers and whānau.
<p>The six children's needs domains are:</p> <ul style="list-style-type: none"> Physical wellbeing Ensuring children's health, nutritional, and safety needs are met, considering both physical and environmental aspects that contribute to overall well-being. Emotional and psychological stability Providing emotional support, ensuring mental health, and maintaining secure attachment and stable relationships with caregivers. Educational and cognitive development Supporting educational endeavours and cognitive development. Social development Facilitating social interactions, development, and maintaining healthy social relationships, including those with caregivers. Values and principles development Guiding the development of prosocial values and principles that foster positive behaviours and discourage antisocial or harmful actions. Cultural and identity development Nurturing a sense of cultural belonging, identity, and understanding of heritage while respecting diverse cultural practices and beliefs. <p>Responsiveness considerations also need to be taken into account in order to meet children's needs. These include developmental stages and disability and health needs.</p> 	<ul style="list-style-type: none"> Safety and conflict resolution Ensuring the child's safety and resolving conflicts in a manner that shields the child from distress. Communication and information sharing Ensuring consistent, clear, and constructive communication regarding the child's activities, health, and overall wellbeing. Prioritising child development Acknowledging and incorporating the child's experiences and views in co-parenting decisions, fostering their growing sense of self-determination. Time with children Ensuring the child has quality time with each parent and other significant individuals, maintaining a balance that supports their wellbeing and development. Changeovers or transitions Managing the logistics and emotional aspects of the child moving between different parental homes or care environments. Inclusion of extended family & community Ensuring the child maintains relationships with extended family and community. Legal and financial stability Ensuring the child's legal rights and financial needs are advocated for and met. Adaptability & review of parenting plan Ensuring the parenting plan remains relevant and adaptable to the child's evolving needs and circumstances. 	<h2>About the needs of children</h2> 

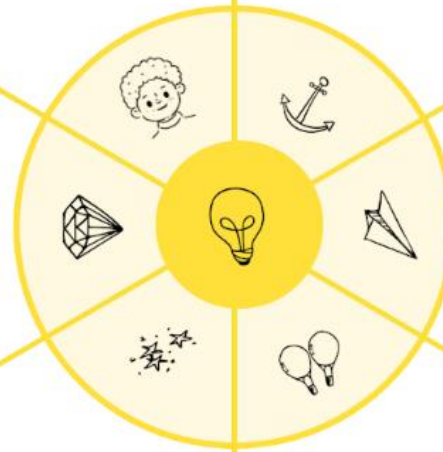


Appendix 4. [Example] Children's worksheet

The following worksheet (ideally printed A3 size) is an example of a template that aligns with the About the Needs of Children Pamphlet and would enable the Child Specialist or Voice of Child practitioner and child to:

- label the children's needs and care preferences using their own terms, and
- record their views through drawing or writing. An online version could also be created.

Your needs



Your care



Appendix 5. [Example] Children’s feedback form

This content should be tailored to diverse children, at different stages of development and capability.

Children’s feedback form

Your voice is very important!
Please share your thoughts and feelings about the Family Dispute Resolution process.

Your name (optional – you don’t have to say)

How old are you?

- Under 10
- 10-12
- 13-15
- 16-18
- Don’t want to say

Did you understand what was happening during the Family Dispute Resolution process?



Yes Sometimes No

Did anyone explain things to you in a way you could understand?



Yes Sometimes No

How did you feel during the process? (You can choose more than one feeling)



Happy



Sad



Confused



Scared



Angry

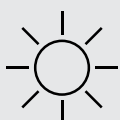


Comfortable

Was there anything that made you uncomfortable or worried?

Please write about it here:

Were you given a chance to share your thoughts and feelings during the process?



Yes

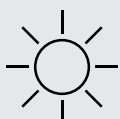


Sometimes



No

Do you feel that people listened to you?



Yes



Sometimes



No

Is there anything you wish was done differently?

Please write about it here:

Do you have any suggestions for how we can make things better for kids like you in the future?

Please write about it here:

Would you like someone to talk to you about your answers?

- Yes – about my feedback
- Yes – I want to make a complaint
- No

If yes, how would you like us to contact you? (Please write your name, phone number or email address so we can reach you.)

Name

Phone number

Email address

Who do you want to talk to?

- The person you already met with
- A person who helps children with complaints about Family Dispute Resolution
- A person who helps children with any complaint (not part of Family Dispute Resolution)

Here are some other people you can talk to at any time:

- Kidsline or What's Up are both available on 0800 WHATSUP (0800 942 8787)
- Youthline on 0800 37 66 33 or free TXT 234
- Ministry for Children – Oranga Tamariki on 0508 FAMILY (0508 326 459)

Appendix 6: Benefits of child-inclusive mediation (sources)

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