

Family Law Professionals’ Views of Post-Separation Parenting Apps

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I. INTRODUCTION

For better or worse, digital technology is everywhere – including permeating into family law.¹ ‘Digital divorce’ is now an integral feature of family law systems in many Western countries.² This shift has been accelerated in part by the need for COVID-safe practices but also by the desire for governments to save money, and for litigants to achieve faster and cheaper outcomes. Online filing, online forms, online dispute resolution, online court diaries, online property-split calculators, ‘virtual hearings’ and ‘virtual trials’ permeate contemporary family law systems.³ Stemming from the centrifugal forces of the digital revolution, the digitalisation of family law marches on. These same forces have led to the development of a vast array of post-separation parenting applications (‘apps’).⁴

Co-parenting apps seek to help parents manage their post-separation parenting arrangements, and typically comprise a messaging tool, shared calendar, expense tracker, and a means to retain documents for legal purposes.⁵ They are likely to have considerable appeal to separated parents in high conflict because asynchronous text-based communication methods provide less emotionally expressive interactions and help to keep intimacy to a minimum by removing body language, and dampening, if not eliminating, tone and emotional cues.⁶ These apps can restrict the amount of communication between parents; reduce the potential for inter-parental conflict to escalate; and

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¹ See, e.g., D. Hodson, ‘Digital technology in family justice systems: global benefits, opportunities and concerns’ (2021) 22 (2) *ERA Forum* 269–277; D. Gingras and J. Morrison, ‘Artificial intelligence and family ODR’ (2021) 59 (2) *Family Court Review* 227–231; B. Smyth and B. Fehlberg, ‘Australian post-separation parenting on the smartphone: What’s ‘App-ening?’ (2019) 41(1) *Journal of Social Welfare and Family Law* 53–71; M. Conley Tyler and M. McPherson, ‘Online dispute resolution and family disputes’ (2006) 12 (2) *Journal of family studies* 165–183; M. Saini et al., ‘Parenting online: An exploration of virtual parenting time in the context of separation and divorce’ (2013) 10 (2) *Journal of Child Custody* 120–140.

² D. Hodson, ‘The role, benefits, and concerns of digital technology in the family justice system’ (2019) 57 (3) *Family Court Review* 425–433; R. Smith, ‘Law, Technology and access to justice’ available at <https://law-tech-a2j.org/digital-information/technology-and-the-delivery-of-family-law/>, last visit 28 July 2022.

³ See e.g., Amica, MyFairShare, SplitEasy, and Smartsettle.

⁴ Smyth and Fehlberg (n 1).

⁵ Popular apps in Australia include: 2houses, AppClose, Divvito, Our Family Wizard, Peaceful Parenting, Talking Parents, and WeParent.

⁶ B. McDaniel “‘Technoference’: Everyday intrusions and interruptions of technology in couple and family relationships’ in C. Bruess (ed), *Family communication in the age of digital and social media* (New York: Peter Lang Publishing 2015) 228–245; A. Chapman, L. Ganong and M. Coleman, ‘Divorced Coparents’ Use of Communication Technology.’ in *Encyclopedia of mobile phone behavior* (IGI Global 2015) 246–253.

keep detailed records of communication and activities for legal purposes.⁷ But apps also have the potential to be technologies of control and abuse (discussed later).⁸

In Australia, as elsewhere, the judiciary, legal and dispute resolution practitioners, and those in allied professions (for simplicity, hereafter referred to as ‘family law professionals’) are increasingly being asked about, or asked to recommend, smartphone apps to clients.⁹ There is also an emerging trend for some judges to mandate the use of post-separation parenting apps as the primary communication tool in high-conflict cases.¹⁰ Even if parents are ordered by a court to restrict their interaction, parents still need to exchange information about children consistent with those orders.¹¹

An emerging challenge for separated parents and family law professionals alike is knowing which apps work well for different family contexts, needs and budgets. Current app rankings and review systems are subjective, piecemeal, and likely biased in different ways.¹² Poor app choices can have serious consequences for families – particularly children – at critical moments in family transitions, especially where there is entrenched interparental conflict or where one parent uses or has a history of using violence.

Prior Studies

A relatively small number of studies – primarily from North America – have begun to explore the use of communication technologies between separated parents with dependent children.¹³ Ganong and his colleagues, for example, interviewed 49 divorced parents (42 mothers, 7 fathers) about how they used technologies (such as text, email, cell phones but not apps) to communicate about their parenting.¹⁴ They found that the successful use of technology for communicating with former parents depended on the quality of the parental relationship (‘effective coparenting’ vs ‘contentious’), and contentious co-parents used technology to (a) reduce conflict, (b) suppress information, (c) provide information in a way that limited the ability of the coparent to have input

⁷ K. Quehl, *Divorce in the digital age* (Doctoral thesis 2017) Indiana University (Proquest No. 10263359).

⁸ J. Dimond, C. Fiesler and A. Bruckman, ‘Domestic violence and information communication technologies’ (2011) 23 (5) *Interacting with Computers* 413–421; D. Cuomo and N. Dolci, ‘New tools, old abuse: Technology-Enabled Coercive Control’ (2021) 126 *Geoforum* 224–232; D. Cuomo and N. Dolci, ‘The TECC Clinic: An innovative resource for mitigating technology-enabled coercive control’ in *Women's Studies International Forum* (Pergamon May 2022) 92, 102596; C. Barter and S. Koulu, ‘Digital technologies and gender-based violence—mechanisms for oppression, activism and recovery’ (2021) 5 (3) *Journal of Gender-Based Violence* 367–375.

⁹ Unpublished data from the present study.

¹⁰ In Australia, see e.g., Aubert & Cranmore [2021] *FamCA* 77 (25 February 2021); Lenkov & Serada [2021] *FamCA* 192 (14 April 2021); Bligh & James [2021] *FamCA* 211 (20 April 2021).

¹¹ Arizona Association of Family and Conciliation Courts, ‘Parenting communication resources in high conflict cases’, 2011 Summit Project. Available at: <https://www.azafcc.org/uploads/1/2/6/4/126491982/2011-summit-project.pdf>

¹² E. Guzman and W. Maalej, ‘How do users like this feature? a fine-grained sentiment analysis of app reviews’ (2014) *IEEE 22nd international requirements engineering conference (RE)* 153–162.

¹³ See e.g., A. Funston and K. Hughes, ‘Use and value of ICTs for separated families’ (2006) 56 (2) *Telecommunication journal of Australia* 76–85; M. Markham et al., ‘Communication among parents who share physical custody after divorce or separation’ (2017) 38 (10) *Journal of Family Issues* 1414–1442; W. Moncur, L. Gibson and D. Herron, ‘The role of digital technologies during relationship breakdowns’ (2016) *Proceedings of the 19th ACM Conference on Computer-Supported Cooperative Work & Social Computing* 371–382; B. Smyth, G. Ainscough and J. Payne ‘Modes of communication between high-conflict separated parents: Exploring the role of media multiplexity and modality switching’ (2020) 20 (3) *Journal of Family Communication* 189–205; Smyth and Fehlberg (n 1); L. Russell et al., ‘Communication technology use in post-divorce coparenting relationships: A typology and associations with post-divorce adjustment’ (2021) 38 (12) *Journal of Social and Personal Relationships* 3752–3776; R. Wolman and R. Pomerance, ‘Telepresence technology in divorce and separation’ (2012) 4 *Open Access Journal of Forensic Psychology* 51–68.

¹⁴ L. Ganong et al., ‘Communication technology and postdivorce coparenting’ (2012) 61 (3) *Family Relations* 397–409.

into childrearing decisions, and (d) influence the behaviour of the coparent – often to the detriment of the parental alliance.¹⁵ Ganong et al. concluded that communication technologies can be used to manage the post-separation parenting relationship in both positive and negative ways.

Similarly, Dworkin, McCann and McGuire surveyed 178 divorced parents (155 female, 23 male) to explore how and why separated parents used digitally mediated communication with their co-parent.¹⁶ They found that text messaging and e-mail (with near equal usage) were the most common communication tools,¹⁷ and that technology ‘can both improve coparent communication and the coparent relationship, but can also make it worse’.¹⁸ They suggest that it can improve coparent communication by allowing parents to maintain boundaries, to stay up to date, make plans, and make decisions with little interaction using digital communication asynchronously. By contrast, more intimate synchronous forms of communication, such as face to face video calls, can increase conflict.

Of direct relevance to the focus of the present study, Quehl sought to answer the question: ‘What perceptions do professionals serving divorced populations gain from their experience with clients and how do these experiences manifest themselves in the advice, recommendations, and rulings within in the divorce process?’¹⁹ She interviewed 16 divorce professionals (e.g., attorneys, social workers, judicial officers) in two counties in a mid-size Midwestern city in the United States.²⁰ She found that these family law professionals typically heard about one popular app through word of mouth, stalls and on-site demonstrations at family law conferences, and conference presentations by app company staff. Quehl reported that 14 of the 16 professionals interviewed held a positive view of the app, largely due to its novelty at the time and that it had been tailored to the specific needs of separated parents. Yet she also found that ‘many of the divorce professionals had very little experience using the services or had never used it at all’.²¹ The apparent disjuncture between experience with, and positive disposition towards, an app – albeit within Quehl’s small select sample – is theoretically intriguing and warrants further investigation.

Aims and Research Questions

The present study sought to explore the views and experiences of family law professionals on post-separation parenting smartphone apps. It is the first stage of a much larger evaluation study of commonly used apps, and provides important context in understanding how these apps sit within broader family law practice.

Three research questions guided the present study:

RQ₁. To what extent do family law professionals in Australia and New Zealand have knowledge of, and experience with, post-separation parenting apps?

RQ₂. To what extent do family law professionals in Australia and New Zealand currently recommend, or express a willingness to recommend, post-separation parenting apps?

¹⁵ Ibid.

¹⁶ J. Dworkin, E. McCann and J. McGuire, ‘Coparenting in the digital era: Exploring divorced parents’ use of technology’ in *Divorce, separation, and remarriage: The transformation of family* (Emerald Group Publishing Limited 2016) 279–298.

¹⁷ In the US context, see also Conley Tyler and McPherson (n 1), Russell (n 13); in Australia, see: Smyth, Ainscough and Payne (n 13).

¹⁸ Dworkin (n 16) 291.

¹⁹ Quehl (n 7).

²⁰ Quehl also interviewed 16 separated parents to understand their ‘experience, practices, and perceptions of using technology to manage shared parenting responsibilities including scheduling, communication, managing finances, education, healthcare, and parenting decision’. Ibid, 72.

²¹ Ibid, 194.

RQ3. Do any of the above vary by profession?

II. METHODS

The data for this study were collected in Australia and New Zealand using an anonymous online survey, distributed to a diverse population of family law professionals (e.g., mediators, lawyers, psychologists, judicial officers) through a range of family law email distribution lists and online practitioner networks.

Recruitment

A primary approach email was distributed on behalf of the research team to all members of: (a) the Family Law Section of the Law Council of Australia; (b) the New Zealand Law Society; (c) National Legal Aid; and (d) Family & Relationship Services of Australia. Several relationship support services also circulated the primary approach email to its practitioners, including Relationships Australia (all locations across Australia); Drummond St Family Services (Victoria); Mackay Family Relationship Centre (Queensland); Anglicare Nowra (New South Wales); and Better Place (Victoria). Two Facebook groups comprising private family lawyers (one in Queensland, Australia; the other in Christchurch, New Zealand) also helped with recruitment.

The online survey was administered by the Social Research Centre in Melbourne.²² Several thousand potential participants are likely to have been approached.²³ Our recruitment strategy is based on a non-probability purposive sample. No claim is made that our results represent the general population of family law professionals in Australia or New Zealand.

Sample

Table 1 overleaf presents the demographic profile of the final sample. The small number of cases apparent for some groups needs to be taken into account in interpreting the results.

²² The Centre is a joint initiative between the Social Research Centre, ANU Enterprise business, and the Australian National University.

²³ We were unable to calculate a response rate in the absence of access to the various sampling frames used by the recruiting organisations. This rate is nonetheless likely to be very low consistent with many online and mail-out non-probability surveys. See e.g., M. Monroe, and D. Adams, 'Increasing response rates to web-based surveys' (2012) 50 (6) *Journal of Extension* 6–7; M. Nayak and K. Narayan, 'Strengths and weaknesses of online surveys' (2019) 6 (7) *Technology* 31–38.

Table 1. Sample Profile by Sex: Per cent (N=344)

	Females (n=271)		Males (n=69)		All ^a (N=344)	
	n	%	n	%	n	%
Country						
Australia	235	87	62	90	301	88
New Zealand	36	13	7	10	43	12
Location						
Metropolitan	189	70	46	71	238	70
Regional	81	30	19	29	101	30
Age band						
Under 25 years	1	0	0	0	1	0
25–34 years	30	11	7	10	39	11
35–44 years	57	21	9	13	66	19
45–54 years	79	29	13	19	93	27
55–65 years	76	28	26	38	103	30
Over 65 years	27	10	14	20	41	12
Profession						
Mediator / Family Dispute Resolution Practitioner	76	28	21	30	97	28
Family Lawyer	98	36	19	28	119	35
Independent Children’s Lawyer	11	4	6	9	17	5
Barrister	12	4	7	10	19	6
Judge	8	3	9	13	17	5
Psychologist / Counsellor / Social worker	54	20	6	9	62	18
Other	12	4	1	1	13	4
Years of experience in family law						
Less than 1 year	6	2	2	3	9	3
1–5 years	45	17	11	16	56	16
6–10 years	60	22	12	17	73	21
11–15 years	45	17	9	13	55	16
16–20 years	43	16	9	13	52	15
More than 20 years	72	27	26	38	99	28
‘I consider myself to be tech savvy’*						
Strongly agree	60	22	16	23	78	23
Agree	153	57	32	46	186	54
Disagree	50	19	14	20	64	19
Strongly disagree	7	3	3	4	11	3

Notes: ^a Includes respondents who identified as non-binary and excludes missing data / other. % may not sum to 100 due to rounding. * Missing cases = 5.

Table 1 shows that a total of 344 respondents completed the online survey.²⁴ The majority of respondents identified as female (79%: n=271/344), from Australia (88%) and working in metropolitan locations (70%). A range of practitioner types were represented – the single largest group being family lawyers (35%), mediators (28%), followed by and psychologists, counsellors

²⁴ 16 participants lived overseas. The data from these participants were excluded.

and social workers (18%). In addition, 19 respondents (6%) identified as a barrister; 17 (5%) as a judicial officer; and another 17 (5%) as an Independent Children’s Lawyer (ICL²⁵).

Overall, the majority of respondents had been working in the family law system for more than 10 years (59%). Only a relatively small proportion had five or fewer years’ experience (19%) and of these only nine respondents had less than one year of experience working in the family law system. Three in four agreed or strongly agreed that they were ‘tech savvy’ (57% and 22%, respectively).²⁶

Survey Content

The online survey comprised five modules, with demographic information and respondents’ perceptions of tech savviness (as listed in Table 1) representing one of these modules. The other four modules are outlined below.

1. *Perceived usefulness and relevance of apps*: For example,
 - i. ‘How useful do you think that post-separation parenting apps are as a means of communication? 1=‘Very useful’, 2=‘Quite Useful’, 3=‘Not very useful’, 4=‘Not at all useful’;
 - ii. ‘Currently how relevant to your professional practice do you think that post-separation parenting apps are? 1=‘Very useful’, 2=‘Quite Useful’, 3=‘Not very useful’, 4=‘Not at all useful’;
2. *App knowledge and client experience*: For example,
 - i. ‘How knowledgeable would you say you are about post-separation parenting apps in general?’ 0=‘Not knowledgeable at all’ to 10=‘Extremely knowledgeable’;
 - ii. In what context(s), if any, have you heard of post-separation parenting apps?
 - iii. ‘How often do you encounter parents who use, or want to use, a post-separation parenting app? 1=‘Never’, 2=‘Rarely’, 3=‘Sometimes’, 4=‘Frequently’;
 - iv. ‘Have any of your clients suggested that their former partner might use post-separation parenting apps to control their behaviour or place them in any form of risk or danger?’ 1=‘Yes’; 2=‘No’;
 - v. Have you yourself ever recommended a post-separation parenting app to a client or family? 1=‘Yes’; 2=‘No’;
3. *App functions and benefits*: For example,
 - i. ‘Overall how beneficial do you think post-separation parenting apps are or could be for ...
 - i. (a) reducing parental conflict; (b) reducing parental stress; and (c) reducing pressure on children?’ 0=‘Not at all beneficial’ to 10=‘Extremely beneficial’;
 - ii. ‘(a) communication; (b) organisation; (c) provision of documentation for court; (d) tracking finances; (e) security’ 0=‘Not at all beneficial’ to 10=‘Extremely beneficial’.
4. *Engagement and impact*:

‘Are there any other app features that would be of value to your work? What are they?’.

A number of question-stems in Modules 1 and 3 concerning the apps’ perceived usefulness, relevance, functions and benefits were framed separately for two contexts:

- (a) ‘Thinking about separated parents who are **COOPERATIVE**, ...’; and

²⁵ ICLs are similar to staff with Children and Family Court Advisory and Support Service (Cafcass) in England, and the Guardian ad Litem (GAL) in the USA.

²⁶ That is, had good knowledge about and felt proficient in the use of digital technology, including smartphones and related apps.

(b) ‘Thinking about separated parents in **HIGH-CONFLICT (including deep hatred)**, ...’ (emphasis in original).

III. RESULTS

Results are structured in three parts: (a) family law professionals’ knowledge of, perceived usefulness relevance of, and familiarity with, apps; (b) client use of apps; and (c) app recommendation and client feedback.

Knowledge, Perceived Usefulness, Relevance and Familiarity with Apps

Table 2 shows family law professionals’ perceptions (as reflected in mean ratings) of utility, relevance (last column), and knowledge of apps (second last column). The perceived usefulness of apps was assessed separately for situations involving (a) cooperative arrangements and (b) parents in high conflict (middle two columns).

Table 2. Perceptions of Utility and Relevance of Apps: Mean ratings (N=344)

		Useful for parents who are cooperative ^a	Useful for parents in high-conflict ^a	Relevance to current practice ^b	Knowledge of apps ^c
	N	Mean (scale range: 1–4)	Mean (scale range: 1–4)	Mean (scale range: 1–4)	Mean (scale range: 0–10)
All respondents	344*	3.1	3.1	2.4	4.8
Profession					
Mediator/Family Dispute Resolution Practitioner	97	3.2	3.2	3.3	5.0
Family Lawyer	119	3.0	3.1	1.4	4.6
Independent Children’s Lawyer	17	2.9	3.1	3.4	5.3
Barrister	19	3.1	2.9	3.2	4.0
Judge	17	3.4	2.9	3.7	5.3
Psychologist / Counsellor / Social worker	62	3.1	3.1	1.5	4.5
Other	12	3.6	2.9	3.5	5.0
I consider myself to be tech savvy^d					
Disagree (strongly or otherwise)	75	3.2	3.1	3.3	3.5
Agree	186	3.1	3.0	2.1	4.8
Strongly agree	78	3.1	3.2	2.0	5.8

Notes: * Profession missing cases =2; Tech savvy missing cases = 5. ^a Response options ranged from (1) ‘Not at all useful’ to (4) ‘Very useful’; ^b Response options ranged from (1) ‘Not at all relevant’ to (4) ‘Very relevant’; ^c The rating scale for knowledge of apps ranged from (0) ‘Not knowledgeable at all’; (10) ‘Extremely knowledgeable’; ^d Respondents were asked whether they agreed or disagreed with the statement ‘I consider myself to be tech savvy’. The two categories of disagreement were combined because only 11 respondents reported that they felt ‘tech savvy’ (see Table 1).

Despite the proliferation of apps,²⁷ the mean rating concerning knowledge of post-separation parenting apps was only 4.8 on the scale that ranged from ‘0’ (‘Not at all knowledgeable’) to ‘10’ (‘Extremely knowledgeable’). Only 4 per cent of respondents considered themselves ‘Extremely knowledgeable’ (rating = ‘9’ or ‘10’ out of 10), while 14 per cent reported having no or almost no knowledge of apps (rating = ‘0’ or ‘1’ out of 10) (data not shown).

²⁷ Smyth and Fehlberg (n 1).

There was little difference in the perceived utility of apps by the different professional groups, irrespective of whether the interparental relationship was cooperative or marked by high conflict (mean = 3.1; range = 2.9–3.6). Moreover, the perceived degree of knowledge about the apps did not differ markedly between the different groups (means 4.0–5.3). However, reported levels of knowledge were higher among those who identified as ‘very tech savvy’ than those who identified as not being tech savvy (mean = 5.8 vs 3.5).

Participants were asked: ‘In what context(s), if any, have you heard of post-separation parenting apps?’ and were offered a series of response options as shown in Figure 1. Multiple contexts could be indicated by respondents. The percentage of affirmative responses is shown for each option.

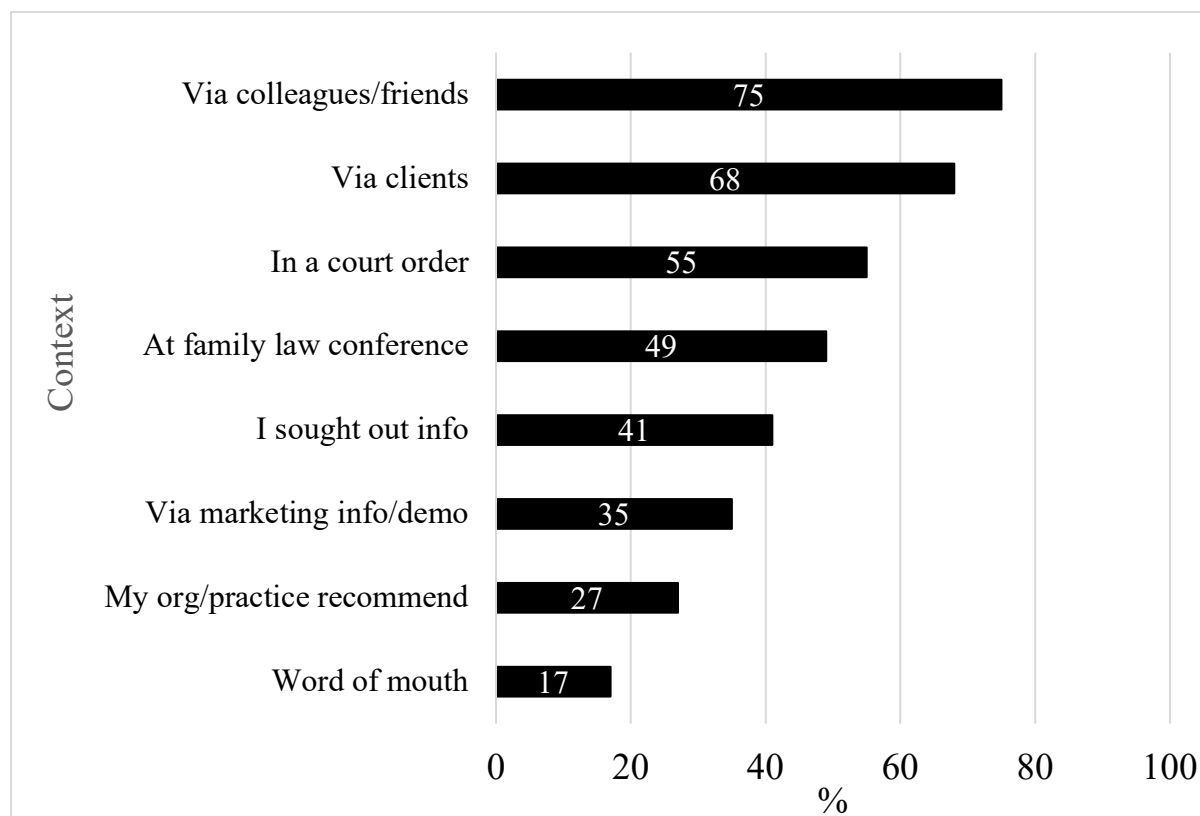


Figure 1. Context in which participants heard about post-separation parenting apps: Per cent (N=344)

Family law professionals heard about post-separation parenting apps in a variety of contexts. The most likely context was a colleague or member of a professional network (75%); about half (49%) reported hearing about apps at a family law conference; about one in three (35%) reported learning about apps through marketing materials and demonstrations; and nearly one in five (17%) reported hearing through word of mouth from others.²⁸ Notably, two in every three practitioners (68%) reported hearing about apps through their clients who used them. A little over half (55%) reported hearing about apps because they had been listed in a court order, while around one in four (27%) heard about apps through their employer or family law practice.

²⁸ Although ‘word of mouth’ was the least frequently endorsed response option, this is likely a consequence of having separate categories for clients, colleagues, and professional networks as sources of information which also constitute forms of word of mouth.

(a) Client Use of Apps

Table 3 overleaf presents data on the perceptions and experiences of family law professionals. The first and second panels report the percentage of professionals who encountered clients wanting to use apps, and the reasons their clients gave for their interest in apps. The third panel reports on the perceptions held by practitioners about the likelihood that *other* practitioners are recommending apps to their clients or families. The final (bottom) panel presents a series of experience indicators, including whether the professionals' employer or agency had a list of recommended apps, whether they had personally recommended an app, and whether they had ever discouraged a client from using an app.

The numbers in 'All' column of the third panel may appear confusing on first blush. Why is there an *n* of 175 for 'Judges', for example, when there were only 17 judicial officers in the sample? This is because multiple responses were permitted for each professional group and 175 of the 344 participants believed that judges were likely to recommend post-separation parenting apps. Simply put, judges are not the respondents here – they are the target response option.

Table 3. Professionals’ perspectives on client use of apps, reasons for use, perceived recommendation by other practitioners and other experiences: Per cent (N=344)

	All (N=344)		Mediator (n=97)	Family lawyer (n=119)	ICL ^a (n=17) ^c	Barrister (n=19) ^c	Judge (n=17) ^c	Psychologist/ counsellor / social worker (n=62)
	n	%	%	%	%	%	%	%
Frequency of contact with clients who want to use apps								
Never	37	11	4	13	6	11	0	19
Rarely	61	18	18	25	6	16	6	13
Sometimes	178	52	53	44	47	74	65	53
Frequently	68	20	26	18	41	0	29	15
Reasons for clients wanting to use apps (multiple responses allowed)								
Reduce conflict	292	85	88	77	94	82	88	94
Limit co-parent interactions	275	80	77	79	94	88	94	80
Improve communication	261	76	86	66	100	53	76	80
Reduce stress	234	68	69	59	81	53	76	82
Improve co-parent accountability	230	67	67	66	81	76	82	64
Improve organisation	169	49	55	55	25	29	53	42
Documenting for legal procedures	138	40	31	44	63	47	29	42
Which group(s) of practitioners do you think are likely to recommend apps (multiple responses allowed)^d								
Mediators / FDRPs are likely to recommend	302	88	93	86	76	89	82	87
Family lawyers are likely to recommend	277	81	68	88	88	95	88	73
ICLs are likely to recommend	204	66	51	79	94	89	88	63
Barristers are likely to recommend	148	43	28	45	41	84	82	37
Judges are likely to recommend	175	51	46	50	53	63	88	44
Psychologists/counsellors/social workers are likely to recommend	253	74	69	70	59	79	82	89
Other experience (% responding yes)								
Practitioner has joined an app as a third party	27	8	4	8	18	11	0	11
Employer/agency has a list of apps to recommend	95	28	38	18	29	5	0	42
Personally recommended an app	260	76	84	72	94	75	40	65
Tried app before recommending ^b	92	35	42	29	31	13	38	43
Received feedback after recommending ^b	155	60	47	65	63	47	69	75
Discouraged clients from using an app	38	11	10	16	6	11	40	8
Clients worried about misuse of an app	112	33	20	31	47	58	40	37

Notes: ^a Independent Children’s Lawyer; ^b Calculated only for those who reported personally recommended (n=260);

^c Caution should be applied when interpreting results for professions where the number of respondents was less than 20. ^d

All respondents were asked which other practitioners they thought were likely to recommend apps. Columns 2 and 3 reflect the number and percentage of all practitioners who considered recommendation likely for each category of other practitioner. For example, 175 of all 344 professionals (51%) thought judges were likely to recommend apps. In each column thereafter, the percentages are presented for each respondent category only. For example, 88% of judges thought other judges would recommend apps.

Overall, 90% of practitioners reported having clients who have indicated wanting to use an app – 20% said that this encounter was frequent. Contact with clients wanting to use apps was highest amongst our respondents who identified as judges (100%²⁹), followed by mediators

²⁹ 6%+65%+29%

(96%³⁰) and Independent Children’s Lawyers (94%³¹). Fewer psychologists, counsellors and social workers had contact with clients who wanted to use apps (81%³²), although the vast majority did. Of the professionals who had encountered clients using or wanting to use post-separation parenting apps (89% overall³³), these encounters were frequent for 20 per cent of respondents, occasional for 52 per cent and rare for 18 per cent. The practitioner group most likely to report frequent encounters were those who identified as mediators (26%).

The reasons why clients used or were looking to use post-separation parenting apps was highly varied, remembering that these data were drawn from family law professionals, not clients, and reflect the perception of client need (Table 3, second segment). Nevertheless, the most commonly perceived reasons that clients used or wanted to start using an app was the desire to reduce conflict (85%), the need to limit co-parenting interactions (80%) and the desire to improve communication (76%). Reducing stress (68%) and improving co-parent accountability (67%) were also noted by more than two thirds of professionals, while helping parents to be more organised was cited by half (49%).

The ability of smartphone apps to capture information that can be later used as legal documentation is a common selling point.³⁴ Yet this was the least commonly perceived reason by family law professionals that clients wanted to use an app (40%). An equivalent proportion (41%) confirmed knowledge of a client who had tried using the data from an app in court proceedings and for those who had, the majority rated the data as useful evidence in the court case (data not shown). For example, on a scale of ‘0’ (‘Not at all useful’) to ‘10’ (‘Extremely useful’), for professionals who had seen smartphone app data used in court, the average rating was 6.5 (data not shown). Only 15 per cent of family law professionals in this scenario considered the app data as ‘Not at all’ or ‘Not very’ useful’ (data not shown).

(b) App Recommendation and Feedback

Generally speaking, family law professionals believed that most other practitioners were recommending apps to their clients (Table 3, panel 3). Overall, mediators and FDRPs were thought to be the most likely to recommend apps (88%), followed by family lawyers (81%) and Independent Children’s Lawyers (60%). Around half of respondents thought that barristers (43%) and judges (51%) were also making recommendations about using an app. Notably, professionals tended to perceive the prevalence of recommendation to be higher among their own professionals group than in other groups. For example, mediators and family dispute resolution practitioners were more likely to think that other mediators were recommending apps (88%) compared to any of the other professions. The same was true for family lawyers, Independent Children’s Lawyers and psychologists, social workers and counsellors. Similarly, while 51 per cent of the overall sample believed that judges were recommending apps, 88 per cent of judges believed judges were recommending apps.

Three in every four practitioners (76%) in the present study reported having personally recommended the use of a post-separation app to a client or family (Table 3, bottom segment). Yet only around one third (35%) of these practitioners had personal experience with the app before they made the recommendation (Table 3, bottom segment). App recommendation was highest among mediators (88%), followed by family lawyers (81%), and psychologists, counsellors and social workers (74%), then Independent Children’s Lawyers (66%) (Table 3, second last segment,

³⁰ 18%+53%+26%

³¹ 18%+53%+26%

³² 13%+53%+15%

³³ 18%+52%+20%

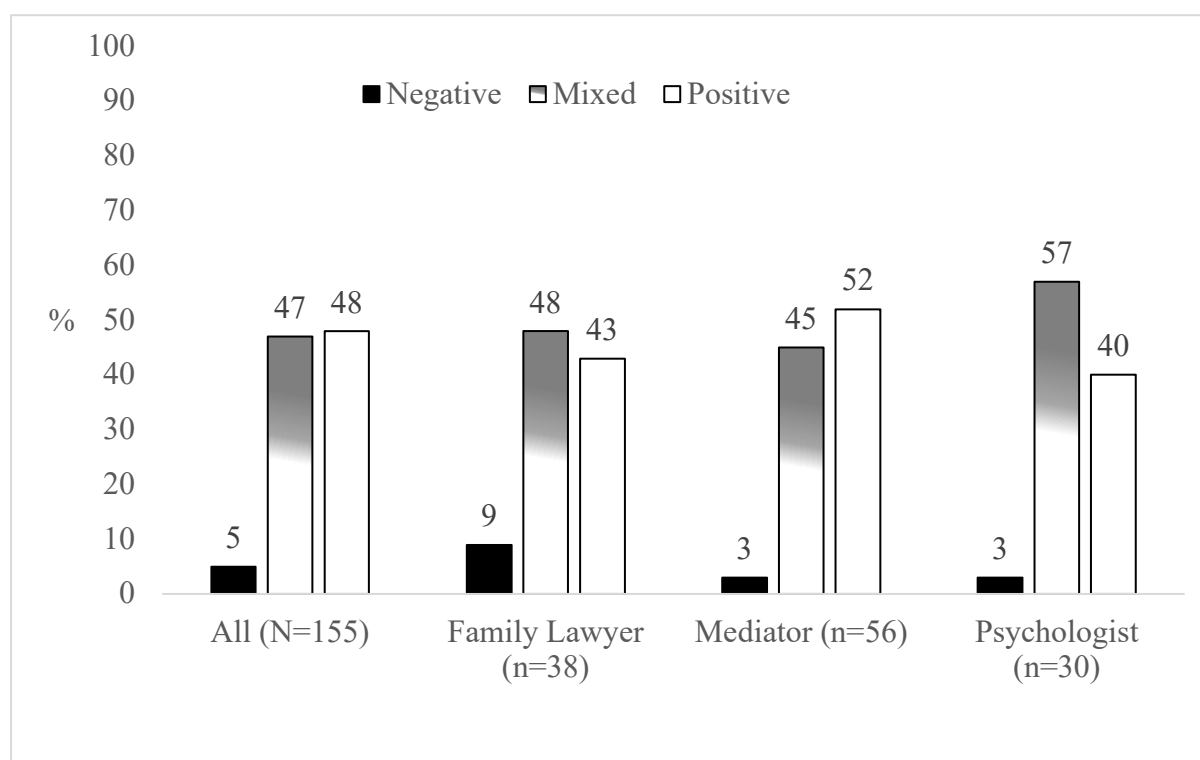
³⁴ See, e.g., <https://www.ourfamilywizard.com.au/> or <https://appclose.com/>

‘All’ column). Barristers were the least likely profession to recommend the use of an app (43%). Around one quarter (28%) of organisations or firms had a list of apps available for clients.

The level of pre-referral experience with apps was highest (but still not more than 50%) among psychologists, counsellors and social workers (43%) and mediators (42%), and lowest among family lawyers (29%) and barristers (13%). Of those judicial officers who had recommended or mandated an app, almost all reported trying it beforehand (40% recommended; 38% tried prior).

For those practitioners (25%) who had not recommended an app to their clients, the majority (61%) said this was because they had insufficient knowledge of the apps (data not shown). A small proportion (9%) did not think the apps were relevant to them or their clients, and 15 per cent did not think that apps would have any benefit to their clients (data not shown). Between different practitioner types, the results are relatively consistent, with the exception that a greater proportion of mediators (36%) reported not recommending apps because of a lack of perceived benefit.

Figure 2 presents the nature of feedback from clients after using an app.



Notes: Calculated for only those 155 respondents who reported receiving feedback. Professions with small sample sizes are included in the ‘All’ category but excluded from this figure.

Figure 2. Nature of Feedback About Apps After Recommendation: Per cent (N=155)

Post-recommendation feedback from clients was common (60%: $n=155/260$; Table 3, bottom panel) and rarely was it negative only (5%), with feedback being generally a mix of positive and negative comments (47%) or positive comments only (48%) (Figure 2). Psychologists, counsellors and social workers were the most likely to receive feedback from their clients (75%: Table 3, bottom panel) and more often that feedback was mixed rather than positive only (57% vs 40%: Figure 2). Mediators were the least likely to hear from their clients about the apps they recommended (47%: Table 3) but when they did, the feedback was more positive (52%) than negative (3%) or mixed (45%) (Figure 2).

There was limited scope within the survey to explore the kinds of feedback practitioners had received from clients, although in a separate question the professionals were asked whether any

of their clients had ever raised concerns that their former partner might use an app to control their behaviour or place them at risk. In response, 33 per cent of professionals agreed that such concerns had been raised and this was highest among barristers (58%), ICLs (47%) and judges (40%), followed by psychologists (37%) and family lawyers (31%) – i.e., by and large, those from the legal professions. By contrast, mediators were the least likely to report that clients were worried about the misuse of an app (20%) perhaps because they generally see a client alone for a single session. When asked later whether they had ever warned a client against using a post-separation parenting app, around 1 in 10 (11%) said they had (Table 3, second last row).

DISCUSSION

The present study sought to explore the views and experiences of family law practitioners on post-separation parenting apps. Our sample comprised 344 Australian and New Zealand family law professionals (most with 10 or more years of experience). Family law professionals – notably the judiciary, legal and dispute resolution practitioners, and allied professions – are central players in the family law landscape. Their contact with a wide range of clients with disparate and often complex needs means that family law professionals are well placed to understand the dynamics of post-separation parenting and the important role communication plays in the family transitions. They also play an important role in guiding parents on how and what tools to use to manage their post-separation communication needs. Before summarising our key findings, and drawing several important conclusions based on the views and experiences of family law professionals, several limitations of the study warrant brief mention.

Study Limitations

The first limitation is that our data are drawn from a moderately sized non-probability purposive sample in which there is likely some selection bias in favour of family law professionals with an interest in or aspirational view of apps. No claim is made that our findings generalise to the broader population of family law practitioners across Australia and New Zealand. Second, for brevity, we have focussed on the study's quantitative data. But there was much complexity and nuance in practitioners' responses to the open-ended questions in the survey (to be published separately). 'Heavy metal' quantitative research is often inherently crude and fails to do justice to participants' rich experiences and complex reasoning. Third, participants were not asked whether at least one parent wanted an app to be used. Anecdotally, we know of instances in which one party or litigant explicitly asked for an app to try to protect themselves in some way from the other parent. Our data nonetheless offer valuable insights into family law professionals' knowledge of, willingness to use or recommend apps, and whether their responses differed by profession.

Key findings

Four clear findings emerged: (a) family law professionals generally reported little knowledge of co-parenting apps, with no marked difference across professions; (b) around one third of practitioners reported that their clients had experienced, or concerns about, coercive control through an app; (c) around two thirds of practitioners who had recommended an app had not tried it; yet (d) three quarters reported recommending apps to clients. These findings strengthen Quehl's results, showing an explicit mismatch between the confidence that practitioners report in their willingness to recommend apps and their limited knowledge of and experience with co-parenting apps.³⁵

Why the apparent high propensity to recommend apps despite the lack of evidence of efficacy and little direct personal experience with an app? One possibility is the lure of technology: i.e., so-called 'techno-solutionism' – the belief that complex issues can be solved with simple

³⁵ Quehl (n 7).

technological solutions.³⁶ There seems to be a common belief in the digital age that when we hit a problem in life, ‘There’s an app for that’.

A second possibility, grounded in data from studies of heuristic decision processes for smartphone app selection, is that with limited time to research apps and in a context of technical complexity, word of mouth is often the basis for selecting an app.³⁷ Relatedly, aggressive marketing strategies by some app developers ensure strong brand visibility.

Another possibility is that the low rates of negative feedback from clients evident in our study highlight the potential benefits of apps. But the extent to which users were happy with the apps as a whole or one just feature – i.e., the feature they need – is unclear. Any app or app feature can work well or badly depending on a host of contextual factors (e.g., relationship quality and history, tech savviness and support, financial resources, sense of agency). It is also possible that clients are more likely to tell practitioners if they have a positive experience instead of politely not mentioning that an app suggested by the practitioner was terrible.

A fourth possibility is that those mandating or suggesting apps might have a need to feel like they are doing something, especially when parents refuse outright to communicate in any form. Some parents themselves are likely to plea for help with communication when other forms of communication have been tried and failed.

Fifth, insofar as apps are presented by developers as tools to facilitate effective co-parenting, recommending them simply fits with notions about the ‘good family lawyer’ or ‘good mediator’ being a ‘hybrid professional’ who proactively promotes effective co-parenting.³⁸ Understanding the evidence-base behind therapeutic co-parenting interventions (or the lack thereof) is not an easy pursuit – even for social scientists!

Finally, some family law professionals might hold the view that surely an app can’t hurt, especially if it is free. For us, this raises interesting and complex questions about duty of care and responsibility.

There are likely to be other explanations for the apparent knowledge–recommendation disjuncture. Future research is needed here.

Some observations

The vast majority of practitioners had heard of at least one post-separation parenting app and had encountered at least one client who was already using or wanted to use an app. Three quarters of professionals had personally recommended an app to their clients while one in four reported that their employer or practice currently supplies a list of apps to consider. (Psychologists and mediators were twice as likely to say they had access to a list of apps than family lawyers.) Despite this, few practitioners considered themselves very or extremely knowledgeable about these apps, how they work, and what benefits or risks they might pose. Since this is a community of family law professionals – not app developers – a cursory level of knowledge is not necessarily an unexpected finding and just exactly how much knowledge is needed by this group is an important question that cannot be answered from these data.

In our view, family law professionals, whether judicial officers, practitioners or allied professionals, cannot be expected to maintain in-depth knowledge of individual apps or, indeed, the wider app landscape, especially given the speed at which apps come, change and disappear. So what is an appropriate professional stance regarding the use or apps in the family law space?

Underpinning this question is the more fundamental issue of what the professional is aiming to achieve. At best, the aim is to promote post-separation communications that are productive,

³⁶ E. Morozov, ‘To save everything, click here: The folly of technological solutionism’ (2013) 4 *Journal of Information Policy* 173–175.

³⁷ L. Dogruel, S. Joeckel and N. Bowman, ‘Choosing the right app: An exploratory perspective on heuristic decision processes for smartphone app selection’ (2015) 3 (1) *Mobile Media & Communication* 125–144.

³⁸ We are grateful to our UK colleague, Leanne Smith, for this observation.

respectful and safe. The communications might be about broadly agreed-upon arrangements that recognise the need for a balance between structure and flexibility. However, in more highly conflicted situations and/or in situations in which arrangements are the subject of court orders, a key aim is to ensure that pre-determined arrangements are adhered to.

The first group (low conflict cases) may or may not find the use of apps to be helpful. In these cases, we would suggest that the role of family law professionals is to make clients aware of the existence of apps and if relevant, facilitate a conversation about their possible usefulness. In these circumstances, it would be a reasonable expectation of clients that the professional has at least a working knowledge of the main features offered by apps, as well as knowledge of any risks associated with these forms of communication. If not, they should be clear about where this knowledge can be independently obtained.

Regarding the more highly conflicted group who are also more likely to be assisted (as well as constrained) by the specificity of existing orders, the use of apps raises more difficult questions for family law professionals. Evidence with respect to key issues, such as whether for this group, apps improve outcomes, reduces conflict and/or re-litigation, and enhance safety, is absent. Adherence to a communication tool such as an app may reduce pressure and anxiety and thus assist in achieving a good outcome. But there may also be iatrogenic responses which are largely unpredictable. To put it bluntly, we cannot escape the possibility that the cure could be worse than the disease.

We would argue therefore, that professional ‘advice’ about the use of apps for highly conflicted separated couples, or for couples who are unwilling or unable to introduce any flexibility into their arrangements, needs to be suitably qualified. To use a medical analogy, appropriate information/advice might be along the lines that, ‘This can be of help if used responsibly’.

If after discussing how an app might be used, and getting agreement that each former partner will refrain from using the features for the purpose of intimidation or ‘ramping up’ the conflict, there would seem to be a place for (a) sharing knowledge about what apps are ‘out there’ and what features might be useful in this particular case; and/or (b) consulting with somebody who has that knowledge.

On the issue of courts mandating an app, we think it would be legitimate for a judicial officer to consider an order by consent in a highly conflicted situation once the above conditions had been satisfied. Mandating an app in the absence of such a process could be ineffective and, at worst, dangerous.

Regarding legal and dispute resolution practitioners, we can envisage situations in which, again with the qualifications noted above, binding agreements are made with the assistance of these professionals to make use of an app for a *specified* period of time. Given the unpredictability of human communication, such agreements would need to be subject to review if one or both parties believed they were not serving their purpose.

The principle that informs our above thoughts is this. Apps are designed to facilitate effective communication. Effective communication is what will resolve family law disputes and in the case of parenting disputes, effective communication is the thing most likely to ensure that children continue to thrive. The app is not the communication; it is one tool among many other possibilities.

Our second observation is that what practitioners know about post-separation parenting apps is largely derived through word of mouth from other colleagues, professional networks and clients (and often informed by claims by app developers). Few practitioners had direct personal experience using these apps, and one in three claimed that some of their knowledge had come direct from the marketing and promotional materials supplied by app developers or presented at conferences. The knowledge gap identified by Smyth and Fehlberg³⁹ is again apparent – not just

³⁹ Smyth and Fehlberg (n 1).

in the academic literature but also at the coalface – and it is a void that is being quickly filled by word of mouth and other sources of information that are not impartial nor based on rigorous evidence. To the extent that practitioners are expected to improve their knowledge and understanding of apps before recommending them, it is also incumbent on the research community to help cultivate an independent research evidence base that documents both the risks and benefits. Above all else, parents should be able to make independent and informed choices and where practitioners play a role in guiding that decision making, it ought to be founded on experience and evidence, not anecdotes and promotional narratives.

Our final observation is while it is not uncommon for family law professionals to hear feedback from their clients, both the prevalence and type of feedback appear to differ depending on the practitioner's role. Psychologists, counsellors, and social workers, for example, are more likely to hear feedback from their clients, but more often this feedback is negative or mixed. Family Dispute Resolution Practitioners report hearing back from their clients at a considerably lower rate but when they do, client feedback is more positive overall. In each case, the nature of a practitioner's role likely dictates how much ongoing contact they have with clients and whether that ongoing contact is biased in favour of different client profiles. Psychologists, counsellors and social workers are likely to maintain a longer-term relationship with clients, extending much longer into the post-separation period by many months or years. This not only increases the likelihood of receiving client feedback, but also hearing more detail about the pitfalls of their experiences.

Family dispute resolution is, by contrast, limited in frequency and often at the beginning of the process of separation. The capacity to hear directly from clients about their app experience is limited and possibly more positive if the feedback is provided after only a very short period of use.

The key here is that these data reaffirm why an independent and rigorous evidence base is needed for all professionals given that their exposure to information about clients' lived experiences is time limited and most likely biased to specific types of clients or cases. For those with the highest capacity to influence decisions early in the process of separation (i.e., family lawyers and mediators) too often their clients' longer-term experience of an app is lost once dispute resolution or legal proceedings have ended.

Implications for Family Law Professionals

In such a rapidly evolving digital landscape, there is pressure on family law professionals to discuss with clients not just the tone and content of communication, but also the *how* and *when* of communication. Not long ago the content of post-separation parental communication was the main game, not the mode or how the mode might influence content and vice versa. But clearly the latter are now important considerations too.

We wonder if family law professionals had the opportunity to use the apps they are recommending, this might temper their apparent enthusiasm. Family law professionals who do not have experience or expertise in the use of apps might have limited ability to predict the consequences of app use. One simple and relatively inexpensive intervention to upskill family law professionals would be to make a set of mobile phones with a set of popular apps available in legal and dispute resolution contexts. This would allow practitioners – and their clients where appropriate – to play with apps to explore the pros and cons of the various app features available. One or two of the more interested personnel in a service might even take on the task of providing specialised app knowledge to colleagues who want more information about specific apps.

To our knowledge, there are no data available in Australia or elsewhere on the efficacy of post-separation parenting smartphone apps or their features. As noted by Smyth, Ainscough and

Payne, and many others⁴⁰, post-separation parenting apps can become ‘technologies of control and abuse’ – simply another tool for one parent to menace, harass, and humiliate the other parent after separation. New forms of criminality (e.g., cyber abuse, cyber bullying and cyber stalking) are thus emerging in the context of technology-facilitated abuse.⁴¹ Given the lack of evidence for the efficacy of apps, and the potential for harm, our data act as a cautionary tale against the blind recommendation of particular co-parenting apps until more is known.

FUTURE RESEARCH

The obvious next step is for popular co-parenting apps and their features to be rigorously evaluated for useability,⁴² perceived benefits and risks, and – most importantly – efficacy. No outcome studies of the value (or otherwise) of apps have been conducted in Australia or elsewhere. In addition, user experience (UX) research with separated parents already using co-parenting apps is likely to yield important real-world insights on the perceived benefits and risks of different apps and app features. A randomised control trial (RCT) to explore the efficacy of different app features is urgently needed, as is empirical research on technologically-fuelled abuse and the impact of co-parenting apps on children.

CONCLUSION

The rapidly evolving digital landscape is presenting new challenges to family law professionals. Anecdotal evidence suggests post-separation parenting apps are increasingly being asked about by separated parents, or are being recommended by family law practitioners. In some courts, post-separation parenting apps are being mandated. There appears to be an underlying assumption that these apps make possible or improve the interaction between parents. But that assumption has not been tested empirically. While apps afford several potential benefits (e.g., keeping information all-in-one-place, boundary setting, and record keeping), some apps or app features may do more harm than good – especially when dysfunctional interpersonal dynamics or deep-rooted difficulties in the personality of one or both parents are ever-present.⁴³

Our central argument is that family law professionals and separated parents alike – need a comprehensive and more nuanced understanding of the benefits and risks of post-separation parenting apps and their features. Our hope is that this article represents a balanced cautionary tale to be considered by family law professionals in this rapidly evolving digital space. In no way are we suggesting that post-separation parenting apps should not be recommended by family law professionals – rather, any recommendation should be based on a working knowledge of, and some personal experience with, an app’s features, and only where the benefits and risks of these features in different family dynamics and contexts are understood.

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⁴⁰ See, e.g., K. Markwick et al., ‘Technology and family violence in the context of post-separated parenting’ (2019) 40 (1) *Australian and New Zealand journal of family therapy* 143–162; M. Dragiewicz et al., ‘Technology facilitated coercive control: Domestic violence and the competing roles of digital media platforms’ (2018) 18 (4) *Feminist Media Studies* 609–625; J. Maher, J. McCulloch and K. Fitz-Gibbon, ‘New forms of gendered surveillance? Intersections of technology and family violence’ in *Gender, technology and violence* (Routledge: 2017) 14–27.

⁴¹ Markwick (n 40); In the UK context see: <https://post.parliament.uk/technology-and-domestic-abuse/>

⁴² We have just completed such a study: B.M. Smyth, J.L. Payne, M. Irving, and J. Heard, ‘Popular post-separation parenting apps: An evaluation, *Family Court Review* (in press).

⁴³ B. Smyth and L. Moloney, ‘Entrenched postseparation parenting disputes: The role of interparental hatred?’ (2017) 55 (3) *Family Court Review* 404–416.

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