



Our ref: DHS/19/02738  
Your ref: 7249050

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Dear Ms Cook

I refer to your application under the *Freedom of Information Act 1991* (the Act), received by the Department of Human Services (DHS) on 5 February 2019, seeking access to:

*Copies of any and all documents (including but not limited to physical and electronic material) regarding DHS, SAHT, SAHA or Ministerial Paper 18MHS/0751.*

Three documents were located that fit within the scope of your request and I have determined to release these documents in full. Please find enclosed a copy of the documents released, and a document schedule containing a brief description of each document and determination in summary form.

In accordance with the requirements of Premier and Cabinet Circular PC045, details of your FOI application, and the documents to which you are given access, may/will be published on the agency's disclosure log. A copy of PC045 can be found at <http://dpc.sa.gov.au/what-we-do/services-for-government/premier-and-cabinet-circulars>.

If you have any questions in relation to this matter, please contact Fiona Braendler, Senior FOI Officer, on telephone 8413 9094 or by email at [DHSFreedomofInformation@sa.gov.au](mailto:DHSFreedomofInformation@sa.gov.au). If you disagree with publication, you will need to advise the Senior FOI Officer within two weeks of the date of this determination.

Yours sincerely

A handwritten signature in black ink, appearing to read "Matthew Schutz".

Matthew Schutz  
**ACCREDITED FOI OFFICER**

1 / 03 / 2019

### SCHEDULE OF DOCUMENTS – DHS/19/02738

Freedom of information application from Nat Cook MP seeking copies of any and all documents (including but not limited to physical and electronic material) regarding DHS, SAHT, SAHA or Ministerial Paper 18MHS/0751.

No	Author	Date	Description of document	Determination	Reason
1.	Chris Karvountzis, Chief Innovation Officer - Community and Support Services	24/10/2018	Briefing – 18MHS/0751 - Letter from Hon Vickie Chapman MP Regarding Young People's Family Law Advisory Group Report	Released in full	No exempt material
2.			Attachment 1 to Document 1 - Young People's Family Law Advisory Group – Evaluation Report of pilot project	Released in full	No exempt material
3.			Attachment 2 to Document 1 - Draft Minute to the Deputy Premier, the Hon Vickie Chapman MP.	Released in full	No exempt material

18MHS/0751



Government of South Australia

Department of Human Services


TO MINISTER FOR HUMAN SERVICES

RE: LETTER FROM HON VICKIE CHAPMAN MP REGARDING YOUNG PEOPLE'S FAMILY LAW ADVISORY GROUP REPORT

Decision/action required by:...../...../.....

Reason:.....

Recommendation	Response
1. That you note the contents of the Young People's Family Law Advisory Group Report, including the key recommendations.	Approved / Not Approved / <u>Noted</u>
2. That you approve and forward the draft Minute to the Deputy Premier, the Hon Vickie Chapman MP.	<u>Approved</u> / Not Approved / Noted

<b>Comments:</b> ..... ..... ..... ..... ..... ..... ..... ..... .....	 Hon Michelle Lensink MLC 24 / 10 / 2018
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## PURPOSE

The Deputy Premier, the Hon Vickie Chapman MP, has written to you, providing a copy of the evaluation report of the Young People's Family Law Advisory Group pilot project (YPFLAG Report). The Deputy Premier would like to bring to your attention the key findings raised in the YPFLAG Report, including the key recommendation that a YPFLAG programme be provided ongoing funding.

## KEY POINTS

- In 2016-2017, the Family Law Pathways Network in South Australia conducted a pilot project, engaging ten young people, aged 14 to 17 years, in a consumer reference group to hear feedback about their experiences of the family law system throughout the process of their parents' separation.
- The feedback and recommendations provided by the young participants of the pilot project formed the basis of the YPFLAG Report (see attachment 1). Key recommendations include the following:

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1. A permanent and fully funded YPFLAG is established to offer advisory, advocacy, referral and support services to children and young people in the family law system.
2. A Children's Hub and/or a Child Advocate role is created at the Family Courts to offer support, advice and advocacy for children and young people on a range of issues related to the family law system. The Child Advocate could be affiliated with the Commissioner for Children and Young People.
3. Legislative and/or procedural reforms to ensure children and young people are heard in the decision-making process in the family law system.
4. A Charter of Rights for Children and Young People be developed.
5. A follow-up service be established for children and young people once court orders are made.
6. All children have access to post-separation counselling or support group services.

## DISCUSSION

The YPFLAG Report has been forwarded to you as Minister for Human Services, as your portfolio includes responsibility for a small number of youth grants and programs.

In principle, Community Services, DHS broadly supports the recommendations of the YPFLAG Report. The recommendations aim to enhance the welfare and wellbeing of children and young people through support, advice and advocacy services within the family law system.

The introduction of an ongoing YPFLAG programme would provide children and young people with a place for their voices to be heard across the family law system, with other proposed service responses assisting in the often-times challenging effects of family breakdown.

The Department of Human Services does not currently provide any direct assistance for organisations to provide family law support services.

A range of family relationship services are currently provided to assist separating and separated parents and families through the Commonwealth Attorney-General's Department (AGD) and the Department of Social Services (DSS). The Australian Government currently funds a child focused support programme called the Supporting Children After Separation Programme. This is funded through DSS and delivered in South Australia by a number of non-government agencies, including Relationships Australia SA, Anglicare and Uniting Communities.

As family law services and support programs are generally the responsibility of the Australian Government, it is recommended that the YPFLAG Report be provided to the Commonwealth Attorney-General's Department and the Department of Social Services for funding consideration.

Community Services also recommend that the YPFLAG Report be provided to Ms Helen Connolly, the Commissioner for Children and Young People in South Australia. The Commissioner may wish to consider the recommendation of a Child Advocate within the Family Court system in South Australia.

A draft Minute to the Deputy Premier is attached (see attachment 2).

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**BUDGET**

Are there financial implications

No

<b>Division</b>	Community and Support Services		
<b>Chief Innovation Officer</b>	Chris Karvountzis	 signature	20/9/18
<b>A/Director</b>	Paul Tsoundarou	 signature	21/9/18
<b>A/Deputy Chief Executive</b>	Kim-Sherie Summers	 signature	27/9/18

**ATTACHMENTS**

1. Young People's Family Law Advisory Group – Evaluation Report of pilot project
2. Draft Minute to the Deputy Premier, the Hon Vickie Chapman MP.

<b>Contact Officer:</b>	Chris Karvountzis, Chief Innovation Officer - Community Services 0423 025 386 / <a href="mailto:Christopher.Karvountzis2@sa.gov.au">Christopher.Karvountzis2@sa.gov.au</a>
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**YPFLAG**

Young Peoples Family Law Advisory Group



Australian Government



**Family Law  
PATHWAYS  
NETWORK**

**SOUTH  
AUSTRALIA**

Report/Evaluation  
Young Peoples Family Law Advisory Group  
A Pilot Project 2016/17

**'THE TIP OF THE ICEBERG'**





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## A. EXECUTIVE SUMMARY

This report examines the process and findings of the pilot project, the Young Peoples Family Law Advisory Group (YPFLAG), an innovative project developed by the Family Law Pathways Network in South Australia throughout 2016–2017. This pilot project was the first of its kind held in Australia.

The project engaged 10 young people in a 'consumer reference' group environment over a period of approximately 18 months. The aim of the project was to hear feedback about their experiences of the family law system throughout the process of their parents' separation, with the purpose to better understand this experience from their perspective, without parental intervention. Their feedback and recommendations are relevant for all major stakeholders within the Australian family law system; for example, family law courts, government agencies and community-based family law services, such as family relationship centres, family counsellor services and the like.

The findings in this report represent the YPFLAG's collective interactions with the family law system in a narrative form. The young members of the group have been able to 'tell it like it is' during the project and the recommendations made and conclusions reached in this report reflect their collective input.

After hearing feedback from the YPFLAG about their experiences of the family law system, a number of key messages became apparent during the course of the project. These can be grouped into two main categories, namely:

1. Failure of processes within the family law system: - Children and young people feel unheard in the processes and procedures they experience across the family law system. In particular, they feel that their experience of and within the court system is inadequate, such that even when they are provided with the opportunity to lend their voice within processes (via a family assessment, for example), their voice is overlooked or misconstrued. Further, they feel that their voice is missing from other family law processes, such as child-inclusive mediation, and they want their voice to be better heard across all services for parents within the wider family law system.
2. Living with orders: - Children and young people feel that in the aftermath of orders or agreements made by courts, they are abandoned and overlooked. They feel that they become enmeshed in their parents' ongoing conflict following separation, as well as in the court process itself. They believe that the system, as it currently exists, does not allow for flexibility or challenging of orders by children or young people, privileging the needs of parents even when the system is required to consider children's best interests. They also comment that, according to them, there is nowhere for children or young people to seek child focussed advice, support, advocacy or education regarding family breakdown either before, during or following separation. Overall, they experience parental separation and the family law system in a way that leaves them feeling isolated, ashamed, dismissed and exhausted.

Accordingly, the recommendations of the report are those of the YPFLAG and arise from the work done with the group, as follows:

1. A permanent and fully-funded YPFLAG (or an equivalent program) is established to offer advisory, advocacy, referral and support services to children and young people who find themselves involved with the family law system and to allow for consultation on existing and future policies and procedures involving children and young people across the family law system.
2. A Family/Child Advocate Hub is created to offer support, advice and advocacy for and on behalf of children and young people on a range of issues including triage and/or referral services but primarily to explain legal processes they may experience in the family law system, especially at court.
3. Legislative and/or procedural reforms are needed to ensure children and young people are heard in the decision-making process, including:



- i. Court orders should be drafted in a way that acknowledges the possibility that children and young people may want to vary court orders as their needs change;
  - ii. That parents are required to use child-inclusive processes during family dispute resolution as a rule and not as an exception;
  - iii. Parental consent for children involved in child-inclusive services in the family law sector should be abolished;
  - iv. Parents should be required to use an alternative family dispute resolution process when seeking to vary court orders, and that this revised process should always involve their children unless risk indicates otherwise;
4. A Charter of Rights for Children and Young People should be developed as a set of key foundation principles for children/young people experiencing parental separation and that this should act as a cornerstone for future family law policies and procedures.
  5. That a follow-up service should be introduced for children/young people once court orders are made, to check in and gauge how orders are working on a practical level for them.
  6. That all children have access to post separation counselling or support group services.
  7. That when children are required to be part of the Court process, that recorded observations of children during Family Assessments are made available for judges to watch when making final orders.
  8. Training and education should be emphasised in meeting the needs of parents and children/young people going through the family law system; for example, separated parents could be mandatorily required to attend courses that highlight the impact of parental conflict on children following separation.
  9. All professionals who work with families who are separating should have access to better training in child-inclusive practices, across Federal and State divides.
  10. A specific service should be created for children/young people to access information about family law; for example, a program should be introduced to schools which provides information and referrals for children experiencing parental separation;
  11. That a purpose built communications and social media information hub is created for children and young people to enable children and young people access information about family and parental separation in real time.

This report provides readers with a better insight into the lived experience of the young people involved in the YPFLAG who have gone through parental separation and describes how the family law system affects them on an ongoing basis. This report also serves as an example of how a group of this nature can offer the opportunity for children and young people to participate and contribute to an 'adult-centred' system in a meaningful way.

We hope that this project and its findings can enable us to hear the authentic voices of children and young people in the family law system and can act as a reference point for professionals working in the family law sector who seek to develop and implement better child-inclusive and child-focused policies, practices and procedures.

Finally, this report strongly supports that the YPFLAG project continue. The YPFLAG (or a group of this nature) should be introduced into the Australian family law system, evolving from a pilot group into a longitudinal service, enabling children and young people to have their voices heard across the family law system on an ongoing basis. We see this not only as a vital service to children and young people caught up in the family law system, but also as a service to the wider community when dealing with the challenging effects of family breakdown.

## B. PROJECT RATIONALE

Australia is a signatory to the United Nations Convention on the Rights of the Child (UNCROC), but children have limited opportunities to participate in the decision-making process of the family law system. The Convention outlines a number of basic rights for children, one of which is the ability to make their views known (Article 9) as well as to participate in the decision-making processes which are relevant to them (Article 17).

Further, Article 12 also states:

- Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
- For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

In principle, the *Family Law Act 1975* (the Act) acknowledges the importance of hearing children and young people in a family law context, under the terms of the Convention; however, measures to ensure that children and young people are heard throughout the family law system are deficient. For instance, to enable a court to hear the view of a child, the court **might** appoint an independent children's lawyer (ICL) to advocate on behalf of a child. The court also **might** request a family assessment, which is a process where a family consultant or other report writer interviews the children to include their views in the court report. In addition, there are child-inclusive conferences, where children of a particular age are included in a conference about the parents dispute and the views of the children are fed back to the parents— but these do not always take place. In addition, in some instances, judges<sup>1</sup> have attempted to hear the views of a child directly, but this is not the norm.

Despite these existing provisions, final orders are often made in the Family Law Court with children having no or little opportunity to be directly heard. In addition, there are no mechanisms in place to ensure children are advised of the outcome of final orders other than by their parents.<sup>2</sup>

Current resource limitations prevent many children from having a direct voice in the very proceedings that involve them, or enabling them to have decisions explained to them once they are made. Currently, the Federal Circuit Court (which currently handles a large portion of family law jurisdiction) hears approximately 11,500 family law matters each year involving children's issues (representing approximately 22,000 children); yet many of these matters proceed without a family assessment, a child-inclusive conference, the appointment of an ICL, or any other means of ensuring the child can clearly express their views. Regarding those cases where an ICL is appointed, a report conducted by the Australian Institute of Family Studies in 2014 indicated that children often felt let down by the very advocates who are appointed to service their needs.<sup>3</sup>

As such, this means there is little or no opportunity for a judge to hear the voice of the child and, in particular, what the intended arrangements developed by the parents and/or lawyers, actually mean for a child or young person. For example, it is presumed under the Act that 'shared care' is in the best interests of the child unless an assessment of risk indicates otherwise. Unfortunately, as the system currently stands, there are limited opportunities to assess this risk. In addition, research indicates that most children find shared care arrangements difficult, because it means they have to negotiate the complexities of living in two homes, often with parents who remain in conflict with each other. However, it is our experience and understanding through

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<sup>1</sup> For instance, *Justice Benjamin of the Family Court, Tasmania*

<sup>2</sup> Unless an ICL is appointed

<sup>3</sup> We acknowledge that this report is over four years old and many steps have been taken since its release to address this.



this project that children simply do not have the chance or the determination to express those sorts of concerns during the course of legal proceedings under the current family law system.

Furthermore, the family law system as it currently stands means that children and young people have very little influence or say in what happens to them once their parents separate, primarily because the system fails to allow the voices of children to be heard adequately, even where parties do not seek or require litigation. Across the spectrum of the family law system, children's voices feature only superficially in the making of parenting arrangements (such as in the development of a parenting plan as prescribed under the Act) before the court proceeds to family dispute resolution services<sup>4</sup> or to confirm agreements reached during negotiations between family lawyers.

Additionally, there is limited means in the system as it currently exists for children and young people to express their views about the impact of care arrangements after an order has been made and/or an agreement has been reached outside of court. Children and young people must live with decisions and arrangements made about them on a long-term basis and, in an adult-centred system, they do not have any effective way in which to express concern or even ask questions about these arrangements once they have been made.

Recognising that there is currently no obvious avenue for children or young people to express their views in the current family law system, in 2016 the South Australian Family Law Pathways Network (SAFLPN) set about creating a pilot project, the Young Peoples Family Law Advisory Group (YPFLAG), to fill this gap.

## Purpose

The purpose of this report is to document the discussions of the small sample group of 10 young people who participated in the YPFLAG pilot project. The report includes the group's reflections on their lived experiences and interactions with the family law system and goes on to present recommendations for readers to consider, especially major stakeholders who work with families and children in the family law system. This report does not purport to be an academic paper or research in the sense of a formal study by a research/university body, but rather shares primary information obtained from the project participants, and describes some options to improve the system, based on the group's feedback.

In general, the experiences of the young people who participated in the YPFLAG pilot project occurred within a court context, insofar as most of the young group members were living with court orders made following their parents' court proceedings. Our sample group did not have contact with all services within the family law system, such as family relationship centres or other services in the community-based family law sector. Thus, this project was unable to collate experiences about all issues or interactions with the family law system that may affect young people regarding parental separation. Further, while the feedback from the YPFLAG members in this report should not to be considered in isolation, this report does not claim to speak to all experiences of all children /young people who have experienced the family law system.

The aim of this report, then, is simply to give the reader a snapshot of what the YPFLAG had to say about his or her own experiences of encountering the family law system. Much of this focuses on their contact with the professionals working with the courts: contact with post-separation children's services they attended; living with the orders or arrangements made following their parents' court proceedings, or any other aspect of the system they had experienced personally and thought relevant to share. It should be noted that at times the YPFLAG were also asked to provide feedback about some of the other services and resources that operate in the family law system, but in the context that they may not have had direct experience or even know that some of those existed (such as child-Inclusive mediation) until participating in the YPFLAG project.

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<sup>4</sup> Even though many family relationship centres who conduct family dispute resolution (mediation) regarding children's issues may offer child-inclusive mediation, both parents must consent for this to occur and many parents opt out of this.

The YPFLAG were not subject to psychological assessment but a team of professionals who have skills and experience working with children and young people in a professional capacity supported them throughout the project. This project did not seek to resolve or follow up with families in a therapeutic sense about all issues raised by the YPFLAG on an ongoing basis, other than dealing with issues subject to mandatory reporting.

It is not the intention of this report to analyse or test the nature of the feedback provided by the members of the YPFLAG during the project. This report seeks to reflect the experiences of the YPFLAG in a qualitative form, 'warts and all'. Accordingly, some readers of this report, especially those who work or have worked with children in the family law system, may find some of this feedback challenging. All feedback in the report remains anonymous and generalised in order to protect group members, but one of the primary aims of this project was to ensure that we accurately captured and reported the honest, unfiltered and at times, uncompromising feedback from the group about their experiences of the family law system, regardless of how difficult some of this may be for those who work in the area. Crucially, our aim was not to criticise, blame or embarrass those who work with families in the family law system, but rather to 'shine a light' on how these young people experienced and perceived the system from their very personal perspective, given that there has been little opportunity for them to express such views in the past.

This report aims to examine and provide insights from the perspective of the YPFLAG about the processes and procedures they experienced in a way that supports the need for young people to have their voices heard in a system where traditionally this has been difficult.



## C. PROJECT DESIGN

### Introduction

The YPFLAG pilot project involved mobilising 10 young people from South Australia (aged between 12-17) who had experienced parental separation, in a forum where they could provide unfettered feedback confidentially about their lived experiences of the family law system. The YPFLAG met at regular intervals over approximately an 18-month period (from October 2016 to February 2018) in a 'consumer reference' group environment. As far as we are aware, this was the first time this type of group and its approach had been trialled in Australia.

The YPFLAG project was developed and run by the South Australian Family Law Pathways Network (SAFLPN). The SAFLPN is a not-for-profit program funded by the federal Attorney-General, which helps professionals who work in the family law sector (including legal practitioners, judicial officers, judicial staff, family dispute resolution practitioners, social workers, counsellors, mental health workers etc. ) assist separated or separating families to navigate the complex family law system. The SAFLPN works in collaboration with services and organisations within the broad family law system in South Australia to develop projects that will benefit the sector. This project was endorsed by the auspice agency for the SAFLPN, Relationships Australia SA and the Family Law Court's Children's Committee. The YPFLAG pilot project was initially funded on a one-off basis by a philanthropic organisation<sup>5</sup>, the Broadley Trust, for 12 months (1 July 2016–30 June 2017) and this term was extended for an additional six months (1 July 2017–30 December 2018) to enable completion. The SAFLPN gratefully acknowledges the unique contribution of the Broadley Trust in funding and recognising the value of the YPFLAG project.

### Development of the YPFLAG pilot

The concept of the YPFLAG was originally developed via a dedicated working group<sup>6</sup> made up of members of the SAFLPN who had an interest and commitment in improving the wellbeing and experiences of children and young people in the family law system.

The working group operated on two primary levels throughout the YPFLAG pilot: first, as a holding and development environment around design of the pilot project, and secondly as a sounding board for day-to-day governance, issues and feedback.

The working group began by developing a framework, terms of reference and other considerations for the formation of YPFLAG.<sup>7</sup> To this end, a number of other models were reviewed, including the example of the Family Justice Young People's Board (FJYPB), a similar group run in the United Kingdom by the Children and Family Court Advisory and Support Service (CAFCASS). The UK-based FJYPB is a group of approximately 50 children and young people between 8 and 25 years old who live across England and Wales. All members either have had direct experience of the family justice system or have an interest in children's rights and the family courts. The overall aim of the Young People's Board is to deliver improvements to the family justice system so that it provides the best outcomes for children who encounter the family justice system. The FJYPB helps ensure that the work of the CAFCASS Family Justice Board is child-centred and child-inclusive by enabling young people to have a direct say in its work. The FJYPB has been operating in the UK since 2000.

Borrowing from parts of this example, the working group developed a smaller YPFLAG model, which sought to develop a council or advisory board, made up of approximately 8–10 young people from South Australia who had experienced some aspect of the family law system to obtain feedback about their experiences.

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<sup>5</sup> The Broadley Trust initially funded the project with \$20,000 from 1 July 2016–30 June 2017 and then extended it with another \$10,000 from 1 July 2017 to 31 December 2017.

<sup>6</sup> Initially, a Working group called the 'Children's Committee Working group' was formed to develop the best processes and procedures for the YPFLAG. In early 2017 the name of the Working group was changed to the 'YPFLAG Working group'.

<sup>7</sup> Ethics approvals were sought and obtained from relevant organisations.



The working group continued to meet regularly to discuss next steps and strategic planning for the YPFLAG. A flowchart about how meetings would take place and their purpose was also developed (Appendix A).

To ensure safety of the participants, the working group adopted a number of risk management strategies, including:

- Both parents must consent to a member's participation (unless one parent had 'sole parental responsibility')
- Participants must have a safety net available by having at least two facilitators trained in child-inclusive practice available to support them during meetings.<sup>8</sup>
- Ensure follow-up and/or offer of therapeutic support if needed to avoid re-traumatisation.
- Any report generated would ensure anonymity of the participants.

It was also important to the working group that its participants were valued. The meetings were fully catered and each young person received remuneration in the form of an I-tunes voucher at each meeting.

Initially, the Family Law Courts in Adelaide was considered the most centralised location to conduct the YPFLAG meetings.

Under this framework, a number of key indicators were set out in terms of the objectives of the YPFLAG pilot project, including:

1. Ensure that participants met in a safe environment.
2. Ensure that the participants were able to tell their stories.
3. Offer participants feedback about the experiences they related.
4. Obtain a comprehensive array of information from participants about a variety of issues concerning their experiences of all facets of the family law system.
5. Encourage participants to build skills, such as chairing a meeting, taking notes/minutes and similar life skills.

## YPFLAG recruitment

Once the working group established the framework, the next phase of the project involved recruitment of young people to participate in the YPFLAG.

The working group realised that sourcing or finding parents and children who may be interested in participate in the project would be challenging. Therefore, one of the roles of members of the working group was to identify and nominate at least five young people and their families whom they had met in their professional or personal lives and whom they thought may be suitable to join the project. From here, those early members selected others into the group.

The main criterion to participate in the pilot was that the young person had to have contact with at least one aspect of the family law system, such as the family courts (via a family assessment, for example); a children's post-separation support group (such as Banana Splitz); seeing an Independent children's lawyer; participating in a child-inclusive mediation, children's contact services, or similar. Their parents should not have a matter ongoing in the Family Law Courts.

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<sup>8</sup> Two members of the working group, Robin Howard from the Kids Are First program and Angela Andary, Family Consultant at the Family Law Courts, volunteered to attend meetings as support persons and were made available during and following YPFLAG meetings for support.

Initially, recruitment for the YPFLAG was slow and the working group conducted a short-term, localised recruitment drive to identify appropriate participants, targeting both young people who may be interested and service providers who work with children in the government and not-for-profit/community sector. Flyers were prepared and distributed via the SA Family Law Pathways Network (Appendix B).

Eight families were identified and shortlisted as appropriate and approached by the coordinator and/or co-facilitators from the working group to ascertain interest. Once a young person was identified, the parent of the potential recruits for YPFLAG were contacted by either the coordinator or the YPFLAG facilitators to arrange a meeting. Parental consent forms were provided and signed.

Following the recruitment process, 10 young people (4 boys and 6 girls) self-selected into the YPFLAG aged between 14 and 17 (Year 10–12 high school), all of which (other than siblings) were not previously known to each other.

Each member of the YPFLAG attended a first interview where they were asked a number of questions regarding their interest in being involved in the group. All participants provided a similar response: they all wanted to assist other children experiencing family breakdown.

Based on feedback from one potential recruit, who disclosed that they felt unable to attend at the Family Law Courts location because this raised some 'bad memories', it was decided to hold meetings at another location. Meetings were held at the offices of Relationships Australia in Frome Street, Adelaide.

## Characteristics of the YPFLAG

The ten participants in the group came from varied backgrounds as set out below:<sup>9</sup>

- 10/10 of the participants' parents were heterosexual.
- 10/10 of the participants were from South Australia.
- 9/10 of the group's parents had been to court.
- 9/10 of the group lived in metropolitan Adelaide.
- 9/10 of the participants had had at least one meeting with a family consultant and/or a family assessor.
- 6/10 were attending a private school.
- 6/10 were female.
- 6/10 had attending counselling or a post-separation children's group.
- 5/10 were related as a sibling or step-sibling.<sup>10</sup>
- 4/10 of the participants had a parent with sole parental responsibility.
- 4/10 of the participants were male.
- 4/10 went to a public school.
- 4/10 thought that their parents went to trial.
- 3/10 were classified as a 'protected person' under an Intervention Order.
- 3/10 did not spend time with their father.
- 2/10 reported being appointed an ICL (Note: one other member thought they may have been appointed an ICL but could not be sure)

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<sup>9</sup> The YPFLAG only had one person from a non-English-speaking background and we had no members who identified as Aboriginal or Torres Strait Islander.

<sup>10</sup> There were two families involved in this category. One family had a sibling and step-sibling who lived in the same household. The other family had 2 siblings who lived in one household and one sibling living in another household.



- 1/10 reported involvement with Families SA.
- 1/10 did not live or spend time with their biological parents. This participant lived with their maternal grandmother.

Lack of resources prevented additional participants or other young people contributing in other ways, for example young people who were unable to attend in person could have provided their feedback online or via social media.

## YPFLAG meeting schedule and features

The first orientation meeting of the YPFLAG was held on 8 November 2016. There were 6 participants, 4 girls and 2 boys. By the next meeting, the YPFLAG had recruited another 4 members, 2 boys and 2 girls.

An agenda was prepared for each meeting, listing items to be discussed. Summaries of these discussions are presented below:

1. At the initial orientation meeting the YPFLAG created a 'Terms of Reference/Charter' to set out the goals and expectations of the project. The group members agreed to meet more regularly than expected (about once a month or every six weeks) to allow relationships between YPFLAG members to be built. It was agreed that an agenda would be prepared and that a chairperson from within the YPFLAG would be nominated to conduct each meeting on a rotating basis.
2. At the first meeting, on 8 November 2016, participants were asked to provide their 'story' and, in particular, to describe their personal contact with the family law system. They were asked to talk about their parents' court matter and their living arrangements under the orders that are currently in place.
3. At the next meeting, 13 December 2016, the group discussed Family Court proceedings: meetings with family consultants and other professionals; holiday time split between parents and other issues such as telephone contact. Participants shared feedback about what it is like to live with their arrangements, such as what it is like at Christmas time and what are the practical issues that affect them as children of separated parents.
4. The meeting on 23 January 2017 took the form of a 'field trip' to the Family Law Courts, where participants were shown through the newly remodelled 'Children's Area' and asked to provide their opinions about this space. The comments were noted and a summary was provided to the courts. Participants also met with Judge Cole of the Federal Circuit Court in Adelaide and visited his courtroom.
5. At the meeting on 7 March 2017, the YPFLAG examined the content of the 'Kids Are First' program, a post-separation program for parents run by Anglicare SA. The YPFLAG reviewed and provided honest feedback about this program, suggesting strategies to deal with the challenges associated with parental separation, including how to help parents gain insight into the effects of their conflict on children.
6. At the meeting on 30 May 2017, the YPFLAG looked at how children and young people access information about parental separation, both online and via social media, and also examined the information provided on the Family Law Court's website, especially the role of the independent children's lawyer. They were asked to provide feedback about the legal aspects and suggest any improvements that could be made.
7. At the meeting on 2 August 2017, the newly appointed SA Children's Commissioner visited the YPFLAG, who asked them about their experiences and to nominate the 'one thing' that could improve their lives.
8. At the meeting on 14 September 2017, the group was asked to reflect on some of their experiences with children's contact services, such as Banana Splitz or others. They were asked to provide some practical ideas about how to improve these services.

9. At the meeting on 27 November 2017, the group discussed laws and policy relating to family law.
10. At the exit meeting, on 23 February 2018, the YPFLAG shared their reflections on the YPFLAG project, were provided a Certificate of Participation and asked if they wished the pilot project to continue.

Whilst it was intended that the YPFLAG should discuss a single issue at each meeting, on many occasions there were wide-ranging discussions and some themes were raised repeatedly.

## D. PROJECT OUTCOMES

### Methodology

The primary method used to gather feedback and information from the participants was narrative discussion. This was an effective means to obtain qualitative information in a controlled environment. It enabled participants to share their stories and provide feedback about their experiences in a safe and confidential environment.

One of the most important considerations in using a 'consumer reference' method is to ensure the participants' wellbeing and this involved offering emotional support before, during and after meetings. The co-facilitators of the group provided this support to every group member. Strategies to support this principle included:

- having breaks regularly where possible
- offering one-on-one conversations
- discussing issues using age-appropriate language
- checking in or following up with participants after meetings.

The coordinator and at least one other professional was responsible for coordinating, facilitating and minuting discussions. An official agenda was prepared and provided to the participants at the beginning of each meeting, listing 'items' to be covered during the session.

During some meetings, a group member was given the responsibility of 'chairing' the meeting and facilitating discussions based on the prepared agenda. Some group members took notes and provided their feedback by way of these notes or verbal comments to the coordinator after meetings.

During the course of the meetings, when the YPFLAG were asked to provide feedback regarding a topic, they did so by responding to questions such as:

- What was your experience like?
- What was the worst thing?
- What was the best thing?
- Was there anything you wanted to say then but were unable to?
- If you had to help a friend who was going through the same situation, what advice would you give them?

These types of questions enabled 'free flowing' and age-appropriate discussions about the experiences of the participants.

### Experiences

#### i. Court orders and time-spending arrangements

The YPFLAG were asked to provide their views about their current living arrangements in a separated family where court orders were in place. Nine of the participants' parents had court orders in place in respect to their care.

During the sessions, the members discussed some of the real and practical issues that affected them when living in a separated family. They thought that the court did not understand how difficult some of these challenges were for them, such as who would wash their school uniforms or feed them a meal. Travelling long distances to see the other parent caused them major angst and they worried about leaving their belongings at one parent's house. They said they were very aware that their parents 'got upset' if they left items at another parent's house. They also said it was a burden and cumbersome to have to carry a heavy overnight bag to school. Some said that they have been 'packing all their lives' and this made them 'grow up too quick'. Some of



the participants had to carry a communication book, which they said they found a burden and they could not understand why they had to be responsible for their parents' (bad) communication.

When asked about how their lives could be improved, they offered a number of suggestions, some of which they acknowledged were not possible or achievable. For instance, some suggested that there ought to be a 'kid's taxi service' or 'kid-safe 'Uber' service or similar to assist with the travel to and from parents' separate houses. They suggested this so that no one had to worry about their safety or the logistics of how they would travel to the other parent's house. Parents also would not have to worry about seeing each other at handovers.

Others suggested money from the government to assist with the purchase of two sets of everything kids need, such as uniforms or sports gear, so that both parents were able to provide these items and so that one parent did not feel bad about not being able to provide their children with the same as the other. They said that this would save everyone a lot of angst as they observed that their parents seemed to be in competition about money and how much each of them is expected to provide. They said this should be an alternative to child support or Centrelink payments. Participants suggested that a government fund be set up for this purpose: so that even if a child is not living with a parent, that parent could still purchase everything to meet the child's needs, ensuring they did not have to go without, or worse, have to ask that parent to pay or claim child support.

They said that while the issues that surrounded parental separation were difficult, this did not necessarily mean now that they wanted their parents to be back together. Many of the participants had fantasised that their parents would get back together at one time or another when they were younger (directly following separation) but they also acknowledged that their home life was mostly better since their parent's separation. They said things were better when the household was not in conflict and their parents were not fighting. This was particularly so for those members who were estranged from one parent or those who had experienced or witnessed violence during their parents' relationship. However, they also acknowledged that there was still conflict between their parents following separation, especially those whose parents had been to court.

When asked if they knew why or in what circumstances their parents had been to court, they reflected that they felt uncomfortable if it was about them and wished their parents did not think they had to go to court about them. They were unsure whether their parents had attended a 'trial' about them or whether they had agreed on arrangements, but they reflected that they all just 'knew' when their parents were going to court about them. They reflected that in this situation, even when their parents tried to protect them from any conflict or avoided speaking about the proceedings, they felt responsible in some way. Some of them hoped a judge would make a decision about their care quickly so that they didn't have to deal with it anymore.

They thought that in some cases, instead of a judge making decisions about them, there could possibly be an expert 'panel' to decide about arrangements before parents had to go to court. They mostly did not realise that parents could try other methods to work out arrangements for children (such as mediation); however, they thought this was a good idea in situations where it was safe and appropriate. They were not sure if their own parents had used or tried these alternative processes. Members thought it would be helpful if children or young people could also be part of this process as long as they could express their views to someone impartial. In fact, they thought this should become mandatory for all children and parents if it was not already.

Participants said it was very difficult following and understanding orders that involved them, especially where they were required to spend time with a parent with whom they did not feel comfortable. They felt that the orders were not really explained to them, nor were they told why they had to follow them when they did not want to. One participant said they felt "forced" to spend time with one parent when this parent had been abusive and that the court did not believe them about this. They felt it would be good for someone to explain the orders to them more closely, especially the reasons why the judge had made that particular decision. Some of the YPFLAG did not know that sometimes parents agreed to orders before the matter went to trial. Either way, they thought that someone should be obligated to explain orders to children and that this needed to be someone other than their parents. One participant, who was not spending time with one parent, reflected that they refused to see that parent even when they knew that there were orders to do so. This participant said the



residential parent encouraged them to follow the orders, but agreed that they would not have to do so if they did not want to. The group members who had orders in place said it would be helpful if there was someone independent (that is, not their parents or their lawyer) to explain the orders to them once they had been made so they understood what the outcomes might be if they did not follow the orders.

They also felt it would be good to have someone 'check-up' on any final orders after they had been in place for a time (possibly 12 months or so) to see whether they were working for children. They said if the orders were not working, there should be a system to review those arrangements that did not involve the court, but enabled children/young people to be involved in a review process. They said that even though they did not want to be 'dragged' through the system again after final arrangements had been made, the conflict between their parents about parenting arrangements was not over after final orders had been made anyway, so negotiating and working through arrangements was going to be a constant issue in their life in any event.

Half of the group said that they were required to speak to the non-residential parent by phone according to their parent's orders. All said this was 'awkward' and 'fake' and they wished they did not have to. They said they did not feel that their relationship would be any different (any worse or any better) by not speaking to that parent over the phone. They said a better way to manage it would be for the child to first express a wish to speak to the non-residential parent and they believed it would not change the child's relationship with the other parent if they did not.

They said one of the most problematic things about living with separated parents is around special occasions. For instance, they felt that their birthdays were less inviting and less interesting because their parents were not together and so any celebration 'lost its shine'. They said it was hard spending only a little time with one of their parents on their birthdays. Some members said that each of their parents would celebrate and have a party for their birthday and it was hard finding the energy and enthusiasm for both. They agreed sometimes it was fun to get two sets of presents but the best thing parents could do for them on their birthday is not to fight about them.

All members agreed that Christmas Day was particularly difficult. Many of the group had a 'split' Christmas ordered by the court. The group reported experiences like having to leave at 2pm on Christmas Day to go to the other parent where they had to celebrate 'all over again'. They said this meant that sometimes they had to 'fake' it with the other parent at Christmas and this was tiring. They said it was hard having to pack all their gifts and toys up to go to the other parent and many were not allowed to bring their gifts with them to the other parent's house for fear of disappointing them (in case they got the same present). Others said they had to keep all of their gifts and gear separate as the both their parents didn't want to share. Other examples of the difficulties they experienced at Christmas time was having to leave events early, such as Christmas lunch, when they were celebrating with extended family (grandparents, aunts/uncles, cousins) who they may not have seen for some time. These sorts of experiences they said made many feel isolated and 'like the weird kid leaving a party early'. For them, they said it would be much better if they celebrated Christmas each alternate year with their parents. Some of the group reported that they had expressed this wish to their parents and some were now having alternate Christmas despite the orders. Others said they would not even approach the issue with either of their parents, as they knew it would not happen. They said that other special occasions like Easter were not that important, as long as they knew what was happening and their parents did not have to fight about it.

All were very conscious and aware of their parents' conflict and did all they could to avoid their parents meeting each other if they did not have to. Participants said their parents rarely spoke or even mentioned or referred to the other parent, either in a negative or positive way, but they just 'knew' their parents 'hated each other'. Many participants reflected that they thought perhaps one of their parents had been misleading to the court about the reason for the separation and they thought negatively of that parent because of that. Those who were spending time with both parents agreed that for the most part, they still cared for their parents despite what bad things they knew about them or what happened at court. They were concerned and confused about why their parent would have had been dishonest with the court or why their parents needed to say bad things about each other if they were not true. When questioned on how or where they had learned of what happened at court or court proceedings, most could not remember or reflected that one of their



parents had told them at one stage or another. The group reflected that sometimes without even saying bad things about the other parent, they still felt their parent's conflict because they were not able to even speak to each other or be in the same room. Other members who were not spending time with one parent were less forgiving and thought badly of the other parent in all circumstances. They all thought it would be good to have someone neutral explain to them what happens at court if it was possible. They thought that the court process was supposed to be about them, but mostly they felt that the process was happening to them.

Members of the group who saw both parents agreed that one of their main concerns was upsetting either of their parents for wanting to do something different from what they were expected to do under the orders. They worried about how to approach or raise the issue with their parents in those instances. They worried that one or both of their parents would react negatively to them wanting to do something contrary to what was in the court orders and felt that one parent (usually the residential parent) would be blamed, or worse abused, unnecessarily if they did so.

Those who did not see their other parent said they felt a lot safer and less anxious for not seeing them. They knew that they could see that parent if they wanted to, but usually they did not want to and their residential parent did not insist that they should. For these members, there was relief that they were not being forced. They worried and understood that this might impact them later in life and affect their future relationship with the parent they did not see. They thought it might be useful if there was someone they could turn to, other than their parents, to follow up on how well the orders or parenting arrangements were working. They thought that this could happen periodically or at least sometime in the period directly following when final orders had been made by the court.

Most of the YPFLAG said they would have liked to speak to the judge directly because they felt that they were not heard at all, even after speaking to a family consultant. They agreed it would be nerve-wracking to speak to a judge and understood that they might not get what they wanted. One participant did not want to be burdened with doing this and thought that it should be up to the judge, as they were the expert. Most of the YPFLAG agreed that it would be great to have the option of speaking to a judge if you were 'old enough' to understand what was going on. They did not think it would be appropriate for children under the age of 8.

The YPFLAG thought that the role of an ICL would be important one and that all children should have one if their parents are at court. Those who were not appointed one would have liked to have had an ICL appointed if they had their time again at court because they felt they were not heard otherwise. Some did not know that the role of an ICL existed and were annoyed that no one had considered this for them during their parent's court proceedings. Those who did not have an ICL appointed in their parents matter felt that the court was saying that they were not important enough to have one. Others thought that lawyers do not have much training or knowledge about children<sup>11</sup> and were too busy to deal with them. They thought that the job of an ICL should be able to tell judges what children want but also what children need.

The participants of the YPFLAG who reported they were appointed an ICL commented they had never met one. One member thought they may have had one allocated in their parents matter, but was not sure if they had because they did not meet with one. The members who had an ICL appointed were disappointed that they did not meet with them and felt that the ICL just 'took the side' of one of the parents anyway. One member recounted that the ICL followed the recommendations of the report writer only but this was not accurate. The YPFLAG thought that ICLs should champion children and this should involve meeting with children all the time, so that children can have their voice heard by the court, but worried that ICLs were heavily influenced by parents and thus they were not independent.

They said that even though orders were in place, they felt that some parents did not accept those decisions and continued to live in conflict with the other parent about these issues long after court proceedings ended. They wished parents could be told that they had to accept the orders when they were made by a judge,

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<sup>11</sup> The YPFLAG were explained about the additional training to become an ICL.

regardless of what they were, and that they had to end any conflict, once orders had been made, for the sake of their children.

All members of the group expressed the need to have the orders that were made by the court explained to them in more detail at the time because they felt they were 'left in the dark' about what happened at court and did not understand why the orders had been made the way they were. They thought someone should help to assist them to understand. They thought this person should not be a lawyer or anyone who worked for the courts. They thought that to make it more 'fair', it should also not be either of their parents. They thought it should be someone independent, who could clearly explain to them the effect of orders; the reasons why the judge had made them and what they would mean for them now and in the future. They thought that ICLs and other people who worked in the courts shouldn't be this person as they were only interested in 'looking after the parents'; wanted to close their file and weren't really concerned with the effects of the orders on children after the matter finalised.

## ii. Being part of the court process

On several occasions the YPFLAG were asked to reflect and provide their feedback about being personally involved in the court process, including being interviewed by a family consultant or family assessor. They were also asked what they thought about the environment in which these interviews take place in the newly renovated 'Children's Area' at the Family Law Court in Adelaide.

### 1. Family consultants

A strong message that we heard from the YPFLAG about seeing a family consultant is that they did not know why they had to see one. No one in the YPFLAG reported being provided with fact sheets (such as booklets for children); being directed to any websites or being provided with any information from their parents or other service providers about what they could expect during their visit to a family consultant. They said they were told they would be seeing a family consultant but they didn't understand what the meeting was about or what it would involve.

The group reflected that their number one concern about seeing a family consultant was that the consultant might not be aware that they [the children/young people] might be scared of saying the wrong thing. Others in the group also expressed the belief that they told the family consultant "what they wanted to hear" for fear of later retribution by one or both parents. Another participant advised that they were so traumatised by parental conflict at court and being part of the process that they "never wanted to enter the building again". This participant reflected that the court completely ignored their feelings towards one parent was "forced" to see that parent regardless.

Others in the group agreed that most of them were too scared of saying something that would hurt a parent's feelings. Some reported that their parent(s) came to them afterwards and asked words to the effect of: "Why did you say that to the family consultant?" They said they felt guilty and pressured by this.

Many thought that their words and meanings were 'twisted' and did not accurately reflect what they really meant. All but one said they had been provided with a copy of the report from a parent and felt ashamed and troubled about what they read in the report.

They said they did not really feel heard or that anyone cared about what was happening to them, especially how it was portrayed in the report. They said they felt that the family consultants were just there 'doing their job' and didn't care how they were living with their parents' separation. Prior to the session with the consultant, they all said they felt worried about what it meant. After the session they all said they felt lost and scared and that there was no one to turn to debrief about it. They said they felt it was an isolating and demoralising experience.

The YPFLAG also provided feedback on some ways they thought could improve the process for children in relation to family consultants, namely:

- explain who they are and why the children are there



- be nice — one professional, mentioned by more than one participant, was described as grumpy and abrupt
- make an attempt to connect with and try to get to know the child
- give an explanation of the process — what happens next
- listen
- not ask blunt questions
- be honest in their report to the court — not make assumptions about what the child means or wants
- be impartial.

As an alternative process, group members suggested to perhaps video the conversation so that both verbal and non-verbal communication is shown, and then show this video only to the judge and not the parents or the lawyers.

The group also wondered whether it would be appropriate for the family assessor or ICL or someone else (not a lawyer or someone who worked for the court) to go through the report with them and explain the reasons behind their recommendations. They all felt that this process should be done through someone completely independent, but someone they could trust who was not part of the court process and that this would make them feel assured and clear about the recommendations.

## **2. Private assessments**

Three of the YPFLAG had had an experience with a family assessor. These professionals conduct family assessments as private practitioners. One described their assessor as 'creepy' and said they did not know what was happening or why. They reported that the assessments took a long time to perform and one said theirs took 11 hours and that they couldn't understand why the assessor took so long.

One member reported that the family assessment occurred at the beach and the assessor just sat, watched, and took notes. This member of the YPFLAG also noted that if any other person (member of the public) had done that, they might have been reported or arrested. This member reflected that they had been to a playground and given ice cream and "of course I had a lovely time — ice-cream and playground!" but was not a true reflection of their behaviour towards their parent or their parent's usual behaviour towards them because it felt artificial and "false".

Members said that the family assessor went into their home, but they did not think this was fair because the assessor might judge parents on the state of the home. One member reflected that "one parent worked two jobs to keep the family going, the other parent had someone (a new partner) there to clean up after him." This member thought that the report would be prejudiced towards one parent over another and would not report how their home life really was.

Therefore, the YPFLAG thought family assessments should be more like a "secret shopper" experience to give a more honest appraisal of the child/parent relationship.

They also thought that there ought to be a better recognition that "you (the child) are never yourself at these assessments and you always put on a face."

They also thought that 'one off' meetings are not enough and that more meetings or meetings at regular intervals after orders are made may be helpful to see how things are going.

## **3. Visit to the Family Law Courts**

The YPFLAG attended at the Family Law Courts to view and then provide contemporaneous feedback about the newly remodelled 'Children's Area'. On the day, the YPFLAG initially met briefly with both the Regional Manager and the Regional Coordinator of Child Dispute Services of the Family Law Courts, Adelaide Registry. Later, the YPFLAG also met with Judge Cole of the Federal Circuit Court who showed the YPFLAG his



courtroom. One of the participants who had expressed that they never wanted to go into the court again did attend, although by the end of the visit, found the experience overwhelming<sup>12</sup>. The remainder of the group had memories of being there or around the court during their parents' court proceedings.

The overwhelming feedback from the group on entering the 'Children's Area' was that the name was unappealing. The YPFLAG felt its name was condescending to people in their older age group. The YPFLAG thought there could be another option for the name, such as the 'Kids Wait Room' or 'Kids Games Room' which they thought would not only appeal to younger children but also teenagers. Once in the area, the YPFLAG considered that the area dedicated to older/teenage children looked a little 'boring' and uninviting. It was noted that there was a lack of books appropriate for teenagers. Most of the books displayed were targeted at younger children.

On the next phase of the tour, the YPFLAG attended the observational and interview rooms for family consultants.

The first room was the observation room. It was noted initially by the YPFLAG that the room felt quite small and didn't offer much room for children and parents to interact.

The YPFLAG's first impression was that this room felt like they were being treated like a 'little kid', not only with the observational window but the set-up in the room.

They thought it would be less invasive to have a camera observing what was occurring in the room as opposed to a reflective window.

The YPFLAG thought that the rooms could be improved with some of the following ideas:

- Display a few art works and/or 3D posters
- Lay a nice soft rug over the carpet
- Have some soft cushions or blankets to dress up the chairs
- Maybe a 2 x 2 seater couch setting would be a better option for conversation.

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<sup>12</sup> This issue was managed by one of the co-facilitators. Follow up with the member after the visit was also undertaken by the coordinator.

#### 4. Resources

The members of the YPFLAG reviewed some information and resources created for children and young people going through parental separation; these are on the Family Law Courts website, and include a video about the role of the ICL.

The YPFLAG agreed that they would have no idea that the Family Law Courts website was the place to find information about parental separation. They wouldn't think to go there now to find information, as they preferred social media and Apps as the best places to obtain up-to-date information and support.

One member found the site for kids easy to navigate but it was hard to 'get to where you need to go'. They all commented that that site went at an adult 'pace' and was 'a bit clunky'.

The YPFLAG thought that the court has designated area was too 'babyish' for children (12+). Conversely, they thought that the information services for those in the 5 to 8 age group would be too wordy and complex for kids of that age to understand.

They commented that the 'Frequently asked Questions' section was, in their view, far too complicated for young kids and 'doesn't really tell what you need to know'. They suggested that perhaps this information needs to be put into dot points, as they would lose interest in the long paragraphs.

After the group watched the video of the ICL, they reflected that it doesn't really tell you what you want to know or 'fill you with confidence' about being listened to. Even with an ICL, they said, they still feel like they might not have any rights or a say in what happens to them.

All YPFLAG members reflected that it is difficult for them to seek out support for themselves or their friends when dealing with parental separation. Their experience was they did not speak to friends about their situation, as for most they thought that people would 'judge' them for not having a 'normal family'. They felt embarrassed and ashamed that their parents were not together and even more so if they 'couldn't even be in the same room together' (at functions etc.).

They did not like to go to the school counsellors to get support or information as they would 'tell our parents what was going on' and they did not trust the school to keep it confidential. They also reflected that in their experience, school counsellors are not interested in discussing personal problems and do not know much about dealing with parental separation. They reflected that they think the school would not know how or where to access information about support services for kids going through parental separation. None of the YPFLAG group had accessed the Kids' Help Line. They knew it existed but they thought that it would not be able to help them specifically about their parent's separation.

The YPFLAG thought that it would be good to have something like a 'Children's Hub' or a family advocate at the courts, who would be someone (maybe not a lawyer) who would be able to explain all things about parental separation to children and other members of the family if necessary. The YPFLAG thought that a 'Charter of Rights' should be developed for kids and publicised widely so that kids knew there were services and support in the community for them, especially in schools. The YPFLAG also thought that a helpline or service that had a professional with expertise in family law should be made available, either to speak privately or online.

#### 5. Post-separation parenting programs/services/supports

The YPFLAG were asked to provide their feedback about the post-separation 'Kids R First' (parenting orders) program, especially the section that educates parents about the impact of conflict on children following parental separation, and about their lived experiences of participating in Banana Splitz (a group for children between 8 and 12 living with parental separation) or other children's contact service.

##### a. Kids R First

YPFLAG feedback from understanding what parents learned during the Kids R First program was that **all parents** should be 'forced' to do this course. They were clear that the course should be mandatory so it



enabled all separated parents to see how their separation affects kids. They thought from their experience that parents 'need to open their eyes' and 'be more focused on kids, not themselves'. They felt that parents needed to face the reality of the situation and know the 'truth' about what they are doing to their children.

They thought it would be powerful to have pictures or videos from children who have experienced parental separation in the course to show what it is like to live with separated parents in conflict, as this would have a great impact. They thought that a DVD or video that parents could see and take home with them would help to remind parents about what they are doing to their children after separation. They hoped from this that parents would be able to realise and learn that children can 'suffer' from their parents' conflict. The YPFLAG reflected that they would have had a much better time of it after their parents' separation had their parents not been in conflict.

They reflected that even though it isn't great that their parents separated, it is much worse for them when their parents continue to be in conflict with each other. They want to drive home the message that parental conflict is 'life damaging' and any course needs to be more 'forceful' about how parental conflict affects children.

They liked the ideas of the tool kits within the course about kids showing how ongoing conflict affects them. They thought more examples of this would drive home this message to parents.

The group reflected that they felt forgotten and overlooked during their parents' conflict in terms of their living arrangements. The YPFLAG reflected that their experience of separation seemed geared around the dispute about where they were spending time and not what they wanted or what they were experiencing.

They also reflected that when discussing parental separation, many adults are dismissive of what they are feeling. They felt unheard but did not know where to turn, or who to turn to, when feeling this way. They reflected that many adults would say to them things to suggest they would 'get over' their feelings or 'move on' (about their parent's separation). They felt it was not ok to say to kid's things like: 'It's just a phase' or 'Just ignore it' (your feelings).

They worried that their parents' behaviour following separation was not a good role model for them, especially as they were moving into their own intimate relationships.

#### **b. Banana Splitz**

Six participants had attended Banana Splitz or a similar program following their parents' separation. Some who attended commented it had been helpful mostly and would recommend it to their friends. Some couldn't remember what happened during the Banana Splitz course but they said they sort of liked it, and it was good to be with kids who had gone through the same thing (parental separation) who therefore understood but they couldn't be sure if it helped them or not. They thought that it probably wasn't enough to assist them through their parents' separation. Some commented that they liked it and didn't have anything they could say to improve it, but probably wouldn't enjoy it now.

#### **c. Children's Contact Service**

Only one participant had been actively involved in the CCS. Another participant had been there as support for her little sister.

The participant who used the CCS reflected that he only went once to the CCS, at which time he had said he did not want to see his parent but still had to go. He reflected that he was scared of going, did not understand why he was there and felt upset. He was pleased that he did not have to go again. Those who had observed the CCS did not think it was a great way to spend time with a parent. Others in the group commented that kids should not be 'forced' to see a parent when they clearly did not want to. Others thought a CCS meeting would be an 'artificial' way to spend time with a parent.



### iii. Other

Discussions with the YPFLAG about their 'wish list' were multiple. The YPFLAG were generally realistic about their expectations but thought that a group or body like the YPFLAG was a step in the right direction to 'hear' the voices of children experiencing parental separation.

They noted that schools would also be a good place to educate children and young people about what services and supports are out there for children and young people. They commented that they had no idea where to find out information for themselves but a program or a body which helped schools refer children would be helpful and could act as an introduction to assisting children obtain a voice and not be so scared of telling adults how they are feeling.

On a personal level, in some ways members felt grateful that they had been through parental separation, as it made them more resilient and open-minded about life. It gave them a sense of understanding and maturity, but at the same time they queried whether they had grown up too soon. They reflected that their parents' separation had made them more cautious in relationships and, as one of them said: "I will always be worried that what happened to mum will happen to me". They worried that they would look back at their childhood and only recall their parents' separation and conflict, rather than the memories of being a kid.

They thought that protecting children and young people from the separation did not work for them. They said that they were already part of the conflict, so trying to shield them from it made them feel even more isolated and confused. It made them feel even more like it was their fault. They would like to talk to judges directly when their parents are at court about what might happen in the future. They understand that while they might not get everything they want, at least they had had someone who listened.

They would like to see the law changed to allow children to have a greater say in their own lives and be more involved than merely on a token level. As one member said: "The courts don't know the REAL home life. Anyone can fake a smile or a happy life. Anyone can pretend" and "I really hope we're able to change family law so it's safer and more beneficial for kids."

In an ideal world, the YPFLAG would like to make it easier and have more control about what happens to them, including decisions about whether they can be adopted. Some of the group reflected that the present adoption rules are unfair and kids should be able to choose if they could be adopted by a step-parent if both parties wanted this. They noted that, from their point of view, there are not a lot of options for kids to have a say in this.

Most of all, they wanted someone they could turn to, to ask questions: someone who would care about their parents' separation and take the time to explain the meaning of orders made about them. They did not want this person to be a lawyer or their parents. It would have to be someone completely independent. They also thought it would be useful if the court could appoint someone to 'follow up' or 'check in' on children (especially those at risk or who had seen family violence) about the orders and whether they were working out. If they were not working out, there should be some way to review the orders without their parents having to go through the stress and expense of going back through the court.

## E. SUMMARY OF FINDINGS

The information gained from the YPFLAG from their feedback indicates that children and young people do not feel heard or consulted as part of the family law process, especially in terms of their experiences of being caught up in their parent's conflict at court. While this YPFLAG is a relatively small sample group, and not particularly diverse, there are a number of general themes that emerged during the process that could be usefully considered.

In short, the YPFLAG reflected that children caught in the middle of parental conflict continue to be affected because not only are their everyday needs overlooked by their parents following separation, but their needs are further overlooked by a system that is generally focused on the dispute from the parents' perspective. While the comments and reflections made by the young people of the YPFLAG were made within the context of individual situations, they nevertheless show that there is a perception amongst young people that there are limited mechanisms for children and young people to feel part of the process and to feel heard. Further, whilst many of the suggestions made by the YPFLAG based on their experiences for systems improvement seem unachievable, they demonstrate the desire and the need for young people to exercise their right to participate and to be included in the decision-making process.

The YPFLAG also reflected that not having anyone to talk to or turn to both during and following their parents' separation is completely disempowering. They noted that having orders or arrangements unexplained was especially confusing. The privatised nature of parental separation and the custom of keeping children and young people uninformed about what was going on not only made them feel out of control but also caused a level of fatigue in their relationships with friends and family.

Notwithstanding these findings, the members of the YPFLAG also demonstrated a level of resilience and empathy for others who were going through parental separation and were involved in their parents' conflict at court. The YPFLAG were clear that they were participating in the project to make a difference to others, to help improve the system so that others would not have to go through the same type of (traumatising) experience that they did.

## F. EXIT OUTCOMES

To properly consider the impact of the YPFLAG pilot, it was important that to obtain feedback and information from the key participants in the YPFLAG project following its conclusion. This information was extracted in two key ways:

1. Obtaining reflections from the YPFLAG during the final exit meeting
2. Conducting exit surveys from the facilitators, participants and parents following the pilot project.

### Reflections from YPFLAG

During the exit meeting held on 27 February 2018, YPFLAG members who were able to attend provided reflections about their time with the group.

The questions asked by group facilitators for this meeting were:

1. Would you want another YPFLAG group to be run?
2. What parts of the group process seemed to work well for the kids?
3. What concerned you at any time about the group process?
4. What would you do differently next time?
5. How will this involvement shape your future practice?
6. What were your favourite group moments?
7. Do you have other comments/reflections?

The YPFLAG participants also commented that they felt more comfortable as time went on and they grew in confidence. They felt like they were doing something and making a difference. They said they always felt heard in YPFLAG and were able to give honest feedback. They said it also felt good to know other people felt the same as they did and it was good to feel able to share this with others. They said the discussions they had seemed comforting, less isolating and they were less lonely. As one participant said:

*It feels different now. I feel like others actually understand what it (being a child of separation) feels like.*

They commented that the YPFLAG project might be improved by providing other options to be part of the group, to broaden its base and its scope of feedback by using technologies such as multimedia, and/or a greater presence in social media. They commented that social media provides a two-way communication for young people to input information and also to access information.

When asked about how young people would or could access information about parental separation, they commented that young people do not necessarily use Google or websites. This was because they were concerned about their privacy when looking up sites and not everyone is able to erase their history. They preferred social media or Apps, which they considered more accessible and use-friendly for young people.

When asked if they felt they were able to discuss issues with a professional, they reflected that they might talk to a professional, but they would want it to be done anonymously, possibly online and not necessarily through a phone-in service initially.

They thought that Apps such as Facebook, Instagram and Snapchat were easily accessible and quick to use. They said they prefer these media to be interactive but they need to be free, easy to download and not take up too much storage space on their mobile.

### Exit surveys

Both the participants in YPFLAG and their parents were invited to participate in a survey following the conclusion of the program (see Appendixes 2 & 3)



Participants were asked to complete a survey asking about their participation in the group and parents were asked to complete a survey about their child's participation in the group.

#### i. Method

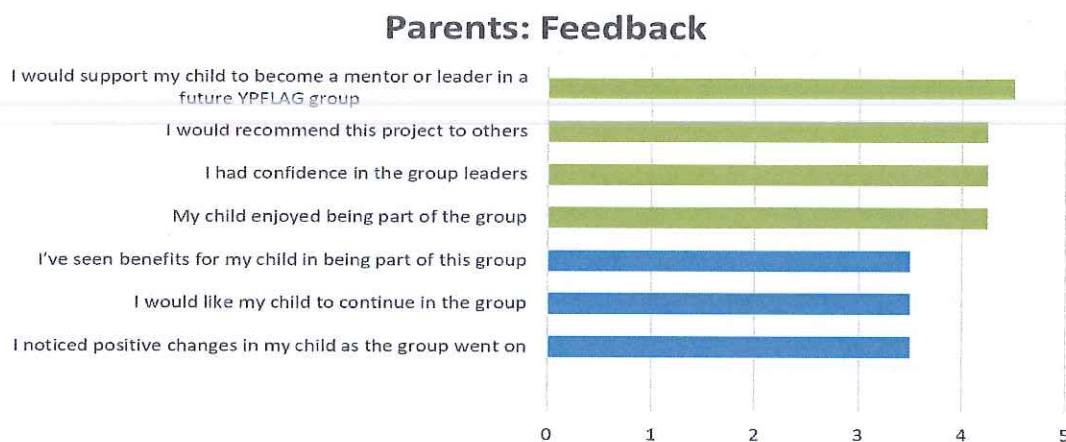
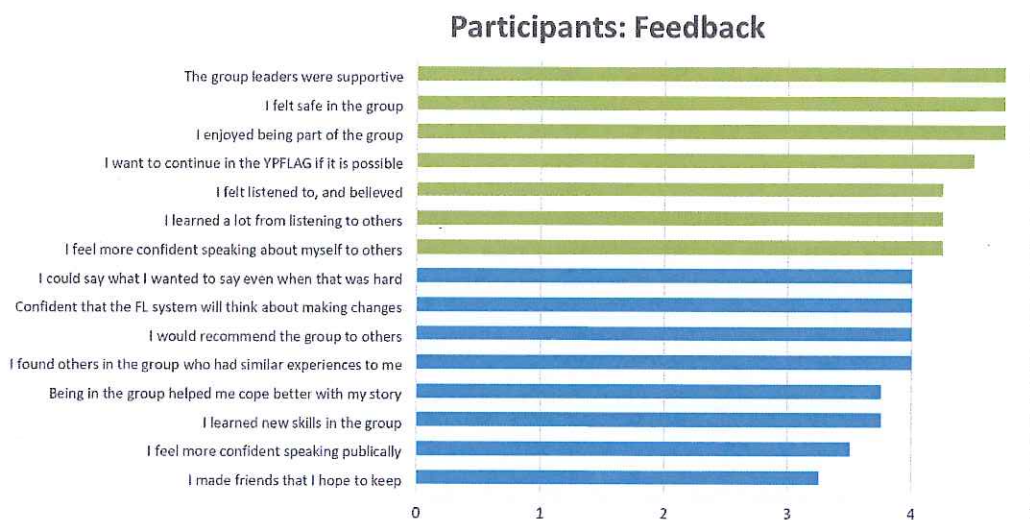
A questionnaire was created using an online platform (Survey Monkey) which would allow participants and parents to complete the survey using their phone or a computer. Participants were sent a link to the survey via text message and parents were sent the survey link via email.

#### ii. Survey responses

Four out of the 10 participants in the program completed the survey and four of the 10 parents also completed the surveys.

It is important to note that the parents and participant responses are not linked. That is, the parents who completed the survey may have not been the parents of the participants who completed the survey.

Respondents were asked to what extent they disagreed or agreed with the following statements. The Likert-scale responses were given the value of 1 (Strongly disagree) to 5 (Strongly agree).



iii. Participants: written feedback

**What did I enjoy most about the project?**

*"I enjoyed how open u could be with everyone no matter the topic and how everyone was really accepting and caring your situation... it felt really good as well when [you] could relate and you could hear some else's perspective on a similar or completely different situation to your own."*

*"We are helping kids in difficult and messy family situations to be heard and thought of when making crucial decisions."*

*"Knowing I'm helping. "*

*"Having the opportunity to hopefully help other kids going through the court system".*

**What is one thing you would like to change about the project?**

*"There is not much wrong with the program at all as it was really good for personally because I have never been accepted like that or been able to speak out like that except for with my family and very close friends :)"*

*"I'd like to go interstate as family law affects people everywhere in Australia."*

iv. Parents: written feedback

**If you have seen benefits from your child being part of this group, what were they?**

*"They are more confident in speaking up about things that bother them."*

*"Mainly it gave her hope. [It] made her believe that you can be heard. To fight for your ideas and to help others".*

**Are there any changes we could make to our processes which would make the group more useful/relevant/enjoyable for you?**

- a) *"Communication, times, location... everything is perfect. Rene has been a phenomenal leader, and we thank her for all her care towards our kids. It's apparent that Rene is passionate about hearing children's voices, and that passion comes through as dedication to, and care about, our kids and their lives. Thank you."*
- b) *"It's great as it is".*
- c) *"Not having the hassle of trying to find a suitable park in peak hour would be great, and being able to do something other than sit in the car and wait would also be good".*

**Did you or your child experience any difficulties as a result of your participation in the group? If yes, what difficulties occurred?**

*"My child was quite overwhelmed by the discussions regarding "issues" with participants and their parents. My child felt conflicted on hearing negative stories about other parents. My child questioned if they should feel the same negative emotions towards their own parent as others did. "*

*"No difficulties, just slight inconveniences on occasions."*

## v. Themes

There are a number of key themes we can draw from the exit surveys, including:

1. Both participants and parents indicated enthusiasm for continued involvement in YPFLAG (with responses such as 'I want to continue in the YPFLAG if it is possible' and 'I would support my child to become a mentor or leader in a future YPFLAG group'.)
2. Both participants and parents indicated that the participants enjoyed being part of the group.
3. Both participants and parents were happy with the process of the group, with high levels of confidence in the group leaders. Participants also indicated that they felt safe as part of the group and felt listened to and believed.
4. A strong sense of the importance of helping other children involved in the court system was reflected in the written feedback.

*"We are helping kids in difficult and messy family situations to be heard and thought of when making crucial decisions."*

*"Knowing I'm helping "*

*"Having the opportunity to hopefully help other kids going through the court system."*

## vi. Exit survey for co-facilitators

In assessing this project, we also obtained feedback from the co-facilitators about the meetings in general and their experiences of running the group with the young people.

The co-facilitators debriefed following each meeting and monitored the engagement of the members of the YPFLAG throughout meetings. This enabled them to ascertain areas for improvement. The questions asked were:

1. Would you want to run another YPFLAG group?
2. What parts of the group process seemed to work well for the young people?
3. Did anything concern you at any time about the group process?
4. What would you do differently next time?
5. How will this involvement shape your future practice?
6. What is your favourite group moment?
7. Other comments/reflections?

Written feedback from the facilitators indicated they were keen to continue with the project.

Feedback from the facilitators of the group echoed the theme that they were able to see the immense growth of the YPFLAG members over its journey. They reflected that the YPFLAG members were generally subdued and reserved in the beginning but by the end, they were able to discuss issues in the presence of the group, where they appeared comfortable to express their views, thoughts and ideas in a safe environment. All facilitators noted that there were often times when group members found the discussions distressing or raising painful memories for them about their parent's conflict. Notwithstanding, the facilitators noted that they were still prepared to share these memories within a group, many of whom were strangers in the beginning.

One facilitator noted at the commencement of the project concerns that the group members were not going to be able to speak openly, with one commenting:

*"In the beginning, I was concerned that some participants were there unwillingly, and so would not participate. However, my concerns were unfounded and I found it exciting and fascinating to see how*



the group dynamics developed and how, at the end, all of the participants were engaged and communicating.'

The other facilitator commented:

'I think having a different theme each time was good for the kids and worked well for them. I think giving them an opportunity to chair a meeting might work better next time when we have worked out more about our purpose and the group has operated for longer. I would love to continue to mentor young people in this way.'

Overall, the facilitators of the group saw first-hand the benefit of the YPFLAG and the benefits for the system, particularly in terms of supporting and advising children and young people about the impacts of final parenting arrangements. As one of the facilitators reflected: "The step that is always missing for me is someone explaining orders to children. I know the odd ICL who might do this, but it is not common practice."

Another co-facilitator pointed out that in order to continue the group and develop it into a fully functional advisory group, the YPFLAG needed to be properly resourced, which potentially could include members of the YPFLAG being remunerated for their participation. This they saw as a way not only to place a true value on the YPFLAG and young people's contribution, but also to add value to the advisory services they intended to provide in future to enhance the family law system.

## G. DISCUSSION AND CONCLUSIONS

The essence of the YPFLAG project involved engaging 10 young people who had experienced parental separation and who were prepared to make the effort to attend meetings in their free time to discuss their experiences of the family law system within a peer group setting. They were then able to share their stories and provide feedback about the impact of the family law system in a safe environment. Given their feedback, a number of conclusions can be drawn from their participation including:

- a) The participants were given the opportunity to voice their views about their experiences of the family law system when previously they may not have been able to do so.
- b) The participants were given the opportunity to build skills for the future, such as public speaking, running meetings, preparing minutes and other documentation.
- c) The participants were given an opportunity to meet and learn from others, previously unknown to them who had different views and experiences.

A key value of the methodology used by the YPFLAG project lay in the opportunity to build trust within the group. Once this was established, group members were able to share their views and experiences with others. This was a chance to give their version of events that had happened to them and to describe what it was like for them to encounter the family law system after their parents' separation. They could think about the process in retrospect and also what it was like to 'live out' that process following the conclusion of their parents' court proceedings. During the entire project, the 'small user group' approach allowed narratives to develop naturally and we saw a number of recurring messages as time went on and as the group evolved. Considering these messages leads us to draw a number of conclusions about the project and its possibilities for the future.

### Challenges

This is not to suggest that the 'consumer reference' group method of obtaining information and feedback from the group did not raise challenges. Some of these are listed below:

1. The YPFLAG participants took some time to trust each other and therefore open up properly about their experiences. For this reason, some of the information obtained from the YPFLAG, whilst very useful, was possibly limited or incomplete.
2. Small sample group:-the group was small and so captured only a modest snapshot of children and young people who have experienced family breakdown and interactions with the family law system.
3. There remain other important issues to explore to enable us to gather more thorough and meaningful feedback.
4. The project had a lack of resources that hindered the ability to make connections with major stakeholders and limited the recruitment of participants.

However, in examining all of the feedback both during and since the end of the project, we were able to collect many useful and interesting insights into the experiences of children/young people who have been exposed to the family law system; this has identified some key themes and implications for future practice.

### Recurring themes

One of the clearest messages we can draw from the of YPFLAG project is that the underlying motivation for their participation in the group was that they were there to make a difference and to have a chance to tell someone (in authority) about what they had experienced in the family law system. Accordingly, one of the conclusions we can draw from this is that young people are desperately seeking more involvement and say within the family law system and they want to see changes to that system so that other children and young people do not have to endure the same trauma as they did.

We further learned from the YPFLAG that children and young people feel unheard and disempowered in and by the processes that are part of the current family law system. In particular, they feel that their experience of



and within the court system is inadequate, such that even when they are given the opportunity to lend their voice (for example, via a family assessment), their voice remains absent or their words and meanings misconstrued.

The other key message we heard during the YPFLAG project is that in the aftermath of orders or agreements made by courts, children and young people feel abandoned and overlooked. As a result, they feel that they remain entrenched and helpless in their parents' ongoing conflict following separation and throughout the court process.

The YPFLAG said that they feel that the system as it currently exists does not allow for flexibility or challenging of arrangements, especially by them. They see the system as focussing on parents and their dispute, where there is no room to have children and young people enter into the conversation about their arrangements at any time in the process, despite having to consider their 'best interests'.

They also feel that there is nowhere for children or young people to seek advice, support, referrals, advocacy or education around parental separation both before, during and following separation. Therefore, this means that they experience parental separation in a way that makes them feel isolated, ashamed, dismissed and exhausted.

Their critique of the family law system may be summarised as follows:

- There is a lack of understanding about what it is like to 'live with' court orders or arrangements agreed to by their parents.
- There is a lack of understanding that children's needs change in time and that the orders or parenting arrangements do not empower children and young people to advocate for such changes.
- There is no acknowledgement that even after final orders are made conflict may continue to affect children's lives.
- There is a lack of resources to deal with family law matters specifically targeted for children and young people.
- There is often no one they can talk to confidentially about their family situation when separation occurs.
- The system keeps children and young people in the dark about what is happening.
- There is no one for children or young people to complain to or seek advice from if orders or arrangements are problematic for them.

The YPFLAG recounted a range of experiences and situations: some were spending no time with one parent; some had siblings with different contact arrangements; some did not enjoy the time spent with one parent but were still doing this; some parents had re-partnered and some were living in a blended family. Interestingly, all but one of the families of the participants had been through court yet only a few participants reported being appointed an ICL. They interpreted this as meaning the court did not think they were important and at the forefront of their minds.

The group reiterated continually that despite orders being made, regardless of whether they had been done so by consent, they continued to live with conflict and arrangements that did not suit their needs. They also expressed concern that their parents' conflict did not end once orders had been made and that shared custody arrangements were worded in a way that was completely inflexible. Further, some of the group did not know if their parents agreed to orders by way of consent or if they were court-ordered and they felt frustrated that they were not informed about these decisions.

Not one young person in the YPFLAG was involved in or even realised that there was another process for parents to resolve parenting disputes (family dispute resolution).

It is important to note that we did not evaluate in this project whether the families of the YPFLAG had better outcomes from using the court system to resolve their parenting disputes and we did not consider whether

the parents had tried other family law processes prior to going to court.<sup>13</sup> However, what is clear from the feedback of the YPFLAG members is that, regardless of how they got there, they found the court process traumatic because they felt they were disempowered and had no real voice at that time. The group further reflected that even when they were provided a chance to have a voice about their parents' separation (through a family consultant for instance), this was contrived and they still went unheard.

Another important message that the YPFLAG had for the courts and the wider family law system concerns what they saw as a global lack of services and support for children experiencing parental separation when they need it most. The YPFLAG reported that at the crucial times during family breakdown:- initial separation; in the aftermath of parenting arrangements; during court proceedings themselves and the following implementation of orders, they were deprived of services to assist them or they did not know how to access them. Conversely, they told us that if they did attend these services, such as the Banana Splitz support group, this was either not sufficient enough to support their needs or they were underwhelmed by the experience.

The group also discussed the need for a 'universal manifesto' covering all services in the family law system and which could guide the system's future policies, practices and procedures concerning children and young people.

Finally, based on observations during the course of the project and then from their feedback following the project, it is clear that the participants have finally felt allowed the safety and space to express their feelings. This fulfils one of the project's initial goals: to ensure that the participants practise and improve their life skills throughout the course of the project in areas such as feeling more confident, being able to speak up in group settings and personal development.

In short, the YPFLAG participants told us that it is important for children/young people to have:

- an avenue where their voices can be heard in the courts, such as through an advocate, who could advise the court about what children are feeling
- a space where children can find information and/or seek referrals or support from people with expertise about the legal system
- somewhere to go to talk about what their parents' final orders might mean.

These issues are discussed and addressed in the below.

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<sup>13</sup> Noting that some parents would have been required to use Family Dispute Resolution prior to proceeding to Court.



## H. IMPLICATIONS

Based on the various key themes and messages that emerged throughout the YPFLAG project, we see value in providing a number of recommendations to support the feedback provided by the YPFLAG, many of which we acknowledge are interrelated, either directly or indirectly.

We have heard a strong message, during the project, that at a time when children and young people feel intense shame and aloneness due to family separation, the emotions associated with not being consulted or listened to are heightened. The YPFLAG articulated that, from their perspective, there was simply nowhere for young people or children to go to in order to share their experiences or, indeed, that there was no-one who would believe them or acknowledge the authenticity of those experiences. The message of the YPFLAG is clear: that there is a need in the community for children and young people to have a place to go to when they are facing family breakdown, as well as a need for well-resourced, specialised services within the family law sector that can consider the need for systemic changes to benefit children and young people facing family breakdown in the future.

Though not an exhaustive list, we make the following recommendations in an effort to consider some practical options to benefit future children and young people caught up in the family law system. We heard from the YPFLAG that the current court system does not hear or listen to children's voices in its current processes or policy development. We also heard that the present pre-litigation and post-litigation services in the family law sector, although well intentioned, do not meet the genuine needs of children/young people who are dealing with the trauma of family breakdown. These recommendations seek to address these concerns from a child-focused perspective.

### Early promising indicators

Historically there has been a level of resistance to the idea of implementing changes within the family law system based on the specific needs or feedback of children especially in the court itself. However, part of the success of the YPFLAG project relates to its ability to demonstrate that modest systemic change is possible when the feedback of children or young people is considered.

For instance, the YPFLAG 'field trip' to the Family Law Courts, when the YPFLAG participants were shown through the newly remodelled 'Childcare Area' is an example of the power of the project to generate change. During this visit, it became clear that many of the reservations about the new area expressed by the adults were not concerns for members of the YPFLAG. Conversely, features that the adults thought the YPFLAG would approve of were in fact concerns for them. Overall, the YPFLAG gave both negative and positive feedback about the space, but where there were negatives, the YPFLAG were able to offer possible solutions or fixes.

Following this visit, a summary report about the area was provided to the manager of the courts, offering feedback from a young person's perspective. The feedback led directly to a change when the 'Childcare' area was renamed the 'Kids Waiting Area' to better reflect the intended function of the space. This is an early promising sign that managers of the family law system can listen to and respond to feedback in a positive way.

Similarly, following the meeting where the YPFLAG discussed the 'Kids are First' program, this feedback was conveyed to the service provider and there are plans afoot to make adjustments to the course for parents based on the expressed views of the YPFLAG. One of the co-facilitators commented on this in the post-project survey:

*I have always been interested in the thoughts of young people; however, hearing direct comments from them about the Kids Are First (KAF) program content regarding communication with parents has led to us changing that part of the program. I also like the idea of being able to communicate to parents using "our" children (meaning our children from South Australia – not USA, NZ etc.) as then our statements have more impact on parents.*

These small-scale examples of listening and acting on feedback from the YPFLAG highlights that change can be approved and implemented where there is a will and an opportunity.

## Recommendations

We clearly heard from the participants during the YPFLAG project that there is a need for a centralised place where support, advocacy and advice can be provided to children and young people living with or going through the family law system. We believe that the YPFLAG could operate as a body in its own right to plan and implement these functions in the family law space.

Therefore, as a first step, we recommend that the YPFLAG (or an equivalent program/group) become a permanent advisory body within the family law system. In other words, we envisage that the YPFLAG could develop from being a pilot project, into an ongoing program with a suite of representative, consultative and advocacy functions. The role of the YPFLAG would be to meet regularly to discuss, debate, analyse and plan new and existing policies, procedures, legislative amendments, practices and/or any other structural or systematic changes as necessary across the entire family law system. Ultimately, the YPFLAG could evolve into a body with an agenda for research, standardised outcomes data, and tracking process changes within the Family Law Courts, the broader family law system and related networks.

The case for maintaining and growing the concept of the YPFLAG, both for the benefit of the participants themselves and for the wider family law community is persuasive on many levels. Future benefits include:

- a. Gathering first-hand accounts of the real experiences of young people who have been exposed to the family law system
- b. Enabling the service providers<sup>14</sup> within the family law system to receive direct and uncensored feedback from young people who come from a diverse range of social, economic and cultural backgrounds
- c. Using authentic data as a basis to revise strategic planning, policy and service delivery for young people:

The YPFLAG, as a representative body, has the potential to play an important role within the family law sector, primarily because it is a way of placing children at the forefront of practice and processes within the family law system. This in turn also benefits the community as a whole, as it will be a way for children to share their views as significant customers in the system as a whole and in the court setting.

We acknowledge that the YPFLAG project is a pilot project at this stage. It is small-scale and lacks elements of diversity. If the YPFLAG is to become a viable and meaningful player within the family law system, as we recommend it should, it needs to evolve into a program capable of hearing many more and a greater range of voices of children and young people. We need to hear from children/young people who have encountered all parts of the family law system. This includes those who have had contact with the family law courts, family dispute resolution, child-inclusive mediation, post-separation children's programs; children's contact services, counselling and any other service within the family law sector. Accordingly, our vision is that the YPFLAG project should be expanded on a gradual basis so that its additional functions and actions could include the following:

- Intensify recruitment processes and forums, such as through social media and other such outlets, to increase the number of YPFLAG members (from 10 to 20 members or more)
- Implement up-to-date systems for recruitment processes
- Identify other YPFLAG models, such as consultancy
- Develop robust Terms of Reference and other procedural guides
- Adopt principles of diversity and equity to ensure inclusivity (for example to include LGBTIQ, CALD, regional or ATSI representation)

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<sup>14</sup> This includes the Courts, Family Relationship Centres, family counselling services and other stakeholders who work with separating families.



- Expand the group to operate on a national basis.

We would also support financial remuneration for YPFLAG members to reflect the value placed on its members and on the continuing feedback and guidance, it can provide to the family law system.

Ideally, the YPFLAG would recruit new members on a rolling basis, who would be able to commit to participation in the group on a 12-month basis. In addition, members of the YPFLAG who commit to 12 months direct involvement, but wish to continue will be provided the opportunity to continue to support the project in a 'mentoring' role with new members. We see this as mutually beneficial in that mentors can continue to add value to the core objectives of the YPFLAG and can continue to develop their own personal and professional lives.

The aim is that a new YPFLAG program would be developed, which would meet approximately every six weeks to discuss a range of issues associated with their experiences, and provide feedback about various aspects of the family law system, including (but not limited to):

- Court processes and procedures involving children
- Services within the family law system (such as Children's Contact Service) which affect or directly include children and young people
- Outreach dissemination of information to schools and other community organisations about YPFLAG's mission.

We believe these developments to the current YPFLAG model would make a difference to the experience of children and young people within the family court system.

During the pilot YPFLAG project, we heard many stories and experiences from the young people in the group that captured themes of powerlessness and disengagement of children and young people caught in the legal system because of parental separation. The YPFLAG reflected consistently throughout the project that they needed access to someone who could explain the process, especially the terms of the orders and what they mean to them or how they will affect their lives. They reflected that this someone should not be their parents and should not be a report writer or a lawyer (as each of those people has their own agenda) but someone invested in the psychological wellness and reassurance of children who are going through a complex assessment process at a very difficult time. They also expressed a need to speak directly to the court where possible and if it was age-appropriate.

We recommend therefore that there is be a space allocated in the courts for a Children's Hub and/or a Child/Family advocate (CFA) who could make themselves available to assist and support children during their parents Court proceedings. The CFA would not only facilitate children being allowed to speak with judges directly, should they wish to do so, but would also be able to explain the essence of the orders and their implications in child-appropriate language and in a child-focused way. A CFA could assist in supporting children during any part of the court process: visiting with family assessors, explaining family reports; referring to a children's contact service; counselling or any other services directed by the courts and accessed by children. Its other core business could be to offer a support network/service that provides education, information, resources and other information exclusively to children and young people specifically about family law and affiliated services. The CFA may be able to work within the auspice of the YPFLAG or possibly within the ambit of the respective Children's Commissioners within each State in order to carry out its function. In this regard, until and unless this occurs, we believe that their ought to be a specific person who has expertise in family law who is appointed by the current offices of the State and National Children's Commissioners who is able to provide advocacy, information, support and referrals to children and young people who contact them about difficulties they are experiencing with family law system, if this has not happened already.

The feedback from the YPFLAG in this report suggests that the legal system and its policies are not currently meeting their needs — they are presently not child-focused and yet children remain caught in the middle of their parents' conflict because of the nature of the adversarial legal system. To address this, the YPFLAG

discussed the importance of legislative and procedural reforms to ensure that children and young people are heard and provided child-appropriate choices within decision-making processes.

One suggestion to address this is the introduction of a Charter of Rights, to enshrine the rights of children and young people held under the UNCROC and to act as the reference point for all services operating in the family law system. We recommend that a Charter of Rights include the following rights:

- The right to feel secure and heard in all aspects of the family law system
- The right to have orders and arrangements explained to them
- The right to have an ICL appointed to mediate in a family law matter
- The right to talk to a judge should they wish to do so ( if age-appropriate)
- The right to find and access information before, during and after their parents' court proceedings
- The right to be informed about their parents' court orders and how these will affect them
- The right to seek follow-up post-parenting orders/agreements to check whether they are working for children.

The YPFLAG also discussed the possibility of other types of legislative and/or procedural reform in which to ensure children and young people can have a genuine avenue to be heard in the decision-making process. One such suggestion is reviewing the way in which Family Law Court orders are drafted and/or the way in which applications are made to the court, which considers the possibility of children and young people varying court orders as their needs change at an age-appropriate time. For instance, it may be possible with legislative reform to enable a young person (at a certain age) to make an application to the Court to vary orders of the court based on their changing needs.

Other legislative reforms could also be introduced in which to require courts to provide children with the proper opportunity to have a say in their care arrangements. These include:

- Judges can speak to children if they wish to do so ( with appropriate support structure);
- A therapeutic and/or educative focus on families in conflict must be included in the legal process;
- Legislative amendments to ensure that routine ICLs are appointed ;
- ICLs meet with children as a rule not as an exception at an age appropriate time;
- Children have an opportunity to meet with a family consultant and that these occur at an early stage in the matter;

The YPFLAG were clear during the project that even when children and young people were furnished with the opportunity to lend their voice to the system during assessments, they felt that their voice was often dismissed and the court did not understand the complexities and nuances of the sessions from their perspective. Therefore, we suggest that when children are required to be part of the court process, there is some consideration given to introducing recorded observations of children for some of the time during family assessments which can then be made available for judges when making final orders. This could potentially complement the current system where a written family report is prepared to critically analyse, assess and provide recommendations to the court about future care arrangements for children. Possibly, in addition to seeing a family consultant, a set of standardised child-focussed questions focussing on needs could be developed in which children are 'recorded' providing their unencumbered answers for the court, whilst also simultaneously providing the court with a contemporaneous risk assessment of families from a child's perspective.

Importantly, some of these legislative reforms are not possible without consideration of a review of the issue of parental consent. We recommend that it should not be necessary for parents to provide consent when children are involved in services in the system, such as child-inclusive mediation. In this regard, it is clear from the YPFLAG feedback that court processes can be deeply traumatic but the group believes the system can become more inclusive and allow their participation across the board. We therefore recommend that in the



pre-litigation processes of family dispute resolution, unless risk indicates otherwise (such as parental retribution) that children should be included as a requirement in any child-inclusive mediation process.

The YPFLAG also raised the concern that following orders, children and young people still live with parental conflict and they felt powerless and fatigued as a result. We recommend that there is a system implemented by the courts that would allow 'follow up' with families after final orders are made. Such a system would 'check in' on children and families to see how they are faring in the period after orders are finalised, possibly up to 12 months post orders. Potentially, this could be an additional role of the Child/Family Advocate and it may be as simple as sending an email from the courts and/or Child/Family Advocate on the child's birthday to indicate that the welfare of children and young people remain at the forefront of the minds of professionals working in the family law system. On a larger scale, it could also include a case management system where the Child/Family Advocate would follow up and check in with families up to 12 months following final orders being made, especially those matters that proceeded to a full trial.

The YPFLAG project told us quite clearly that parents lack insight into the effects of their conflict on their children. The group thought all parents need more education and understanding about the effects of parental separation on their children. As such, we recommend that it is mandatory for all parents who enter the family law system after separation who have children to attend a program (such as Kids Are First or another equivalent program/course) that educates them on the effects of parental conflict on children.

We further recommend that all professionals working with families who are separating or separated be provided with training in child-inclusive practices and to ensure the needs of children are at the centre of policies and practices, across Federal and State jurisdiction divides. This would include not only professionals who work in the family law sector, but those who work in affiliated services such as the Department of Child Protection (or their equivalent); Police and other such organisations working with families.

The YPFLAG also told us throughout the project they felt frustrated that they did not know where to go to access information about their parent's separation. This is notwithstanding the fact that many such services exist in the community. Some of the YPFLAG who did not access this support reflected that either their parents did not know about them, did not think they needed it or were paralysed by their own issues. To address this, we suggest a targeted program introduced to schools (both public and private) that provides information and referrals to and for children directly who are experiencing parental separation.

Alternatively, the YPFLAG also told us that where some did access support services, these did not necessarily meet all of their needs. Again, we suggest therefore that the system ensures that all children and young people have access to post separation counselling or support group services where required and that these are funded adequately to ensure that they are able to meet the individual needs of all children and young people experiencing parental separation in a meaningful way. Again, this could be introduced through the school system to capture all children and young people who are struggling with family breakdown.

Finally, the group said they felt there was a distinct lack of communication services targeted to children and young people in a child friendly way in relation to family breakdown and this made them feel lost and isolated. We recommend that a purpose built communications and media hub is created specifically for young people and children to access information and referrals in family law on a confidential basis and in real time. This could include services such as:

- a phone 'hot line' staffed on a 24 hour basis with someone with expertise in family law;
- an 'Application' which can be discreetly downloaded onto mobile phones; tablets and other devices which provides information, resources and referral networks specifically for children and young people facing parental separation;
- a dedicated family law website targeted at children and young people; and
- major social media platforms such as Facebook, Twitter and Instagram posting information and resources for children and young people dealing with family law.

We recommend that these services are government funded, free to download<sup>15</sup>, easily accessible to children and young people and with a child-inclusive focus.

Finally, the YPFLAG said that the group and all child inclusive services within the family law system need to be marketed more effectively to engage children and young people. The group suggested in particular that the services provided by and through the YPFLAG is promoted across all broader multi-media and social media platforms so that it captures the children and young people in our community who feel that they are facing parental separation alone. This could possibly involve additional and proper endorsement/ambassadorship by a number of influential and high profile people in the community to ensure that children and young people no longer feel isolated and abandoned when dealing with family breakdown.

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<sup>15</sup> *That is to say, these do not take up too much data on their devices.*



## I. SUMMARY

Upon reflection, the YPFLAG pilot project taught us that there are a number of valuable lessons for the family law system to learn about the experiences of children and young people from those who have actually lived it. The most significant lesson it taught us therefore is that it is difficult for the current family law system to be truly inclusive and participatory for children and young people because its structure is filtered through an adult lens. In this report, we provide some recommendations for consideration by the system based on the feedback we received from the young group members which seeks to redress this imbalance, very much from their perspective.

The YPFLAG project showed us that children do not necessarily need to make the decisions about where they live or the arrangements between their parents — they just want to be seriously included in the whole process. They want the opportunity to make a genuine input at all stages of the family law process, before, during and after court proceedings.

Ideally, the way forward for the YPFLAG will see it develop into an active and change-making program ensuring the voices of children and young people become a focus of the system rather than the present emphasis on managing parental conflict. We would hope the YPFLAG could act as not only a source of information sharing and support for children experiencing family breakdown, but also as a catalyst for a compassionate environment which to develop child-inclusive policies, procedures and practices in the family law space. Ultimately, the YPFLAG could develop gradually into a larger service and its agenda would ensure that the welfare of children/young people take precedence as new policies, practices and services are introduced into the family law system at both state and national levels. Each of the Pathways Networks could possibly offer this as an additional 'arm' to their role, through targeted funding.

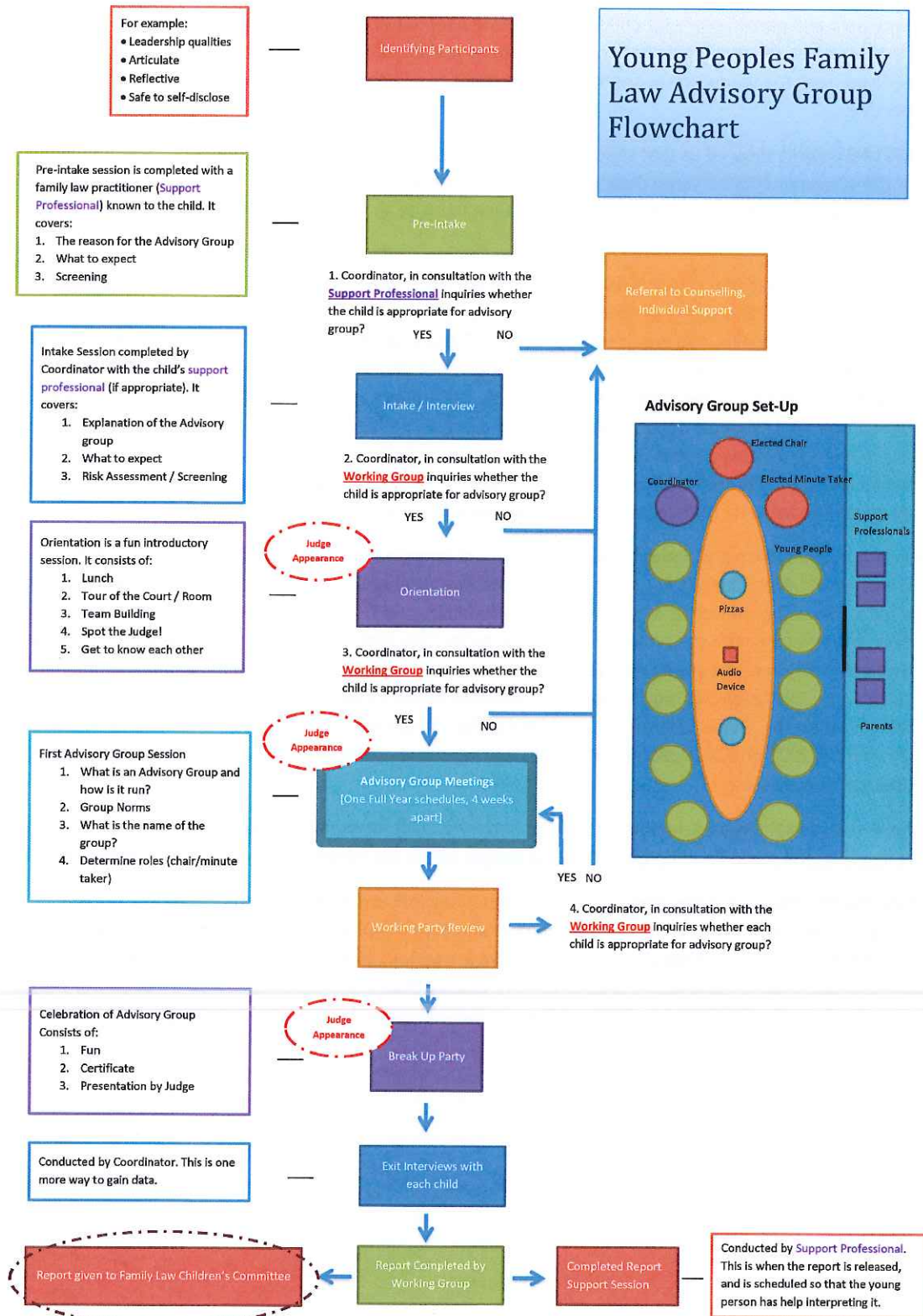
The notion that children and young people can have a meaningful say about the family law system and the outcomes which affect them is not a new one but the inception of a meaningful space or mechanism for them to do so is. In hearing the voices of young people throughout the YPFLAG pilot, we consider there are immense benefits to continuing with the project in the longer term. This pilot has shown us that a group that focuses on the welfare of children and young people when dealing with family breakdown meets a fundamental need in our community. We hope this report has the potential to influence policy, processes and practice throughout the family law sector. This is particularly pertinent in the current situation where an extensive review of the *Family Law Act 1975* and all aspects of the family law system is presently being undertaken by the Australian Law Reform Commission.

We hope that this project will lead to a renewed understanding for those who work in the family law system that there is a vital place for children and young people within the conversation of parenting arrangements.

To date the YPFLAG project has won high praise from many influential voices in the family law system, including former Chief Justice of the Family Court, Diana Bryant AO, who has agreed to act as an ambassador for the YPFLAG. She has said about the project: "If we are serious about making the family law child and young people-friendly, then YPFLAG will help us to achieve exactly that. It will assist us to hear what young people have to say about the family law system and then to make meaningful and relevant changes to address their needs".

## J. APPENDICES

### Appendix A – Youth Advisory Flow Chart





## Appendix B – YPFLAG Promotion

### Do you know a young person who wants to have a voice about the family law system?



The Young Peoples Family Law Advisory Group (YPFLAG) is a new project being run through the South Australian Family Law Pathways Network, a not-for-profit program funded by the Federal Government.

The YPFLAG is a pilot project of the first of its kind held in Australia.

The object of the YPFLAG project will be to enable a group of selected young people who have experienced family separation the opportunity to voice their experiences about their interactions within the family law system, such as contact with the Courts, Family Consultants, counselling, mediation or any other experiences they have had since.

We hope to make the YPFLAG project into a national program to assist the family law sector now and in the future.

The YPFLAG will involve a group of selected young people meeting approximately 4 times a year to discuss their experiences about being involved in the family law system.

The YPFLAG will be an opportunity for young people to be able to tell their experience of the family law system in a safe and transparent environment.

If you know a young person between the ages of 12 - 17 who does not have current Court proceedings on foot and has come into contact with the family law system by way of:

- Going to a mediation
- Going to Court
- Using a Childrens Contact Centre
- You saw or see a family counsellor
- Any other contact with the family law system

we would love to hear from them!

We hope what these young people have to say will make it an easier process for children and young people who experience the family law system in the future on all levels.



A report will be generated about the YPFLAG project for policy makers with the expectation that the experiences of the group will be considered in future decision making and influence changes within the family law system

This information will remain confidential and any comments made during the YPFLAG project for the report generated will remain anonymous.

It will also be an opportunity for the young people involved to learn new life skills for the future by being involved in the YPFLAG project.

A Certificate of Participation will be issued at the conclusion of the project.

This project should take approximately 1 year to complete.

If you would like more information about this group, please contact the Coordinator of the project, Rene Earles at the SA Family Law Pathways Network either via email [r.earles@rasa.org.au](mailto:r.earles@rasa.org.au) or via mobile 0407 317 376 for an Application Pack.



SOUTH  
AUSTRALIA



**YPFLAG**

Young Peoples Family Law Advisory Group

## Do you want to have a say about the family law system?

Are you 12 -17 years old and have come into contact with the family law system by way of:

- Your parents have been to mediation or you have spoken to a Child Consultant
- Going to court – you or your parents (this can't be happening at the moment!)
- Using a Children's Contact Centre
- Seeing a family counsellor and/or
- Any other contact with services within the family law system

we would love to hear from you!

### What's in it for you?

- Be there at the beginning – this is an Australian first opportunity
- A chance to make a difference
- Pizza and snacks
- Voucher for your time and travel
- A chance to learn new skills
- A certificate of participation will be issued at the conclusion of the project.



### And what would it involve?

- Having to meet approximately 4 times a year – at a central location
- Some communication/discussions via on-line forums and closed Facebook groups
- Making a commitment to attend & will take approximately one year to complete

The Young Peoples Family Law Advisory Group (YPFLAG) is a new project being run through the South Australian Family Law Pathways Network, a not-for-profit program funded by the Federal Government.

If you are interested in learning more about the project or in participating, please contact the Coordinator of the project, Rene Earles at the SA Family Law Pathways Network either via email [re.earles@rasa.org.au](mailto:re.earles@rasa.org.au) or via mobile 0407 317 376 for an Application Pack.



Family Law  
PATHWAYS  
NETWORK

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HON MICHELLE LENSINK MLC

Government  
of South Australia

Minister for Human Services

MINUTES forming ENCLOSURE

18MHS/0751

**TO THE DEPUTY PREMIER, THE HON VICKIE CHAPMAN MP****RE LETTER FROM HON VICKIE CHAPMAN MP REGARDING YOUNG PEOPLE'S  
FAMILY LAW ADVISORY GROUP REPORT**

Thank you for bringing to my attention the evaluation report of the Young People's Family Law Advisory Group (YPFLAG Report) pilot project.

The report makes a number of positive recommendations aiming to enhance the welfare and wellbeing of children and young people through support, advice and advocacy services within the family law system.

The Department of Human Services does not currently provide any direct assistance for organisations to provide family law support services.

If it hasn't already occurred, I would like to recommend that the YPFLAG Report be provided to Ms Helen Connolly, the Commissioner for Children and Young People in South Australia. The Commissioner may wish to consider the recommendation of a Child Advocate within the Family Court system in South Australia.

Thank you again for your correspondence on this important matter.

A handwritten signature in blue ink that reads "Michelle Lensink".

**Hon Michelle Lensink MLC**  
MINISTER FOR HUMAN SERVICES

2410 / 2018

