

The Family Group Conference: A new paradigm for making decisions about children and young people

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The involvement of the State in the lives of children, young people and their families has taken a new turn in New Zealand since 1989. Now when a child or young person is in need of care or protection or had offended, matters are resolved with their participation and with the participation of their family. At the heart of the new system is the Family Group Conference which is a new forum for consensus decision-making and which is potentially adaptable to different cultural practices. Institutionalisation of the young has been drastically reduced. Families remain a part of the lives of their children. However practice problems remain, goals of cultural appropriateness have not always been achieved and services have not always been made available to enhance the wellbeing of children and young people or to strengthen their families.



The two authors have, together, just completed a major study of the new youth justice system in New Zealand.

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Dr. Allison Morris (left) is currently a lecturer at the Institute of Criminology, University of Cambridge, England. Her background is in Law and Sociology. She has an international reputation in the field of Youth Justice, having written several books on the topic. Her ideas have influenced the development of the New Zealand system, particularly in respect of the emphasis on 'justice' issues and diversion. She has also written on issues relating to women and crime.

Over recent decades, throughout most of the Western world, large numbers of children and young people have been removed from their families and placed in institutions either for 'their own good' or for punishment. Children who have been abused and neglected have frequently been placed in State 'homes' which distance them from their families, their communities and their culture.

It has become apparent in New Zealand, as elsewhere, that the institutionalisation of large numbers of children and young people is damaging to them and their families, ineffective in preventing delinquency and quite unjust. The new approach in New Zealand under the *Children,*

Young Persons and Their Families Act 1989, emphasises keeping children and young people with their families, in their communities and in contact with their culture.

The philosophy underlying the approach is fundamentally family centred and culturally based. The family and State are seen implicitly as working in partnership to ensure the protection and enhance the wellbeing of children and young people. Families are to be given the principal responsibility while the state accepts a role in establishing and promoting accessible and appropriate services and providing processes for decision-making when problems occur. The emphasis is not only on the central role of families in caring for their children and young people, but also on the central role of the family in providing the child or young person with a sense of identity. Furthermore, it is intended that the family should be centrally involved in making decisions about what will happen, regardless of the culpability of some members for any neglect or abuse of the child or young person, and in ensuring that children are made accountable for their offences.

Services are seen to be necessary, not only to enhance the wellbeing of the child or young person, but also to strengthen the family. And the Act states that services are to be culturally appropriate; indeed there is provision for the use of iwi (Maori tribal) and cultural authorities as agents who

provide services. The intended acknowledgement of and emphasis on Maori culture is underlined by the use of Maori terms for kin-based social structures – whanau, hapu and iwi – throughout the Act whenever parents, families and family groups are referred to.

The Act sets out the general object of promoting the wellbeing of children, young persons and their families and family groups by:

- ▶ promoting services within the community which are culturally appropriate and accessible to and understood by children, families and family groups
- ▶ assisting parents, families and family groups to prevent their children and young people from suffering harm, ill-treatment, abuse, neglect and deprivation
- ▶ assisting children and young people and their parents, family, and family group when child/family relationships are disrupted
- ▶ assisting children and young people in order to prevent them suffering harm, ill-treatment, abuse, neglect and deprivation and providing protection for them under these circumstances
- ▶ ensuring that children and young people who offend are held accountable, encouraged to accept responsibility for their behaviour and dealt with in ways that acknowledge their needs and will give them the opportunity to develop in responsible, beneficial and socially acceptable ways
- ▶ encouraging cooperation between those who provide services for children, young people, families and family groups.

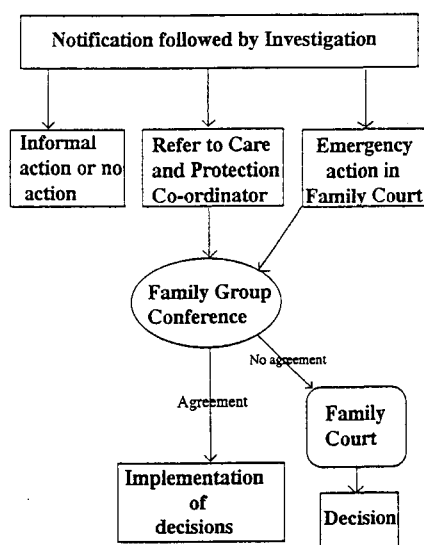
The Act sets out separately the procedures for resolving issues related to the care and protection of children and young people and the procedures which are to be used when offending is alleged. There are two parallel processes here with separate reasons for referral into the system, separate processes, separate coordinators and separate courts. The two systems are described in a simplified form in Figures 1 and 2. Central to both these parts of the Act is the Family Group

Conference which is the main mechanism by which decisions are taken about:

- ▶ the future care of children and young people
- ▶ their accountability when offending has occurred
- ▶ access to services for both the children and young people and their families.

It also provides for the establishment of a Commissioner for Children who has responsibilities in relation to monitoring the Act and child advocacy.

Figure 1 Care and Protection : Flowchart



The Family Group Conference

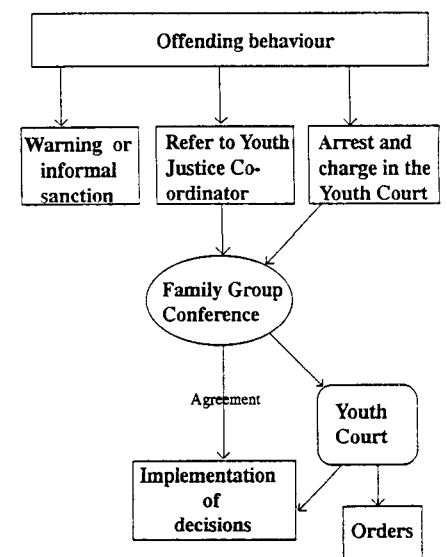
At the heart of the New Zealand system lies the Family Group Conference (FGC). The FGC is a meeting attended by the young person and the family (including the wider family) at a time and place which is meant to be chosen by the family. A care and protection FGC is also attended by representatives of the Department of Social Welfare and police who have been involved in investigations in relation to any complaints of abuse and neglect, any lawyer who has been appointed to represent the child or young person and anyone else whom the family wishes to have present. A youth justice FGC is also attended by the victim, the police, the youth advocate (young person's lawyer)

where one has been appointed, and any other people whom the family wish to have present. The FGCs are arranged by either a Care and Protection Coordinator or a Youth Justice Coordinator who acts as facilitator and who has statutory responsibility for the management of the arrangements. A Coordinator can invite others to act as facilitator (especially if this is culturally important).

Usually, after the introductions and greetings, the reasons for the meeting and relevant facts are described and explored. Views are shared about how matters could best be resolved. The family then deliberates privately before the full meeting reconvenes to see if all are agreed on the recommendations and plans advanced by the family.

Figures 1 and 2 depict the FGC as the central decision-making forum for serious care and protection issues and for the more serious cases in the youth justice system, including those that appear in the Youth Court. Some care and protection cases that are still considered to warrant attention after investigation are dealt with by agreements between the family and the social worker involved. In the youth justice area, in less serious cases the police either warn the young person or arrange informal sanctions in conjunction with the family.

Figure 2 Youth Justice : Flowchart



The FGC is intended to be both the central forum for decisions and the principal means of achieving the goals of the system, for instance:

Family participation and consensus decision-making are provided for through the FGC, which is intended to provide a forum which is sufficiently informal and relaxed and where participants are well enough briefed to give real meaning to the participation of families and young people. The Coordinator acts as a mediator between the family and young person on the one hand and the investigators and representatives of the State on the other and has the role of enabling a consensus to be reached.

Enhancing wellbeing and strengthening families: The FGC is a forum in which the needs of young people and families can be discussed and where plans can be developed which will enable families and young people to have access to funds for services and programmes which are intended to achieve these goals.

Culturally appropriate: Because the process is not strictly defined, it provides a way in which each culture can, potentially, adapt the process to fit their own spirit, philosophy and procedures – for Maori, to their own kaupapa.

Protection: A primary goal of care and protection FGCs is to recommend a plan which will ensure the safety of the child or young person. Where there has been abuse, the preference is for solutions that involve the perpetrator rather than the child leaving the home. If both remain, this should only be possible if safeguards have been arranged to ensure that there is no continuation of any abuse or neglect and checking systems should be put in place. When the child does leave home, the principles require that the child be kept within their family, within their community and within their own culture wherever possible.

Justice: The main method of achieving accountability for young offenders is through an FGC which, if it agrees, has the power to decide or, in court cases, recommend appropriate penalties to the court. The new Youth Court's role is limited except when there is a

lack of agreement at the FGC, when the charges are denied or in cases arising from an arrest, most commonly, on the grounds of a high probability of reoffending or absconding. When cases go directly to an FGC without first being referred by the court, the FGC provides a method of hastening the usually slow court process. There is a strong emphasis on diversion. Police 'diversion' through warnings and the use of informal sanctions has increased. But the FGC is itself a new method of diversion which is available for the persistent offender and for those who commit the more serious offences.

Victim involvement: In New Zealand, traditional Maori practice involved the victims, the offender and the families of the victim and the offender, firstly, in acknowledging guilt and expressing remorse and, secondly, in finding ways to restore the social balance so that the victim could be compensated by the group and the offender could be re-integrated into the group. Both pressures to allow Maori to return to their own system of justice and the increasing attention to victims in New Zealand has led to victims' involvement becoming an integral part of the new system for dealing with young offenders. Unlike practice in other jurisdictions, the involvement of victims has not been limited to merely minor offences and first offenders. All offences committed by juveniles, except murder and manslaughter, now have an FGC which the victim is entitled to attend and which occurs before the court can deal with the case.

An Evaluation

FGC are new and it is hardly surprising that there are some difficulties in their arrangements: it has been suggested that families can be 'coerced' when matters relating to care and protection are resolved in 'family meetings' with social workers instead of at a full FGC; too many FGCs are held in places and times best suited for the professionals involved in the system; victims who say they are willing to attend are not invited or are given inadequate notice; families are often not given full enough information

on what the FGCs involve, of what might be expected of them and of their rights in the situation; procedures at FGCs cannot yet be described as always culturally appropriate; and not all professionals have yet given up their control over information or decision-making. These results come from a number of reports (Hassall & Maxwell, 1991; Paterson and Harvey, 1991; Maxwell and Morris, 1992, 1993).

Really good. I got to see the victim, apologise and help her with money. The victim also got a chance to say things.

(Young person)

It was a good idea to meet the offender and his parents and understand how people got to be like this. I was angry at first but later I was sympathetic...

(Victim)

Some problems stem from inherent conflicts between the multiple objectives. In the care and protection system, the same social workers have often been given both an investigatory and support role in relation to the same family – a separation of investigatory and support functions could resolve these difficulties. In the youth justice system there is an inherent contradiction between making young people accountable and providing for their welfare needs, and in practice, the latter tended to be neglected in favour of the former. A second conflict is between meeting victims and offenders needs. In both these cases conflict could be reduced by better provision of and access to services for young people, families and victims outside of the criminal justice system.

Other contradictions are less easy to resolve. In care and protection, there can be real conflicts between the interests of the young persons and other family members, and between the perpetrator and the victim. Inevitably, in both parts of the system, there is a conflict between a system designed to both achieve State control of families and young people and goals of participation and empowerment. Yet the participatory approach

does result in families and young people feeling a sense of control over their own lives and being enabled rather than disabled by their contact with the system.

However, FGCs are clearly working far more effectively than was expected by those who dismissed the possibility that families would be at all responsive. Almost all families take an active part, and, when matters are serious, wider family are prepared to come and provide additional support and

help. Agreements are reached in most FGCs (about 92% to 95%) about the appropriate outcomes. Young offenders are held accountable for their offences almost all the time. Victims are playing a role in making decisions approximately half the time. Children and young people remain, for the most part, with their family and in the community with support to make a fresh start. Now there are only 76 beds for children and young people in social welfare residences compared with about 3000 in 1986. However, we know relatively little yet about whether or not children and young people are being adequately protected by recommendations and plans made in care and protection matters. Certainly there are still too few services to back up FGC recommendations, the planned resourcing of community agencies has lagged behind needs and the provisions intended to establish iwi and cultural authorities to provide services have never been implemented. And questions can be raised about the extent to which agreements are 'coerced', the role occupied by attending social workers and the failure to give meaning to the provisions for a culturally appropriate process.

Research clearly indicates that Maori, Pakeha (New Zealanders of European origin) and Pacific Islander alike became distressed when FGCs were not adequately set up or managed, although the types of insensitivity



An overview of the Family Group Conferences

Much has been said about the uniqueness of the FGC, its innovative nature and its potential for revolutionising care and protection and youth justice systems, not just in New Zealand, but also in other countries. The FGC has been acclaimed as not only achieving appropriate and acceptable outcomes but as having other, more far-reaching

were differently identified and perceived. However, families from all ethnic groups at times expressed appreciation of the informality of FGCs, the facility for all to express their opinions, the possibility of having the FGC in their own home and the opportunity to have family support available. Many families found the FGC far preferable to court as a method of reaching decisions and involving them. The comments from those involved with youth justice FGCs quoted below sum up many of these views:

A great idea - we were really involved. It is an excellent idea to sort it out in the home and to involve families.

(Parent)

I'm really pleased that it doesn't go straight to court like the old days. The kids are given a chance now.

(Parent)

Really good. I got to see the victim, apologise and help her with money. The victim also got a chance to say things.

(Young person)

I like the idea of the victim getting reparation. It is good to meet the victim, good to involve the parents.

(Parent)

It was a good idea to meet the offender and his parents and understand how people got to be like this. I was angry at first but later I was sympathetic. I feel we decided the right thing. I preferred this system to the court. At the FGC you get to know what happened and to be involved.

(Victim)

social and psychological benefits. In care and protection, it has been seen as the start of a process of the family reevaluating the way that it functions and providing assistance which can lead to changes that will ensure the safety of children. In youth justice it has been seen as the key to re-engaging families with their young people and providing ways in which there can be a re-integration into the family and the community, a community that includes the victim who can be released from fear and enabled to forgive the person who has caused the wrongs. It has also been seen as a way to incorporate and validate the alternative processes of different cultural groups within a Western system. It is easy to see the appeal of the FGC for those who are advocates of sharing in decision-making because of the potential it has to empower people who might otherwise be disempowered and to restore power to those who have been disenfranchised from the system.

On the other hand, the FGC has been criticised as inappropriate for so-called 'dysfunctional families', basically more suited to Maori than to Pakeha, or basically suited to Maori and the New Zealand social climate but not suited to other societies with different ethnic minorities. Some claim that, in care and protection matters, children are not being adequately protected from those that abuse them. In youth justice matters, advocates of a crime control

philosophy see it as a soft option with the police powerless to deal with young offenders who are protected from the consequences of their actions. Others point to the FGC as yet another method of extending the control of the State over families and of Pakeha over Maori.

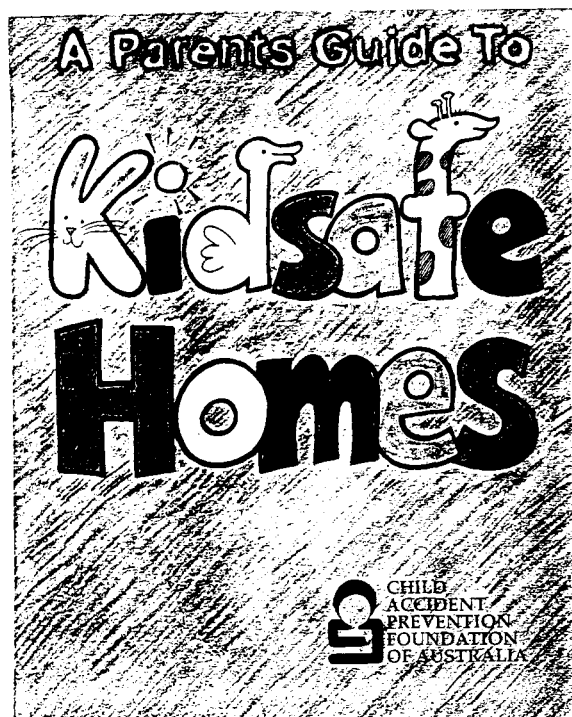
What is the truth? Such a question really has no answer – it depends on one's views. On the whole, we see the FGC as primarily positive option which is potentially protective in care and protection cases and a moderately tough in youth justice cases. We see it as a process which could be readily adapted to other societies and to other cultural groups. It has the potential to help families (often dismissed as 'dysfunctional') who are having difficulties in finding links with those who can support them, to give protection to children and to restore to young people a sense of identity and belonging. Enthusiasm is tempered by a

recognition that it is impossible to expect the production of a magical event with an unrehearsed case, a host of different directors and an unexplored script at every performance. But the problem is not that the FGC fails at times to deliver all that is hoped for but rather that, after all, it occupies at most only a few hours in the lives of these young people and their families. No single event can possibly achieve permanent and lasting change however dramatic the impact and however emotional and real the feelings are that are generated at the time. Real and permanent changes will depend on the development of those features of society as a whole that help young people and their families solve problems, avoid cycles of poverty and disadvantage and find ways of being productive and effective members of a society that values them. The challenge for new Zealand is to build toward these goals. ♦

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A Parents Guide to KIDSAFE HOMES



A simple and very practical illustrated booklet aimed at helping parents ensure that their home and its surrounds are safe for children. The fact that 67% of injuries to children under five years occur in their own home indicates the need for publications such as this.

The guide includes a safety checklist for each area of the home and lists of emergency centres and phone numbers in each state.

The Children Accident Prevention Foundation of Australia can be contacted on the following numbers:

ACT 06 290 2242	SA 08 204 6318
NSW 02 221 4523	TAS 002 24 1124
NT 089 89 2783	VIC 03 663 1319
QLD 07 854 1829	WA 09 340 8509