

Supporting parent participation in Court

A resource for practitioners and legal professionals working with birth parents attending Court due to child protection matters

The Voice of Parents project worked alongside birth parents with lived experience of child protection and child and family service contact. These parents told us about their experiences with Court as they went through child protection processes. We heard about what worked well for parents, as well as the ways that they felt unsupported, overwhelmed, and excluded from critical decision-making processes about their families. Together, we worked through solutions for increasing engagement of parents and facilitating their genuine participation in the Court processes that affect them and their children. These are outlined below.

Prioritising child safety is a critical part of this engagement and is ultimately most important. This resource recognises research that shows improved outcomes, including enhanced safety for children and young people, can be achieved when their parents are effectively engaged by services including child protection¹.

Parents can do best with early access to legal help

In our work on the Voice of Parents project, we recommend that parents reach out for legal support as soon as they are contacted by child protection. Through talking with birth parents who have lived experience of these processes, we know that this is one of the best ways for parents to understand what is happening to them and their family, what might be expected of them, and what they might be expected to do.

Consider providing this information to parents in conjunction with a sensitive conversation about the potential for legal support to introduce an adversarial element to their relationship with other services (such as child protection or family support). Help parents to understand that they have rights to legal support and that you can help to connect them with that, and that you also want to work in positive partnership with them as much as possible, to achieve the best outcome for their child. Parents may seek legal support to increase their understanding of their rights, what is expected of them and how to navigate processes, and this may be partly due to lack of alternative information that feels transparent or trustworthy. Encourage parents to come to you with questions (being clear about who is appropriate as a source of legal advice) and provide as much clarity as you can, helping them to build confidence in you as a trusted source of information.

If your role in supporting families is in the early phase of engagement with statutory authorities or the Courts, consider how you can empower parents to connect with legal support that is affordable, accessible and, ideally, available for a long-term, genuine partnership. Simply giving parents a phone number for Legal Aid will not be enough for many families to get linked in with support.

¹ Centre for Excellence in Child and Family Welfare; University of Melbourne. (2020). A literature review of parent engagement and participation approaches in child protection: The Voice of Parents: A model for inclusion project in partnership with the University of Melbourne. Retrieved from: <https://www.cfecfw.asn.au/wp-content/uploads/2020/10/The-Centre-Voice-of-Parents-Literature-Review.pdf>.

You can help to connect parents with free legal help through the following services:

[Victoria Legal Aid](#): 1300 792 387.

You can also find contact numbers for Legal Aid in different service languages [here](#).

Community Legal Centres are also listed [here](#).

Aboriginal legal support services are also available:

[Djirra](#) provides legal support for people who have experienced family violence: 1800 105 303

[Victorian Aboriginal Legal Service](#) provides legal support, with special expertise in Family Law: 1800 064 865

Parents can feel vulnerable and overwhelmed during this process

Parents want their legal support to understand that the process of going through Court can be intimidating and overwhelming. Court often comes at a point in a family's journey when they have had extensive system engagement that can be fraught with feelings of powerlessness, exclusion, stigma, and mistrust. Parents may feel hopeless and powerless at having to "fight the system," with little support and access to resources, even if they desperately want to be with their child/ren. We heard from parents that they can come into these proceedings feeling judged as 'guilty' before being given a chance.

Parents told us that they want to be involved in all critical (and non-critical) discussions on decisions being made about their child. Full support to do this, however, requires that the professionals involved come from a place of understanding, and supporting parents to make informed decisions about what is best for themselves and their child/ren.

Unless you have been a parent in this situation, it may be hard for you to appreciate the complex struggles a parent can go through when compelled to Court by child protection. Through this process, parents may feel vast amounts of grief and shame internally, even if some of the externally presenting behaviours seem angry or defensive². Do what you can to see through any challenging presentations of emotion or behaviour - be curious and empathetic about parents' experiences and try to understand how trauma may affect a person who has everything to lose (i.e. their child/ren) in such a high pressure, high stress environment.

Many parents in contact with child protection have a trauma history of their own, whether from their own childhoods, in their adult life, or both¹. This can have life-long impacts, such as difficulty concentrating or regulating emotions, and being hyper-responsive to real and perceived threats (for example, forced separation from their child).

Consider where it may be useful to upskill on issues of [trauma](#), [complex trauma](#) and [PTSD](#) for increased understanding of many parents' experiences, and for support on how you can engage them with strategies of evidence-based care².

¹ <https://aifs.gov.au/cfca/publications/trauma-informed-care-child-family-welfare-services>

² <https://blueknot.org.au/>

² <https://emergingminds.com.au/resources/engaging-with-parents-who-have-children-in-out-of-home-care-key-considerations/>

Court processes are not inherently inclusive

Many parents, in our project and in others, have expressed difficulty in navigating the processes associated with Court³. Like many aspects of service engagement, inaccessible information is often a barrier to effective engagement and participation. Whether this is due to jargon and technical wording, parent literacy levels, developmental delays, English as a second language, trauma impacts on capacity, or no existing accessible information, it is important to remember that this does not preclude one's ability to safely parent or be part of decisions being made in the interest of their child. Legal terminology and jargon pose a significant barrier to the participation of parents if they are not supported to understand what is happening. In addition to this, parents who are included can feel that the Court environment is weighted against them and their voice, particularly when they are up against other experienced legal professionals from the Department.

Remember that the Courts work within a specific legal paradigm, and this will not necessarily align with a trauma-informed, holistic assessment of families dealing with multiple and complex needs (for example: family violence, a history of trauma, mental health struggles, family breakdown, poor support networks, poor access to adequate housing and services).

A third-party advocate, such as those available through Independent Family Advocacy and Support⁴, or even a family, friend or other trusted professional, can play an important role in supporting parents to feel that they are being included and heard throughout Court processes. Try to explicitly welcome people like this into the conversation with parents and create space for their advocacy and support.

Slow or delayed processes are detrimental to families

We heard from parents that time delays and slow-moving processes in the Court significantly impacted families in a negative way. This has been particularly detrimental throughout the COVID-19 pandemic and the associated delays in legal proceedings across Victoria. We heard how these delays prolong the trauma of separation and impair the parent-child bond when children are living outside their parent's care. This can have long-term repercussions for a child's attachment to their family of origin as they stabilise and attach to a new primary caregiver over time; this may be especially problematic if the Court ultimately rules to reunify the parent and child. The positive relationship between a parent and child plays an essential role in the child's identity formation as well as their social, emotional, and behavioural development. If it is not possible for the family to experience timely Court processes deciding the placement of their child, consider how you can support parents to remain in healthy connection with their children and to preserve and cultivate a positive parent-child bond during this time (where it is safe to do so).

Keep in mind that many parents experience exclusion through court processes *in addition to* other barriers to their inclusion, for example, in child protection and services, and potentially in society more generally.

We also heard that timelines of legal processes were not always realistically conveyed to parents or adhered to, and this had an impact on parents' morale and hope for a positive resolution.

³ <https://www.lwb.org.au/assets/Parent-perspectives-OOHC-Final-Report-Feb-2017.pdf>

⁴ <https://www.legalaid.vic.gov.au/about-us/what-we-do/independent-family-advocacy-and-support#:~:text=Contact%20Independent%20Family%20Advocacy%20and,1%20pm%20to%204%20pm>

The timing between court cases...It's time that you don't have your children, it was the most difficult time of my life." – Parent Advisor

Consider upskilling where you can on issues of attachment and how this is impacted when children are not in the care of their parents. [This is a useful resource](#) from the Australian Institute of Family Studies (2016).

Legal support that is committed to parent participation can make a difference

Some parents we worked with had positive experiences of legal support that was inclusive, understanding, and accessible. We heard how this can make a significant difference to parents who are going through this process. It is important, however, that accessibility and inclusive practice is available universally, and that parents do not just “get lucky” with a professional who is committed to this style of engagement. Parents explained their difficulties working with duty lawyers: when a professional was assigned to their case on the day, this could undermine any prior relationship building and trust formed between the parent and another professional; it could also lead to inaccurate or fragmented representations of parents during a process that was critical to a family and had potentially life-altering consequences.

Effective legal support was explained as having access to someone who could clearly explain what was happening and what all the options were so that an informed decision could be made. Consider how you can help parents to have a voice in these decision being made about their family, and how you might need to support them to remain included and informed. This might include providing accessible information in various forms, being open to hearing their story, being available for questions and clarification, helping families to overcome barriers such as the need for interpreters, or poor digital literacy/access. Finally, it can really help to understand the experience of parents who go through these systems, to understand how to work with trauma, and to reinforce behavioural motivation through identifying strengths, reinforcing positive behaviours, and helping to elevate the authentic voice of the parent through all Court processes.

The Children's Court of Victoria website has plain English information that can help parents:

- [What to expect in a child protection matter](#)
- [Support services at court](#)
- [Court terms explained](#)
- [Court conduct and etiquette](#)

Do not forget that some parents who need to attend Court will not have the ability to read this information. They also may not feel comfortable letting you know this upfront. You may need to ask direct, non-judgemental questions about a parents' capacity to comprehend this information, take time to read through these resources with parents, or arrange for access to an interpreter.

The Voice of Parents project has also developed a plain English resource of key terms relating to child protection processes more broadly. Consider whether this may be a useful resource to share with parents.

