

Access to justice for children and young people in Aotearoa New Zealand

Working paper No. 15 - Training for professionals

1 June 2023

Author: Jennifer Braithwaite LLM (Hons), MSCL (Hons)

This research study was made possible thanks to a Justice Fellowship from the Michael and Suzanne Borrin Foundation.



© June 2023 Jennifer Braithwaite

Table of contents

Context.....	3
Introduction	4
General topics	4
Children’s rights.....	4
Child and youth development	6
Communication & engagement with young people	7
Legal problem recognition.....	8
Topics relating to specific groups or areas of the law	9
Disabled and neurodiverse children and young people	9
Cultural competence or cultural awareness training.....	10
Rainbow and takatāpui children and young people	12
Girls and young women	12
Boys and young men	13
Trauma	13
Oranga Tamariki.....	15
Youth justice system.....	15
Police	15
Other professionals	16
References.....	17

Context

This working paper considers the role of training for professionals in closing the justice gap for children and young people in Aotearoa New Zealand. It forms part of an overall research project exploring the extent to which children and young people are able to access to justice in Aotearoa New Zealand. The findings of the research study are presented in three parts:

Part One contains my analysis of data from key informant interviews with adults with expertise in the justice system and/or working with particular groups of children and young people, as well as from a survey of children and young people aged 14 to 24.

Part Two discusses the meaning of access to justice and other related concepts such as legal empowerment as well as the specific meaning of access to justice for children and child-friendly justice. It then discusses the justice problems experienced by children and young people generally, as well as common barriers to accessing justice. The analysis in this report is based on my review of the research and literature in New Zealand and overseas as well as analysis of information obtained from the government and Crown entities.

This report is supported by a series of ten working papers discussing the justice problems and barriers to accessing justice experienced by particular groups of children and young people and is broken up into a series of reports relating to groups identified as likely to experience differing justice problems or barriers to access. These working papers are:

1. Children and young people in care or with care experience;
2. Disabled and neurodiverse children and young people;
3. Tamariki and rangatahi Māori;
4. Pacific children and young people;
5. Rainbow and takatāpui children and young people;
6. Girls and young women;
7. Boys and young men;
8. Poverty and socio-economic disadvantage;
9. Trauma; and
10. Intersectionality.

Part Three explores possible solutions or ways to close the justice gap for children and young people in Aotearoa New Zealand. This part of the study is also supported by a series of working papers in relation to possible solutions. At the time of writing these working papers consider the following topics with additional working papers likely to follow:

11. Strategic litigation;
12. Legal service delivery, non-lawyer services, and integrated services;
13. Data, evidence and measuring change;
14. Technology;
15. Training for professionals;
16. Legal education and continuing professional development for lawyers and judges; and
17. Law-related education for children and young people.

The reports and working papers are available at: <https://www.cypaccesstojusticenz.com/>.

Introduction

As discussed in *Access to justice for children and young people in Aotearoa New Zealand: Part 2: Justice problems and barriers for all children and young people*, professionals' lack of knowledge about children and young people and their rights can be a significant barrier to accessing justice which suggests education and training may be part of the solution. The research and literature also identifies a wide range of topics about which professionals who work with children and young people should receive training. This includes both topics relating to children and young people generally, and in relation to the needs and experiences of specific groups of children and young people. This working paper will discuss the general issues first, followed by topics relating to specific groups of children and young people.

The need for training also applies to lawyers and judges but given the significance of their roles to access to justice for children and young people, the specific issues in relation to their training and education are discussed separately in *Working paper 16 - Legal education and continuing professional development for lawyers and judges*.

General topics

Children's rights

Training and capacity building on the UNCRC and children's rights are critical for its successful implementation... This strategy should include training and capacity building for governmental officials, members of parliament and members of the judiciary as well as those working with and for children and young people. It should emphasise the status of children and young people as rights holders and encourage active respect for all of the provisions of the UNCRC.⁴⁰¹

The UN Committee on the Rights of the Child has consistently emphasised the importance of children's rights training in many of its General Comments. For example, General Comment No.5 on General Measures of Implementation states that the Committee expects to see the Convention reflected in "professional training curricula, codes of conduct and educational curricula at all levels" with the purpose of training being "to emphasise the status of the child as a holder of human rights, to increase knowledge and understanding of the Convention and to encourage active respect for all its provisions."² Other General Comments address the breadth of those who should receive training such as General Comment No. 7 on Implementing child rights in early childhood which encourages States to undertake training for "children and their parents, as well as for all professionals working for and with children, in particular parliamentarians, judges, magistrates, lawyers, law enforcement officials, civil servants, personnel in institutions and places of detention for children, teachers, health personnel, social workers and local leaders" as well as undertaking awareness-raising campaigns for the wider public.³

¹ White, J. (2022). [Theory of Change for Making Children's Rights Real in Scotland: Rapid Review of the change process no. 1 "Making children's rights real through policy adaptation, coordination, administrative integration and budgetary consideration"](#). The Observatory of Human Rights Scotland at 7.

² United Nations Committee on the Rights of the Child. (2003). [General comment No.5: General measures of implementation of the Convention on the Rights of the Child](#). The Office of the High Commissioner for Human Rights at para 53.

³ United Nations Committee on the Rights of the Child. (2005). [General comment No.7: Implementing child rights in early childhood](#). The Office of the High Commissioner for Human Rights at para 41.

Other General Comments address specific contexts such as General Comment No. 21 on children in street situations which argues for the investment in “good quality initial and in-service basic training on child rights, child protection and the local context of children in street situations for all professionals who may come into direct or indirect contact with children in street situations” and additional “in-depth training on a child rights approach, psychosocial support and child empowerment is required for professionals working with children in street situations as a dedicated part of their mandate.”⁴ General Comment No. 24 on children’s rights in the child justice system makes similarly broad recommendations in relation to the topics that should be included in training:⁵

The training should be systematic and continuous and should not be limited to information on the relevant national and international legal provisions. It should include established and emerging information from a variety of fields on, inter alia, the social and other causes of crime, the social and psychological development of children, including current neuroscience findings, disparities that may amount to discrimination against certain marginalized groups such as children belonging to minorities or indigenous peoples, the culture and the trends in the world of young people, the dynamics of group activities and the available diversion measures and non-custodial sentences, in particular measures that avoid resorting to judicial proceedings.

The need for professionals to receive training on children’s rights is also a key thread running throughout the Council of Europe Strategy of the Rights of the Child 2022-2027 with three specific recommendations including to:⁶

Address the attitudes and conduct of officials and professionals in the justice system and law enforcement towards children through training on the rights of the child and by promoting a zero-tolerance policy against violence, humiliating and degrading treatment of children and their discrimination in the justice system...

Continue training law enforcement officers and all relevant groups of officials and professionals in the justice system on the rights of the child and child-friendly justice.

Hubsch argues that inadequate training on children’s rights is likely to be the greatest barrier to accessible systems of redress in Scotland when the United Nations Convention on the Rights of the Child is incorporated into Scots law:⁷

Duty bearers will require comprehensive initial and ongoing training and mentoring on children’s rights to ensure effective advocacy for children and their rights.... Effective advocacy requires more than simple knowledge that the rights exist, however. Awareness must be accompanied by an understanding of what the rights mean to children and how children engage with their rights. Training should, moreover, ensure system actors treat all children, including children experiencing marginalisation, with respect and sensitivity.

⁴ United Nations Committee on the Rights of the Child. (2017). [General comment No. 21 \(2017\) on children in street situations](#). The Office of the High Commissioner for Human Rights at 7-8.

⁵ United Nations Committee on the Rights of the Child. (2019). [General Comment No.24. on children’s rights in the child justice system](#). The Office of the High Commissioner for Human Rights at para 112.

⁶ Council of Europe. (2022). [Council of Europe Strategy for the Rights of the Child \(2022-2027\): “Children’s Rights in Action: from continuous implementation to joint innovation”](#).

⁷ Hubsch, J-F. (2022). [Theory of Change for Making Children’s Rights Real in Scotland: Rapid review of change process no. 4 “Keeping children’s rights real by ensuring a system of information, advocacy, complaints, redress and effective remedy for children”](#). Interdisciplinary Research Laboratory on the Rights of the Child, University of Ottawa at 10.

There is also a need for specific training on the children's rights issues arising in some contexts. For example, Forde highlights the "complexity of the children's rights issues that arise in the context of police questioning" arguing that this complexity provides additional impetus for specialised training about children's rights and issues affecting children.⁸ The Mental Disability Advocacy Center also raise the need for all professionals working in justice process that come into contact with intellectually disabled children to "be trained to recognise and facilitate their rights, including their rights to reasonable accommodations...to ensure that they respect and protect the rights of children with mental disabilities and, especially, do no harm".⁹ This includes training on procedural and age-appropriate accommodations including: "[h]ow to recognise when to provide accommodations (such as an interpreter), how to recognise and promote the validity of alternative communication by children with mental disabilities for use as testimony,¹⁷⁸ and how to adjust procedures to accommodate differences".¹⁰

Several also raise the need for specific training in relation to the rights of children in care or with care experience. For example, Liefwaard and Valentine suggest that relevant actors in the alternative care and justice systems should receive training addressing cultural and social norms "towards children that feed into a lack of willingness to accept that children have rights that must be enforced".¹¹ Who Cares? Scotland also argued that a wide range of professionals should get rights training "with particular focus on frontline staff, carers, and parents as the most involved in children's lives" with training focussed on "the practical implications of upholding rights and ... tailored to individual job roles."¹²

Child and youth development

The importance of training and education for professionals in the youth and criminal justice systems in relation to child and youth development is a consistent theme in the international literature. The United Nations Committee on the Rights of the Child's General Comment No. 24 also argues that "continuous and systematic training of professionals in the child justice system", including relating to the "physical, psychological, mental and social development of children and adolescents, as well as about the special needs of the most marginalised children" are a critical to fulfilling the rights to fair treatment and trial in Article 40(2) of UNCROC.¹³ Forde explains:¹⁴

This high degree of specialisation and knowledge among the judiciary is essential to ensure that decision making is fair, just and appropriate to the child's age and stage of development (Monahan, Steinberg & Piquero, 2015), particularly in light of the fact that new scientific evidence around children's development and brain

⁸ Forde, L. (2022). [The role of the courts in protecting children's rights in the context of police questioning in Ireland and New Zealand](#). *The Howard Journal of Crime and Justice*, 61(2), 240-260 at 17.

⁹ Mental Disability Advocacy Center. (2015). [Access to Justice for Children with Mental Disabilities: International Standards and Findings from Ten EU Member States](#) at 32.

¹⁰ Ibid at 32. The Mental Disability Advocacy Center (now called Validity) produced an online training and education tool for professionals in justice systems who come into contact with children with mental disabilities. The training material and other resources are available here: Mehes, B. (2017). *Innovating European lawyers to advance the rights of children with disabilities*. *Validity*. <https://validity.ngo/2017/10/30/innovating-european-lawyers-to-advance-the-rights-of-children-with-disabilities/>.

¹¹ Liefwaard, T. & Valentine, J. (2019). [Access to justice for children in alternative care: Submission to the UN Committee on the Rights of the Child for its Day of General Discussion on Children's Rights and Children in Alternative Care](#). Leiden Law School, Leiden University at 6.

¹² Who Cares? Scotland. (2020). [Navigating a World of Rights: Views from our Care Experienced membership](#) at 7.

¹³ United Nations Committee on the Rights of the Child, [General Comment No.24. on children's rights in the child justice system](#) at para 39.

¹⁴ Forde, [The role of the courts in protecting children's rights in the context of police questioning in Ireland and New Zealand](#) at 17.

development provides a cogent argument for the contention that children should be treated differently than adults (Liefwaard, 2020).

Training and education in relation to child and youth development should also include training in relation to how different parts of the brain develop. In particular:¹⁵

Understanding that the neurological systems associated with logical reasoning and knowledge develop at a different stage to those related to control of emotions and impulses would help magistrates better understand the impact on decision-making that affects offending behaviour.

Moody also identifies the value in training in relation to ‘normal’ development and the impact of adverse childhood experiences and brain injuries on development:¹⁶

Training that helps magistrates distinguish between normal processes in the development of maturity and the impact of adverse childhood experiences (ACEs) and traumatic brain injuries (TBIs) would also help clarify their understanding of the issue. While magistrates understood that young adults were often still maturing, this issue was often confused with instances of arrested or retarded development. Greater clarity would help magistrates take account of both normal processes of maturation, and the impact of ACEs and TBIs in decision making.

Communication & engagement with young people

A related topic is the need for training on how to communicate and engage with children and young people of different ages and stages of development. As the European Union Agency for Fundamental Rights explains:¹⁷

Professionals and their behaviour is a key factor determining whether justice is deemed “child-friendly”. The research makes clear that children heard by trained professionals are less frightened and intimidated. They are also more appropriately informed, meaning that they can make better use of their rights and be less influenced by others in their statements. This underlines the importance of training for all professionals in contact with children, as well as of clear, consistent standards and guidelines on how to inform, hear and support children throughout proceedings.

The European Union Agency for Fundamental Rights recommended that all “professionals in contact with children receive training in child rights, child-friendly verbal and non-verbal communication and language” as well as “to identify the varying needs of children in different age groups so that they can address these and communicate with children appropriately”.¹⁸ The specific abilities training should develop include approaching children in a respectful way, speaking calmly to them, and taking time to listen and explain processes, outcomes and legal jargon so that children can follow the proceedings more easily and participate effectively.¹⁹ The Council of Europe guidelines on child-friendly justice further recommended that: “[p]rofessionals

¹⁵ Moody, G. (2021). [Maturity in the magistrates’ court: Magistrates, young adults and maturity considerations in decision-making and sentencing](#). Magistrates Association at 62.

¹⁶ Ibid at 62.

¹⁷ European Union Agency for Fundamental Rights. (2017). [Child-friendly justice: Perspectives and experiences of children involved in judicial proceedings as victims, witnesses or parties in nine EU member states](#). Publications Office at 115.

¹⁸ Ibid at 16.

¹⁹ Ibid at 113.

having direct contact with children should also be trained in communicating with them at all ages and stages of development, and with children in situations of particular vulnerability.”²⁰

Again, specific training is also required in specialised contexts such as the investigation process where Martschuk et al argue:²¹

Interviewers, legal professionals and intermediaries require training on memory processes, the relationship between questioning strategies and memory processes and on questioning strategies that are most effective in eliciting reliable information...Interviewers should demonstrate practical interviewing expertise. These skills should be a core component of an interviewer’s job requirements and performance evaluations. To acquire these skills, interviewers require evidence-based training derived from scientific research. For example, interviewers need to be trained to use simple language and simple sentences. Non-leading open-ended questions need to be prioritised (where possible). Police training modules that are not evidence-based should be removed. To ensure that the training is effective, and that the skills are current, ongoing evaluation of training programs and interviewer performance is essential.

Berrick et al. suggest that this need extends further to judges, lawyers and ‘other actors’ who “may need training to learn effective interviewing techniques and appropriate alternative language customised to children’s age and developmental capacities (Jenkins (D.), 2008).”²²

Legal problem recognition

As discussed in *Access to justice for children and young people in Aotearoa New Zealand: Part 2: Justice problems and barriers for all children and young people*, many professionals are unable to identify legal problems as legal and/or identify where lawyers can assist their clients. As such, it is important that those who assist children and young people receive training in relation to how to identify children’s legal issues. For example, staff from a law centre in Canada describe being told by young people in homeless shelters that the young person had told someone else about their legal problem but that person did not do anything to assist. They explain:²³

Most likely, that person — a social worker, foster parent, or teacher — did not realise that there was a legal problem, or did not know what steps to take next or who to contact. This is why part of JFCY’s work is to provide legal education workshops to train staff at youth-serving agencies so service providers are able to identify the legal issues that affect a young person’s housing and get in touch with their local legal aid clinic or an appropriate lawyer. To do this requires an active effort to learn about legal issues that can affect a young person’s housing stability and to seek out the appropriate legal information and services.

²⁰ Council of Europe. (2010). [Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice](#) at 23. The Council of Europe Strategy of the Rights of the Child 2022-2027 repeated the need for training for officials and professionals “on how to engage and consult with children”: Council of Europe, [Council of Europe Strategy for the Rights of the Child \(2022-2027\): “Children’s Rights in Action: from continuous implementation to joint innovation”](#)

²¹ Martschuk, N., Powell, M.B., Blewer, r., & Goodman-Delahunty, J. (2021). Legal decision making about (child) sexual assault complaints: the importance of the information-gathering process. *Current Issues in Criminal Justice*, 34(1), 58-76 at 71.

²² Berrick, J.D., Dickens, J., Pösö, T., & Skivenes, M. (2018). International Perspectives on Child-responsive Courts. *The International Journal of Children's Rights*, 26(2), 251-277 at 255.

²³ Chan, E. & Huys, J. (2019). [Access to justice through street youth legal services](#). *Parity*, 32(8), 53-54 at 54.

Liz Curran makes a similar point in relation to health professionals arguing that educating health professionals about legal problems and their impact on health is a necessary precondition to those professionals engaging:²⁴

The legal sector needs to 'join the dots' clearly explaining what a legal problem looks like, and how, if unresolved, it can lead to poor health outcomes (stress and anxiety), how it can manifest and that it might be resolved in a way that can be negotiated rather than requiring an adversarial setting. SCs and the professional development that runs alongside, can effectively demonstrate why legal help will support them in helping their clients/patients. This approach relies on trust, taking time to listen and tailoring PD to the particular and practical needs of the professionals' clients/patients. Feedback captured in the author's research reveals if this does not occur non-legal professionals will just not engage.

An example of this sort of training is the Women's Legal Service Victoria's Women and the Law training program which "is specifically designed for family violence support and community health practitioners" and "aims to help practitioners identify potential legal issues their clients might be facing and confidently provide accurate legal information to them".²⁵ Another example of New Zealand based tailored training is Pacific Peoples Legal Education Ltd, a company involving four Pacific female barristers practising in South Auckland. They deliver a free legal education programme aimed at Pacific service providers families involved with the Family Court, Criminal Court and/or Youth Justice called 'Folau He Vahanoa'.²⁶

Topics relating to specific groups or areas of the law

As discussed in the working papers in relation to different groups of children and young people, a common recommendation in the research and literature is for more training and education in relation to the experiences and needs of different groups as discussed below.

Disabled and neurodiverse children and young people

Training and education is important in relation to both the nature and impacts of different forms of disability and neurodiversity, as well as in relation to the specific legal rights of disabled and neurodiverse people. For example, the New Zealand Human Rights Commission report in relation to violence and abuse of disabled people made a series of recommendations for mandatory training of all "people working across the violence prevention and response sector, including police, lawyers and judges; researchers who want to research disabled people's circumstances; the disability sector; the wider health sector; and social services".²⁷ This training should include "the gendered dynamics of violence and violence against tāngata whaikaha Māori and disabled adults and children" and be "embedded in all tertiary education" and "initial and ongoing professional development training".²⁸

Social work academic and FASD researcher Dr Anita Gibbs also emphasises the importance of training explaining "[p]rofessionals working in care, justice and education also needed to

²⁴ Curran, L. (2017). [Lawyer Secondary Consultations: improving access to justice: reaching clients otherwise excluded through professional support in a multi-disciplinary practice](#)¹. *Journal of Social Inclusion*, 8(1), 46–77 at 53-54.

²⁵ Women's Legal Service Victoria. (n.d.). *Training*. <https://www.womenslegal.org.au/training/>

²⁶ Pacific Peoples Legal Education Ltd. (2023). *Pacific Peoples Legal Education Ltd* <https://pple.nz/>

²⁷ New Zealand Human Rights Commission - Te Kāhui Tika Tangata. (2021). [Whakamahia te tūkinokore ināianeī. ā muri ake nei: Acting now for a violence and abuse free future](#).

²⁸ Ibid at 55.

understand, in depth, what was going on for children in trouble and getting good training was a key part of this”.²⁹ This requires “baseline FASD training at both introductory and specialist levels.”³⁰

Diesfeld et al.’s literature review in relation to the legal needs of disabled people pointed to the need “the need for people working within the legal system to be educated about disability issues and disabled peoples’ needs” with “[d]isability awareness training and protocols for working with interpreters for personnel in courts and police services” being particularly important.³¹ Other research overseas also emphasises the need for training to be improved “to support frontline workers to respond most effectively to neurodiverse people’s needs”.³²

More generally, as discussed above, one of the most significant barriers to accessing justice for disabled and neurodiverse people is the attitudes of those involved in the administration of justice. For this reason, the Mental Disability Advocacy Center recommends training of “professionals working in justice systems to ensure that people with disabilities can access justice on an equal basis with others (Article 13(2))”.³³

The training needs of different professionals including teachers, police, lawyers and the judiciary are discussed in more detail in *Working paper no. 2 Disabled and neurodiverse children and young people*.

Cultural competence or cultural awareness training

It is also commonly argued that justice system professionals should receive ongoing cultural competence training led by members of the relevant cultural community.³⁴ Cultural competence is part of the “skills required for the provision of equal justice to all users, irrespective of their cultural or linguistic characteristics”.³⁵ Research and literature also raises the importance of having an understanding of racism and its institutional and structural impacts as Joseph-Salisbury explains in the context of the English education system:³⁶

To understand racism as institutional (and structural) is to recognise the ways in which racism is woven into the fabric of society’s institutions. This understanding enables teachers to see, and therefore respond to, the ways in which the education system can and does reproduce racism and racial inequalities.... Several respondents argued that the cultivation of racial literacy should be seen as an ongoing process of learning and unlearning. Rather than as a tick-box ‘skill’ that one might acquire and retain with little effort, teachers should understand racial literacy as a constant journey, and they should be given the time, support and resources to pursue that journey. It should be part of continued professional development within

²⁹ Gibbs, A. (2022). [Best practices for justice: Practitioner views on understanding and helping youth living with fetal alcohol spectrum disorder \(FASD\)](#). *Aotearoa New Zealand Social Work*, 34(4), 6–18 at 11.

³⁰ Ibid at 15.

³¹ Diesfeld, K., Patston, P., McLean, M., Miller-Burgering, W., Vickery, R. & Phelan, T. (2006). *Literature Review: Unmet Legal Needs of People with Disabilities in the Auckland Region Report No. 1*. Legal Services Agency at 13.

³² Revolving Doors. (2022). [Exploring the links between neurodiversity and the revolving door of crisis and crime: Policy briefing](#) at 10.

³³ Mental Disability Advocacy Center, [Access to Justice for Children with Mental Disabilities: International Standards and Findings from Ten EU Member States](#) at 8.

³⁴ See Law Council of Australia. (2018). [Recommendations and Group Priorities](#) at 21; Paul, S. (2021). [Tackling Racial Injustice: Children and the Youth Justice System](#). JUSTICE at 57-58.

³⁵ Martin, W. (2017). [Access to justice in multicultural Australia](#) (Paper presented at the Council of Australasian Tribunals National and New South Wales Joint Conference) at 22.

³⁶ Joseph-Salisbury, R. (2020). [Race and Racism in English Secondary Schools](#). Runnymede Trust at 8.

schools, and should be encouraged at all levels – including at the level of the Department for Education, local authority level and school level.

However, it is also critical that any training is not delivered in a way that inadvertently perpetuates racism and biases. Monteith et al. give the example of the training of one of the respondents to their survey of Magistrates in the United Kingdom:³⁷

In the first few weeks of training as a magistrate, there were compulsory visits to prisons and young offenders institutions, so while this is useful (awareness of what you were sending someone to if custodial sentence imposed), presenting (without context) a large black and mixed heritage prison population - sets the scene for black men to be seen as inherently criminal.

Monteith et al. argue that is the lack of context to the over-representation of black and mixed heritage people in prison which is so problematic.³⁸ While I agree the lack of context is problematic, I question whether simply giving explanations of the context will necessarily be effective particularly where someone already holds a bias. However, this is probably a question for more detailed research.

In addition, although the research and literature discusses the importance of training and education, advocates and scholars also consistently raise concerns about the limitations of existing cultural awareness training. For example, Miller identified the following shortcomings of existing training:³⁹

- It is often one-off, when ongoing training is required;
- Training is voluntary with individuals having the responsibility to identify and obtain training;
- Training about indigenous groups often fails to recognise diversity within indigenous peoples including diversity of experience between urban and rural populations; and
- Training is sometimes provided by non-indigenous people or indigenous people from other parts of the country.

Cavanagh & Marchetti also raise concerns that “cultural awareness training is often packaged in short courses or brief seminars that, in isolation, either do not sufficiently unpack the issues of colonisation and its effects in contemporary society, or do not demonstrate an individual’s increase in knowledge and a change in behaviour that improves the experience of their interactions with Indigenous Peoples”.⁴⁰ Another limitation of training is that it may make little difference if the surrounding systems and structures remain the same:⁴¹

[U]nless accompanied by wider changes to culture and practice, race training efforts are at best marginally effective at addressing specific problems, while distracting from much larger ones. ...Even if individuals in the system respond well to training, continuing workplace norms in a racist, hierarchical and complexly discriminatory system make it hard to convert understanding into action.

³⁷ Monteith, K., Quinn, E., Dennis, A., Joseph-Salisbury, R., Kane, E., Addo F., & McGourlay, C. (2022). [*Racial Bias and the Bench: A response to the Judicial Diversity and Inclusion Strategy \(2020-2025\)*](#). University of Manchester at 24.

³⁸ Ibid.

³⁹ Miller, A. (2017). Neighbourhood Justice Centres and Indigenous Empowerment. *Australian Indigenous Law Review*, (20), 123-153 at 151.

⁴⁰ Cavanagh, V. & Marchetti, E. (2016). Judicial Indigenous Cross-Cultural Training: What Is Available, How Good Is It And Can It Be Improved? *Australian Indigenous Law Review*, 19(2), 45-63 at 47.

⁴¹ Monteith et al., [*Racial Bias and the Bench: A response to the Judicial Diversity and Inclusion Strategy \(2020-2025\)*](#) at 23.

Rainbow and takatāpui children and young people

The research and literature also identifies the need for training on the rights and needs of rainbow children and young people with particular attention to transgender and intersex children⁴² or as the Law Council of Australia put it, “LGBTI cultural competency training”.⁴³ The training should include pronoun use,⁴⁴ defining terms relevant to LGBT youth,⁴⁵ exploring myths and stereotypes,⁴⁶ interrelated forms of bias and prejudice including HIV stigma, transphobia, homophobia, cisheterosexism, settler colonialism, and structural racism,⁴⁷ and guide staff on respectful and equitable service to LGBT youth⁴⁸ including the use of LGBTI+ sensitive language.⁴⁹ Snyder et al. also raise the need for widely disseminated and discussed non-discrimination policies which could also form part of training.⁵⁰

Girls and young women

Research and literature in New Zealand and other jurisdictions raises the need for professionals to receive training in relation to the needs and experiences of young women. For example, Best et al. identify the need for training “in matters specific to young females and their common backgrounds, with a particular focus on their maltreatment and trauma experiences and how this may affect the FGC process”⁵¹ as well as how to work with young female offenders.⁵² In the United Kingdom, the Agenda Alliance for Women & Girls at Risk and Alliance for Youth Justice make similar recommendation:⁵³

[C]riminal justice professionals are trained to understand that young adult women’s offending, experiences of trauma, discrimination and inequality are interlinked, as part of an age-, gender- and trauma-informed approach to working with young adult women. This training should be developed in partnership with trauma-informed, gender-sensitive services with expertise in supporting young adult women facing multiple disadvantage.

⁴² Snyder, S. M., Hartinger-Saunders, R., Brezina, T., Beck, E., Wright, E. R., Forge, N., & Bride, B. E. (2016). Homeless youth, strain, and justice system involvement: An application of general strain theory. *Children and Youth Services Review*, 62, 90-96 at 94; Global Initiative on Justice with Children & Child Friendly Justice European Network. (2022). [Towards LGBTI+ sensitive justice systems for children in Europe: Challenge Paper](#) at 31.

⁴³ Victoria State Government. (2016). [Access to Justice Review \(Full report\)](#) at 181.

⁴⁴ Community-Based Research Centre. (2021). [Serious Legal Problems faced by Lesbian, Gay, Bisexual, and Other Sexual-Minority People in Western Canada: A Qualitative Study](#). Department of Justice Canada at 5.

⁴⁵ Snyder et al., Homeless youth, strain, and justice system involvement: An application of general strain theory at 94.

⁴⁶ Ibid.

⁴⁷ Community-Based Research Centre, [Serious Legal Problems faced by Lesbian, Gay, Bisexual, and Other Sexual-Minority People in Western Canada: A Qualitative Study](#) at 5.

⁴⁸ Snyder et al., Homeless youth, strain, and justice system involvement: An application of general strain theory at 94.

⁴⁹ Global Initiative on Justice with Children & Child Friendly Justice European Network, [Towards LGBTI+ sensitive justice systems for children in Europe: Challenge Paper](#) at 31.

⁵⁰ Snyder et al., Homeless youth, strain, and justice system involvement: An application of general strain theory at 94.

⁵¹ Best, C., Ioane, J. & Lambie, I. (2021). Young female offenders and the New Zealand Youth Justice System: the need for a gender-specific response. *Psychiatry, Psychology and Law*. 28(6), 867-884 at 878-879.

⁵² Ibid.

⁵³ Agenda Alliance for Women & Girls at Risk and Alliance for Youth Justice. (2021). [Young Women’s Justice Project Literature Review](#). Alliance for Youth Justice at 65.

Boys and young men

Dixon et al. also advocate for training of both specialist and non-specialist workers to receive training to understand:⁵⁴

- *That male survivors exist.*
- *SVA, its outcomes and how to respond appropriately to male survivors and how to encourage and maintain survivor engagement with support services.*
- *The diverse range of male survivors and their intersectionality and how to support them effectively.*
- *How to ask men sensitively about their SVA experiences to encourage disclosure. We therefore recommend that service workers who may come into contact with male survivors across their helpseeking process are trained to understand and respond appropriately.*

Huntaway Strategy's literature review for Te Rōpū Tautoko, Male Survivors Aotearoa to identify material focusing on a kaupapa Māori approach to the support of Māori male survivors of abuse also identified the need for training of professionals on the specific needs of both male survivors generally, and Māori male survivors in particular:⁵⁵

There is a need for greater and clearer visibility of the prevalence and particular needs of male survivors of abuse in general, and Māori male survivors in particular, within the health, psychological and psychiatric and social work professions, and for targeted training to upskill professionals, staff and volunteers in relevant organisations of the specific needs of male and Māori male survivors of abuse.

Although Huntaway Strategy do not refer to the need for training of justice system professionals such as police, lawyers and the judiciary, in my view these professionals have a similar need for training.

Trauma

Leaders Unlocked, a group of young people in the United Kingdom with lived experience of the care and youth justice systems, recommends training for justice system professionals around the trauma experienced by young people in care:⁵⁶

[P]articularly around trauma and how professionals can engage with young adults in care in a way that is not retraumatizing. Participants especially recommended that young adults who have experienced or are experiencing care are involved in the creation and facilitation of the training. This would enable professionals to learn from young adults and their experiences directly.

Training around trauma and trauma-informed practice is consistently seen as important for all professionals interacting with both complainants and alleged offenders in the criminal justice system. For example, in her book on closing the justice gap for adult and child sexual assault

⁵⁴ Dixon, L., Treharne, G., Pettie, M., Bowden, C., Patterson, T., Beres, M., Mirfin-Vietch, B., Shaw, R., Eketone-Kelly, A., & Ashdown, J. (2023). [Male survivors of sexual violence and abuse \(SVA\): Barriers and facilitators to reporting and accessing services](#). Open Access Te Herenga Waka-Victoria University of Wellington at 91.

⁵⁵ Huntaway Strategy. (2022). [Literature review. Te Rōpū Tautoko, Male Survivors Aotearoa](#). Male Survivors Aotearoa at 2.

⁵⁶ Leaders Unlocked. (2020). [Young Adult Advisors on Criminal Justice: Hearing from young adults in the criminal justice system](#) at 24.

Cossins argues for mandatory trauma training together with training in related issues including language development and disability:⁵⁷

[M]andatory training about the effects of trauma and trauma-informed systems and principles, as well as the triggers within an adversarial trial that could re-traumatise complainants is also required, not only of lawyers (solicitors, prosecutors and defence lawyers) who appear in sexual assault cases, but also all court staff within a court complex—from the security guards at court entrances, to judges, judges’ associates and tipstaffs, sheriffs, courts reporters and so on. In addition, all judges and lawyers involved in sexual assault cases should be required to undergo training about child development and language development, as well as the cognitive and language capacities of differently aged complainants who may be suffering from the effects of trauma or living with particular disabilities.

Trauma-informed training is particularly important for the police “in order to ensure that complainants participate in the criminal justice system rather than withdrawing”.⁵⁸ Trauma informed training also “enhances effective interviewing skills (Rich, 2019), with the aim of prioritizing victims’ comfort and safety, and in turn improving their working memory of the assault in a non-judgmental and empathic approach.”⁵⁹

Jones argues that the fact that the vast majority of those in prison have experienced victimisation means that training for all frontline staff is also critical part of trauma-informed justice for alleged offenders.⁶⁰ They suggest training on the following topics:⁶¹

- Indigenous Historical Trauma: The history and impact of colonization on Indigenous peoples and its contemporary relevance in a justice context;
- Trauma 101: The different forms of trauma and their impacts;
- Adverse Childhood Experiences: An explanation that ACEs can result in actual injuries to the brain that can lead to developmental issues and negative behaviour;
- Victim–Offender Overlap: An explanation of common experiences of those involved in the justice system including victimization, trauma, homelessness, substance use disorder, and other contemporary issues;
- Procedural Justice: The impact of procedural justice including building legitimacy; and
- Police & Correctional Legitimacy: Why the concept of legitimacy matters and how it is achieved.

As with other areas of training, Jones suggests is important that participants have an opportunity to hear from and interact with people with lived experience of the justice system so that they can develop a full understanding of what people experience in the system and identify and understand gaps.⁶²

⁵⁷ Cossins, A. (2020). [*Closing the Justice Gap for Adult and Child Sexual Assault: Rethinking the Adversarial Trial*](#). Palgrave Macmillan at 598.

⁵⁸ Ibid 39.

⁵⁹ Widanaralalage, B.K., Hine, B.A. Murphy, A.D. & Murji, K. (2022). [*“I Didn’t Feel I Was A Victim”: A Phenomenological Analysis of the Experiences of Male-on-male Survivors of Rape and Sexual Abuse*](#). *Victims & Offenders*, 17(8), 1147-1172 at 20.

⁶⁰ Jones, D. (2021). Universal precautions: A methodology for trauma-informed justice. *Journal of Community Safety and Well-Being*, 6(3), 156-159 at 157.

⁶¹ Ibid at 158.

⁶² Ibid at 158.

Oranga Tamariki

Te Korimako is an initiative which trains and educates Iwi, legal and social service providers to assist whānau who come to the attention of Oranga Tamariki to participate in the care and protection process, including within the Family Court.⁶³ Te Korimako have also developed a website “to look at the law and explain how the law relates to tamariki and whānau”.⁶⁴ However, although the purpose of this initiative is states as to “educate and support whānau who come to the attention of Oranga Tamariki and the Family Court”,⁶⁵ the language used on the website is probably more suited to professionals likely reflecting its background in training. The website contains a mix of text and short videos to explain various concepts as well as a list of legal services that may be able to assist whānau. Tania Williams Blyth discussed the background to this initiative in her evidence for the Waitangi Tribunal inquiry into Oranga Tamariki.⁶⁶

A similar initiative focussed on Pacific Peoples has recently been developed by Pacific Peoples Legal Education Ltd, a company involving four Pacific female barristers practising in South Auckland. They deliver a free legal education programme aimed at Pacific service providers families involved with the Family Court, Criminal Court and/or Youth Justice called ‘Folau He Vahanoa’.⁶⁷ I am not aware of any similar training courses that are more widely available.

Youth justice system

Police

The Méndez Principles adopted in May 2021 following a review of police interrogation techniques by a committee of international experts require interviews with child victims and witnesses to be undertaken by interviewers who have received specialist training which requires them to be aware of “certain behaviours” than can increase an individual’s vulnerability including suggestibility (being easily swayed and therefore vulnerable to leading questions potentially leading to false or unreliable information), acquiescence (the tendency to agree without thinking), and compliance (saying what they think the interviewer wants to hear).⁶⁸

Another recent review of the detention and questioning of child suspects in the United Kingdom also made recommendations for training of police staff including training for custody staff on child development, developmental disorders and learning disabilities, deterrence and resistance, communication with children, and age-appropriate restraint techniques.⁶⁹ They also recommend “continuous and systematic training of all practitioners involved in the questioning of child suspects” in accordance with the requirements of the UNCRC explaining that:⁷⁰

This training is needed to give practitioners a better understanding of the social and psychological development of children, including the implications of recent neuroscience findings, the special needs of the most vulnerable children and disparities that can lead to discrimination, as well as providing information on available diversion measures.

⁶³ Te Korimako Legal Education. (n.d.). <https://www.facebook.com/tekorimakolegaleducation/>

⁶⁴ Te Korimako Legal Education. (n.d.). *About us.* <https://tekorimako.org/about>

⁶⁵ Te Korimako Legal Education. (n.d.). *Home.* <https://tekorimako.org/>

⁶⁶ [*Brief of Evidence of Tania Rose Williams Blyth*](#) (Wai 2915, #A46)

⁶⁷ Pacific Peoples Legal Education Ltd. (2023). *Pacific Peoples Legal Education Ltd* <https://pple.nz/>

⁶⁸ Méndez, J. (2021). [*Principles on Effective Interviewing for Investigations and Information Gathering.*](#) Association for the Prevention of Torture; Center for Human Rights & Humanitarian Law; Norwegian Centre for Human Rights at 30.

⁶⁹ Kemp, V., Carr, N., Kent, H., & Farrall, S. (2023). [*Examining the Impact of PACE on the Detention and Questioning of Child Suspects.*](#) The University of Nottingham at 102.

⁷⁰ *Ibid* at 103.

For police officers, we recommend that this includes a specialist accreditation programme for interviewing children, as there is under the ABE model when interviewing vulnerable child prosecution witnesses. Training for defence lawyers will lead to specialist youth lawyers being available to deal with child suspects.

In Aotearoa New Zealand there are specialist Youth Aid Officers⁷¹ and specialist interviewers to interview children when they may have been the victim of abuse or witnessed a criminal offence.⁷² The adequacy of their training and whether these specialist staff are involved in all cases involving children and young people is outside the scope of this paper.

Other professionals

The Youth Justice Legal Centre in the United Kingdom offer training courses for Youth Justice System professionals.⁷³ Their training courses can cover all major aspects of youth justice law and practice and are delivered by experienced youth justice lawyers together with young people with personal experience of the youth justice system. A similar programme in Aotearoa New Zealand could be worth exploring.

⁷¹ New Zealand Police. (n.d.). *Keeping kids out of court*. <https://www.police.govt.nz/news/ten-one-magazine/keeping-kids-out-court>

⁷² Oranga Tamariki – Ministry for Children. (2021). *Specialist child interviews*. <https://practice.orangatamariki.govt.nz/our-work/assessment-and-planning/assessments/intake-and-early-assessment/core-assessment-phase/specialist-child-interviewing/>

⁷³ Youth Justice Legal Centre. (2023). *Training for other Youth Justice Professionals*. <https://yjlc.uk/training-and-events/youth-justice-training/training-other-youth-justice-professionals>

References

- Agenda Alliance for Women & Girls at Risk and Alliance for Youth Justice. (2021). [Young Women's Justice Project Literature Review](#). Alliance for Youth Justice.
- Berrick, J.D., Dickens, J., Pösö, T., & Skivenes, M. (2018). International Perspectives on Child-responsive Courts. *The International Journal of Children's Rights*, 26(2), 251-277.
- Best, C., Ioane, J. & Lambie, I. (2021). Young female offenders and the New Zealand Youth Justice System: the need for a gender-specific response. *Psychiatry, Psychology and Law*, 28(6), 867-884. <https://doi.org/10.1080/13218719.2021.1894258>
- Cavanagh, V. & Marchetti, E. (2016). Judicial Indigenous Cross-Cultural Training: What Is Available, How Good Is It And Can It Be Improved? *Australian Indigenous Law Review*, 19(2), 45-63.
- Chan, E. & Huys, J. (2019). [Access to justice through street youth legal services](#). *Parity*, 32(8), 53-54.
- Community-Based Research Centre. (2021). [Serious Legal Problems faced by Lesbian, Gay, Bisexual, and Other Sexual-Minority People in Western Canada: A Qualitative Study](#). Department of Justice Canada.
- Cossins, A. (2020). [Closing the Justice Gap for Adult and Child Sexual Assault: Rethinking the Adversarial Trial](#). Palgrave Macmillan.
- Council of Europe. (2010). [Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice](#).
- Council of Europe. (2022). [Council of Europe Strategy for the Rights of the Child \(2022-2027\): "Children's Rights in Action: from continuous implementation to joint innovation"](#)
- Curran, L., (2017). [Lawyer Secondary Consultations: improving access to justice: reaching clients otherwise excluded through professional support in a multi-disciplinary practice](#). *Journal of Social Inclusion*, 8(1), 46–77.
- Diesfeld, K., Patston, P., McLean, M., Miller-Burgering, W., Vickery, R., & Phelan, T. (2006). *Literature Review: Unmet Legal Needs of People with Disabilities in the Auckland Region Report No. 1*. Legal Services Agency.
- Dixon, L., Treharne, G., Pettie, M., Bowden, C., Patterson, T., Beres, M., Mirfin-Vietch, B., Shaw, R., Eketone-Kelly, A., & Ashdown, J. (2023). [Male survivors of sexual violence and abuse \(SVA\): Barriers and facilitators to reporting and accessing services](#). Open Access Te Herenga Waka-Victoria University of Wellington.
- European Union Agency for Fundamental Rights. (2017). [Child-friendly justice: Perspectives and experiences of children involved in judicial proceedings as victims, witnesses or parties in nine EU member states](#). Publications Office.
- European Union Agency for Fundamental Rights. (2022). [Children as suspects or accused persons in criminal proceedings](#).
- Forde, L. (2022). [The role of the courts in protecting children's rights in the context of police questioning in Ireland and New Zealand](#). *The Howard Journal of Crime and Justice*, 61(2), 240-260.

- Gibbs, A. (2022). [Best practices for justice: Practitioner views on understanding and helping youth living with fetal alcohol spectrum disorder \(FASD\)](#). *Aotearoa New Zealand Social Work*, 34(4), 6–18.
- Global Initiative on Justice with Children & Child Friendly Justice European Network. (2022). [Towards LGBTI+ sensitive justice systems for children in Europe: Challenge Paper](#).
- Hubsch, J-F. (2022). [Theory of Change for Making Children’s Rights Real in Scotland: Rapid review of change process no. 4 “Keeping children’s rights real by ensuring a system of information, advocacy, complaints, redress and effective remedy for children”](#). Interdisciplinary Research Laboratory on the Rights of the Child, University of Ottawa.
- Huntaway Strategy. (2022). [Literature review. Te Rōpū Tautoko. Male Survivors Aotearoa](#). Male Survivors Aotearoa.
- Jones, D. (2021). Universal precautions: A methodology for trauma-informed justice. *Journal of Community Safety and Well-Being*, 6 (3), 156–159.
- Joseph-Salisbury, R. (2020). [Race and Racism in English Secondary Schools](#). Runnymede Trust.
- Kemp, V., Carr, N., Kent, H., & Farrall, S. (2023). [Examining the Impact of PACE on the Detention and Questioning of Child Suspects](#). The University of Nottingham.
- Law Council of Australia. (2018). [Recommendations and Group Priorities](#).
- Leaders Unlocked. (2020). [Young Adult Advisors on Criminal Justice: Hearing from young adults in the criminal justice system](#).
- Liefwaard, T. & Valentine, J. (2019). [Access to justice for children in alternative care: Submission to the UN Committee on the Rights of the Child for its Day of General Discussion on Children’s Rights and Children in Alternative Care](#). Leiden Law School, Leiden University.
- Martin, W. (2017). [Access to justice in multicultural Australia](#) (Paper presented at the Council of Australasian Tribunals National and New South Wales Joint Conference).
- Martschuk, N., Powell, M.B., Blewer, r., & Goodman-Delahunty, J. (2021). Legal decision making about (child) sexual assault complaints: the importance of the information-gathering process. *Current Issues in Criminal Justice*, 34(1), 58-76.
- Méndez, J. (2021). [Principles on Effective Interviewing for Investigations and Information Gathering](#). Association for the Prevention of Torture; Center for Human Rights & Humanitarian Law; Norwegian Centre for Human Rights.
- Mental Disability Advocacy Center. (2015). [Access to Justice for Children with Mental Disabilities: International Standards and Findings from Ten EU Member States](#).
- Miller, A. (2017). Neighbourhood Justice Centres and Indigenous Empowerment. *Australian Indigenous Law Review*, (20), 123-153.
- Monteith, K., Quinn, E., Dennis, A., Joseph-Salisbury, R., Kane, E., Addo F. & McGourlay, C. (2022). [Racial Bias and the Bench: A response to the Judicial Diversity and Inclusion Strategy \(2020-2025\)](#). University of Manchester.
- Moody, G. (2021). [Maturity in the magistrates’ court: Magistrates, young adults and maturity considerations in decision-making and sentencing](#). Magistrates Association.

- New Zealand Human Rights Commission - Te Kāhui Tika Tangata. (2021). [Whakamahia te tūkino kore ināianeī, ā muri ake nei: Acting now for a violence and abuse free future.](#)
- Paul, S. (2021). [Tackling Racial Injustice: Children and the Youth Justice System.](#) JUSTICE.
- Revolving Doors. (2022). [Exploring the links between neurodiversity and the revolving door of crisis and crime: Policy briefing.](#)
- Snyder, S. M., Hartinger-Saunders, R., Brezina, T., Beck, E., Wright, E. R., Forge, N., & Bride, B. E. (2016). Homeless youth, strain, and justice system involvement: An application of general strain theory. *Children and Youth Services Review*, 62, 90-96.
- United Nations Committee on the Rights of the Child. (2003). [General comment No.5: General measures of implementation of the Convention on the Rights of the Child.](#) The Office of the High Commissioner for Human Rights.
- United Nations Committee on the Rights of the Child. (2005). [General comment No.7: Implementing child rights in early childhood.](#) The Office of the High Commissioner for Human Rights.
- United Nations Committee on the Rights of the Child. (2017). [General comment No. 21 \(2017\) on children in street situations.](#) The Office of the High Commissioner for Human Rights.
- United Nations Committee on the Rights of the Child. (2019). [General Comment No.24. on children's rights in the child justice system.](#) The Office of the High Commissioner for Human Rights.
- Victoria State Government. (2016). [Access to Justice Review \(Full report\).](#)
- White, J. (2022). [Theory of Change for Making Children's Rights Real in Scotland: Rapid Review of the change process no. 1 "Making children's rights real through policy adaptation, coordination, administrative integration and budgetary consideration".](#) The Observatory of Human Rights Scotland.
- Who Cares? Scotland. (2020). [Navigating a World of Rights: Views from our Care Experienced membership.](#)
- Widanaralalage, B.K., Hine, B.A. Murphy, A.D. & Murji, K. (2022). ["I Didn't Feel I Was A Victim": A Phenomenological Analysis of the Experiences of Male-on-male Survivors of Rape and Sexual Abuse.](#) *Victims & Offenders*, 17(8), 1147-1172.

