

Anatoly Kern  
fyi-request-15712-c47e10b2@requests.fyi.org.nz

Our ref: OIA 88545

Dear Mr Kern

**Official Information Act request: Family Court operation**

Thank you for your email of 8 June 2021 requesting, under the Official Information Act 1982 (the Act), information relating to how the Family Court operates. Before I respond to your request, I sincerely apologise for the delay in responding to you. Specifically, you requested:

*I am trying to understand whether the New Zealand Family Court still operates under the same principles of application the legislation as it was 10 years ago under Principal Family Court Judge Peter Boshier.*

*Specifically, Care of Children Act 2004 s4 "Child's welfare and best interests to be paramount" states "The welfare and best interests of a child in his or her particular circumstances must be the first and paramount consideration" which was applied in practice by abovenamed persona openly stating during the hearing "I don't care about the child" with everyone within New Zealand Family Court clearly following this 'lead by example' approach.*

*So, in understanding it I am looking for the policies and procedures that have been put in place to change this schizophrenic principle of application of the legislation in practice.*

The Ministry does not hold information within the scope of your request. I am therefore, refusing your request under section 18(e) of the Act on the grounds the information does not exist.

However, I am providing some general information below about how decisions are made under the Care of Children Act 2004 (CoCA), and about some legislative changes being considered to strengthen children's rights.

As you have outlined, the CoCA provides that the welfare and best interests of a child in their particular circumstances must be the first and paramount consideration in proceedings under the CoCA. Section 5 of the Act outlines a number of principles relating to the welfare and best interests of the child. Judges' decision-making under the CoCA therefore considers how the welfare and best interests of the child are met, with regard to the principles outlined in section 5. Sections 4 and 5 are longstanding provisions, though they have been amended several times over the years. You can see these changes here: [www.legislation.govt.nz](http://www.legislation.govt.nz).

You may be interested to know that the Government is currently undertaking a reform of the family justice system. The basis for this reform is the 2019 report *Te Korowai Ture ā-Whānau*, which reviewed changes made to the Family Court in 2014. The report contains 69 wide-ranging recommendations on the law, policy and practices that currently govern care of children matters. A copy of the report is available at: [www.justice.govt.nz/justice-sector-policy/key-initiatives/family-court-rewrite](http://www.justice.govt.nz/justice-sector-policy/key-initiatives/family-court-rewrite).

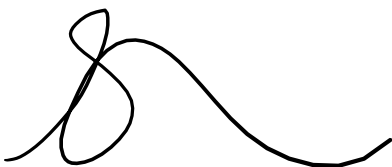
One of the report recommendations currently being implemented is the Family Court (Supporting Children in Court) Legislation Bill, which is currently before Parliament. The Bill makes amendments to the CoCA and the Family Disputes Resolution Act 2013 to:

- Enhance children's participation in proceedings that affect them, by including a new principle in section 5 that children must be given reasonable opportunities to participate in decisions affecting them
- Ensure that children feel supported and informed as they move through the Family Court process
- Expand lawyers' duties in care of children proceedings, and
- Reinforce expectations that people should be protected from family violence.

You can find further information on the Bills progress here: [https://www.parliament.nz/en/pb/bills-and-laws/bills-proposed-laws/document/BILL\\_99892/family-court-supporting-children-in-court-legislation](https://www.parliament.nz/en/pb/bills-and-laws/bills-proposed-laws/document/BILL_99892/family-court-supporting-children-in-court-legislation).

If you are not satisfied with this response to your request, you have the right to complain to the Ombudsman under section 28(3) of the Act. The Ombudsman may be contacted by email at [info@ombudsman.parliament.nz](mailto:info@ombudsman.parliament.nz).

Yours sincerely

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a long, sweeping horizontal line that tapers to the right.

Sam Kunowski  
**General Manager, Courts and Justice Services Policy**