

FAMILY LAW COUNCIL

ANNUAL REPORT

2009–10

ISSN: 0155-2953
ISBN: 978-1-921725-34-0

© Commonwealth of Australia 2010

This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without prior written permission from the Commonwealth. Requests and inquiries concerning reproduction and rights should be addressed to the Commonwealth Copyright Administration; Attorney-General's Department, 3-5 National Circuit, Barton ACT 2600 or posted at <http://www.ag.gov.au/cca>

For information about this report, or more generally about the Council's work, please contact the Council's Secretariat at:

Attorney-General's Department
3-5 National Circuit
BARTON ACT 2600

Phone 02 6141 6666
Fax 02 6141 3246

Or visit the Council's website at <http://www.ag.gov.au/flc>. This report is also available electronically at <http://www.ag.gov.au/flc/annualreports>.



FAMILY LAW COUNCIL

3-5 National Circuit
BARTON ACT 2600

Telephone: 02 6141 6666
Fax: 02 6141 3246

August 2010

The Hon Robert McClelland MP
Attorney-General
Parliament House
CANBERRA ACT 2600

Dear Attorney-General

In accordance with subsection 115(9) of the *Family Law Act 1975*, I present to you the Annual Report of the Family Law Council for the period of 1 July 2009 to 30 June 2010. This period was during the tenure of my predecessor Professor John Wade.

Yours sincerely,

Associate Professor Helen Rhoades
Chairperson

**Council members, observers and staff at the
Family Court of Australia – Adelaide Registry**



Front row (left to right): Mr Clive Price, Professor John Wade (Chair) Justice Garry Watts.

Back row (left to right): Ms Toni Pirani, Ms Angela Filippello, Magistrate Annette Andrews, Dr Rae Kaspiew, Federal Magistrate Norah Hartnett, Ms Amanda Parkin, Ms Judy Jackson, Ms Dianne Gibson, Ms Nicky Davies, Ms Wendy Banfield, Ms Samantha Page.

Missing from the photo: Deputy Chief Justice John Faulks, Federal Magistrate Robyn Sexton, Mr Jonathan Dobinson.

CONTENTS

Contents.....	v
1. Year in Review	1
2. Organisational structure	2
3. Meetings and Consultations.....	6
4. Advice to the Attorney-General.....	8
5. Implementation of Recommendations	9
6. Financial Report	10
Appendix A: Council Publications.....	11
Appendix B: Council Committees 2009-2010	14
Appendix C: Compliance with Annual Report Guidelines	15

1. YEAR IN REVIEW

During the year, Council focussed its resources on completing its report - *Improving responses to family violence in the family law system: An advice on the intersection of family violence and family law issues*. The report deals with the impact of family violence on children and parenting, which acknowledges the compounding issues of mental health problems, alcohol and substance abuse as well as indigenous and cultural considerations.

The Council's report recognises prior research relevant to the family law system, including *Time for Action*, the report of the National Council to Reduce Violence against Women and their Children. The report also notes that other family law research and reviews were being undertaken at the same time as the Council's report. These include the review, undertaken by Professor Richard Chisholm, of the laws, practices and procedures that apply in the family law courts in the context of family violence *Family Courts Violence Review*; and the Australian Institute of Family Studies' *Evaluation of the 2006 Family Law Reforms*.

The three reports examine the operation of the family law system and how the family law courts deal with cases involving family violence, while highlighting issues relating to the screening and handling of family violence as well as legislative provisions that potentially deter the disclosure of allegations. Collectively the reports provide a sound platform to tackle the disturbing issue of family violence, affecting many Australian families.

Further to the Letter of Advice provided to the Attorney-General in 2008, Council provided assistance to the Department in refining proposals for amendments to the financial agreements provisions in Parts VIIIA and VIIIAB of the *Family Law Act 1975*. The amendments were included in the *Federal Justice System Amendment (Efficiency Measures) Act (No. 1) 2009*. The Bill was passed in Parliament in the Spring 2009 parliamentary sittings.

2. ORGANISATIONAL STRUCTURE

Council members

Members of the Family Law Council are appointed by the Attorney-General under subsection 115(2) of the Family Law Act. Appointment is for a period of up to 3 years and members may be re-appointed.

The Family Law Act does not specify the number of members of Council. However, it does require that amongst a range of other members, a Judge of the Family Court be appointed. Other judges, including Federal Magistrates, may also be appointed. Section 115(11) specifies that for the purpose of that section, a Federal Magistrate is taken to be a judge. It has been the policy of successive governments that Council membership encompasses equity and diversity in gender, race and where possible, ensures that all States and Territories are represented.

By convention, a representative of the Attorney-General's Department is appointed a member of Council. As the appointment was not finalised, Ms Toni Pirani, Assistant Secretary, Family Law Branch, represented the Department as an observer for this financial year.

Members of the Family Law Council during the year 2009/2010 were as follows:

NAME	POSITION	DATE OF CURRENT APPOINTMENT	EXPIRY OF CURRENT TERM
Professor John Wade	Faculty of Law Bond University Queensland	2 October 2007	Resignation effective from 30 March 2010
Ms Nicola Davies	Senior Legal Consultant Family Law Legal Aid Queensland	6 October 2007	5 October 2010
Deputy Chief Justice John Faulks	Family Court of Australia Canberra, Aust. Capital Territory	20 February 2007	Term expired on 19 February 2010
Federal Magistrate Norah Hartnett	Federal Magistrates Court Melbourne, Victoria	20 February 2007	Term expired on 19 February 2010
Mr Clive Price	Executive Director UnitingCare Unifam Sydney, New South Wales	6 October 2007	5 October 2010

Federal Magistrate Robyn Sexton	Federal Magistrates Court Sydney, New South Wales	20 February 2007	Term expired on 19 February 2010
Justice Garry Watts	Family Court of Australia Sydney, New South Wales	2 October 2007	1 October 2010

Noting the resignation in March of Professor John Wade, Council would like to thank Professor Wade for his contribution as Chair during his time on Council. Under Professor Wade's stewardship, Council made substantial advances in family law research and policy. Prior to their terms expiring on Council, substantial contributions were also made by Members Deputy Chief Justice John Faulks, and Federal Magistrates Robyn Sexton and Norah Hartnett. Council has valued the involvement of each of these judicial officers, significantly adding to the deliberations and direction of the Council.

An appointment process is nearing finalisation to replenish Council Members.

Observers

There are no provisions in the Family Law Act relating to the appointment of observers on Council. However, Council currently has observers from eight agencies who may attend meetings.

Council's observers play an important part in the management of Council's workload. Observers participate fully in Council discussions. However, in the event that a decision cannot be made by consensus, the matter is decided by Council members alone. In addition to providing information about the interests and activities of their organisations and maintaining links between Council and the organisations concerned, the observers make a significant contribution to the work of Council committees.

During the year there were some changes to the observers on Council. The Attorney-General's Department was represented by Ms Toni Pirani, the representative from the Family Court of Western Australia changed from Principal Registrar David Monaghan to Magistrate Annette Andrews and Mr Jonathan Dobinson of the Australian Law Reform Commission was replaced by Ms Rosalind Croucher due to Mr Dobinson's resignation as the Research Manager of the ALRC. Council would like thank Principal Registrar Monaghan and Mr Dobinson for their valuable contribution as observers.

The following observers attended Council meetings during the year. The eight agencies listed below have observer status on the Council (with names of observers):

ORGANISATION	NAME
Australian Institute of Family Studies	Ms Rae Kaspiew

Australian Law Reform Commission	Mr Jonathan Dobinson
	Ms Rosalind Croucher
Child Support Agency	Ms Judy Jackson
Family Court of Australia	Ms Angela Filippello
	Ms Dianne Gibson
Family Court of Western Australia	Mr David Monaghan
	Ms Annette Andrews
Family Law Section of the Law Council of Australia	Ms Amanda Parkin
Family Relationship Services Australia	Ms Samantha Page
Attorney-General's Department	Ms Toni Pirani

Council staff

The Attorney-General's Department provides Council with resources, including a Secretariat. Council's Secretariat is a Section of the Family Law Branch of the Attorney-General's Department. The functions of the Secretariat are to:

- provide policy advice, research services and drafting assistance to Council, especially in the performance of its functions under section 115 of the Family Law Act
- provide secretarial, administrative and other support services to Council, especially in relation to meetings of Council and Council committees and in the drafting and production of Council's reports, discussion papers, letters of advice and other material, and
- manage Council's annual budget.

Secretariat staff are employed by the Attorney-General's Department in accordance with the Attorney-General's Department Agreement 2007, a collective agreement made under the *Workplace Relations Act 1996*. Secretariat Staff are subject to the Department's disability strategy, human resource management and development measures. Information on the Department's equal opportunity program, occupational health and safety policy, fraud control plan and prevention procedures and environmental protection activities is available in the Department's annual report.

During the year, the part-time Secretariat staffing profile comprised the Director of Research (Principal Legal Officer), a Senior Legal Officer (SLO), a Project Officer (APS Level 6) and an Administrative Officer (APS Level 4). Salary ranges are consistent with the collective agreement and no performance payments were made during the year. From time to time the part-time Secretariat staff are supplemented by temporary staff, including summer clerks.

The following persons were employed in the Secretariat during this financial year:

NAME	POSITION	DATES
Ms Wendy Banfield	Director of Research	2 January 2008 to 15 January 2010
Ms Sandra Henderson-Kelly	Director of Research	18 January 2010 to ongoing
Ms Ruth Mitchell	Administration Officer	11 May 2009 to 17 July 2009
Ms Fiona Johnson	Administration Officer	22 July 2009 to 19 May 2010
Ms Machiko Hodge	Senior Legal Officer	22 July 2009 to ongoing
Mrs Kim Howatson	Project Officer	1 September 2009 to ongoing

The Family Law Council would like to thank Ms Wendy Banfield, Ms Ruth Mitchell and Ms Fiona Johnson for their contributions during their time with the Secretariat.

Contact details

Council's Secretariat may be contacted at:

Attorney-General's Department
3-5 National Circuit
BARTON ACT 2600

Phone 02 6141 6666
Fax 02 6141 3246

Council's homepage is at <http://www.ag.gov.au/flc>

3. MEETINGS AND CONSULTATIONS

Council held three meetings during this financial year; in capital cities around Australia. At meetings, Council focussed on a theme of topical interest and also invited members of the judiciary, the legal profession, academics, family service providers and other experts to address Council on matters of interest. These discussions and consultations inform Council's deliberations. The meetings also provided an opportunity for different disciplines within the family law sector to exchange information and raise issues of importance.

13-14 August 2009 – Adelaide, South Australia

The theme of the Adelaide meeting was *Family Law Property Matters*.

Visitors to the meeting provided an insight on topics relating to their experiences with the family law system, in particular issues directly relating to South Australia. Regular updates were also provided by the Observers of the meeting. This is a valuable source of information to the Family Law Council as it ensures Council is aware of emerging trends and potential areas of concern.

A brief teleconference was held with the Australian Law Reform Commission (ALRC) regarding the development of a national legal framework to address family violence. This helped to inform Council's Family Violence Working Group and the development of its report.

12-13 November 2009 – Canberra, ACT

The theme for the Canberra meeting was *New Processes and Products in Family Dispute Resolution - Collaborative Lawyering, Case Appraisal, Medene (Mediation early neutral evaluation) and others*.

While the main focus for this meeting was to finalise the report on family violence – titled *Improving responses to family violence in the family law system: An advice on the intersection of family violence and family law issues*, Council also considered NADRAC's report *The Resolve to Resolve: Embracing ADR to improve access to justice in the federal jurisdiction*, in particular the reference issued by the Attorney-General on confidentiality and admissibility.

Observers and Visitors provided updates and information relating to their areas of expertise, in particular, information on the Supporting Children after Separation Program, collaborative law and family dispute resolution in the ACT and on relocation research.

11 February 2010 – Melbourne, Victoria

The Melbourne Council meeting was the final meeting for Deputy Chief Justice John Faulks and Federal Magistrates Norah Hartnett and Robyn Sexton before their terms on Council expired. Professor Wade also indicated his plans for an early retirement from Council.

The Australian Institute of Family Studies (AIFS) gave a presentation to Council outlining the key features of the AIFS *Evaluation of the 2006 Family Law Reforms*. Council noted the complex and overlapping issues arising in a number of areas. Council also reviewed Professor Richard Chisholm's report: *Family Courts Violence Review*.

Acknowledgments

The Family Law Council is grateful to the people and organisations that made time in their busy schedules during the year to attend Council meetings and provide insights into the family law system. Important information and observations shared by visitors to Council meetings is passed on to the Attorney-General.

Council Members would also like to thank the Family Law Council's regular observers for providing their expertise and contributions to the work of the Council.

Particular acknowledgement is made of the work done by Ms Angela Filippello, Federal Magistrate Robyn Sexton and Ms Nicola (Nicky) Davies on the report *Improving responses to family violence in the family law system: An advice on the intersection of family violence and family law issues*. The contribution made by each has resulted in a valuable report that is likely to influence policy development to tackle family violence in the future.

Relationship with other bodies in family law

It is important to Council that close contact is maintained with other bodies in the family law field. Council membership seeks to include people from various bodies and groups working in family law. In addition Council also consults regularly with other organisations and individuals with expertise or experience in the field of family law.

Council exchanges relevant papers with the National Alternative Dispute Resolution Advisory Council and the Council Secretariat maintains contact about mutually relevant issues. The two Councils meet as opportunities for discussion arise. This year Council provided input into the NADRAC report *The Resolve to Resolve: Embracing ADR to improve access to justice in the federal jurisdiction*, released in September 2009. The report was the result of an inquiry into the use of ADR in the federal civil justice system.

Council was kept informed about developments in the family law system and the priorities of the Government through its involvement in the Family Law System Conference, by liaising with officers of the Family Law Branch of the Attorney-General's Department and from the input of the Attorney-General's Department Observer of the Family Law Council. The Council's Secretariat also ensures that Members and observers receive information relevant to the work of the Council.

The Family Law Council holds a seat on the Family Law System Reference Group. The Reference Group, established in July 2009, consists of peak bodies operating in the family law system, including the courts, the legal profession and service providers. The Reference Group is a consultative body advising the Attorney-General's Department on work that it is progressing.

Council maintained its relationship with the Family Law Section (FLS) of the Law Council of Australia by providing input into the review of the Family Law Section of the Law Council's *Best Practice Guide for lawyers doing family work*. This document was originally developed by a joint committee of the FLS and Council in 2004 as a series of guidelines designed to assist lawyers and encourage best practice in family law.

4. ADVICE TO THE ATTORNEY-GENERAL

As detailed in Appendix C, the Council's function is to advise and make recommendations to the Attorney-General on the working of the Family Law Act, Legal Aid and other family law matters. This function contributes to the Attorney-General's Department achieving Outcome 1 'An equitable and accessible system of federal civil justice'.

Council contributed to this outcome through Output 1.1, which provides for:

Legal services and policy advice on family law, federal courts and tribunals, civil procedure, alternative dispute resolution, administrative law, and administration of related government programs.

In particular and as set out in part 1, during the year Council concentrated its resources into the substantial work involved in finalising its report on *Improving responses to family violence in the family law system: An advice on the intersection of family violence and family law issues*. A committee was constituted to prepare this report, being Ms Angela Filippello, Federal Magistrate Robyn Sexton and Ms Nicola (Nicky) Davies. Full details of current committee memberships are provided in Appendix B. A full list of Council publications since 1976 is detailed in Appendix A.

5. IMPLEMENTATION OF RECOMMENDATIONS

In accordance with its statutory function, Council makes recommendations to the Attorney-General in either reports on major issues, or letters of advice on specific matters. Council's Secretariat reviews the progress of Council's recommendations each year. Monitoring progress in this way is expected to reduce the possibility of recommendations lapsing.

From 1 July 2009 to 30 June 2010, a total of 13 recommendations have been made. Of these, all 13 were made in one report. No letters of advice were provided in this financial year.

Government response to recommendations

Consideration has not yet been made on the 13 recommendations from the report *Improving responses to family violence in the family law system: An advice on the intersection of family violence and family law issues*, published this year.

Government's recommendations will consider other reports furnished, such as *Time for Action*, the report of the National Council to Reduce Violence against Women and their Children, Professor Richard Chisholm's *Family Courts Violence Review*; and the Australian Institute of Family Studies' *Evaluation of the 2006 Family Law Reforms*.

6. FINANCIAL REPORT

Council’s meeting and program costs are met each year by the Family Law Branch of the Access to Justice Division of the Attorney-General’s Department under Output 1.1 of the Departments’ Outcome 1.

Council’s meeting and program costs include fares, cab-charges and travelling allowances for Council members who are neither judicial officers nor public servants. Costs for judicial officers and public servants are covered by their respective organisations, as are all costs for observers. Costs for Secretariat staff are also met by Council, although Secretariat salaries, superannuation and day-to-day expenses are met from the budget of the Attorney-General’s Department.

Table 3: Family Law Council Total Expenditures for 2009–10

Item	Expenditure
Sitting Fees (including superannuation)	6,568.56
Venue Hire & Incidentals	Nil
Meeting Costs	2,600.94
Travel	11,980.08
Memberships	Nil
Consultants	Nil
Publications/Printing	1,825.00
Information Products	3,420.00
TOTAL	\$26,394.58

Financial accountability

Council’s total yearly expenditure for 2009-10 was **\$26,394.58**. Council’s costs are lower than last year, mainly because there was one less meeting, the meetings were held in major cities and meeting venues were provided by the Family Court of Australia and the Federal Magistrates Court of Australia at no cost to the Council. Council would like to thank the courts for this assistance. Council’s costs form part of the Attorney-General’s Department’s audited financial statements published in the Department’s Annual Report.

Purchasing

No consultancy service contracts have been let, and no expenditure on consultancy has been made during this financial year. Information on expenditure on contracts and consultancies is available on the AusTender website www.tenders.gov.au. No reportable contracts were entered into by Council, and no contracts were exempted from reporting requirements during the year.

APPENDIX A: COUNCIL PUBLICATIONS

Reports and papers

In addition to its Annual Reports, Council has published the following reports and papers (including letters of advice) since it commenced operation in November 1976. Most of the reports and papers produced after 1991 are available online at <http://www.ag.gov.au/flc>.

2005 – 30 June 2010

- Advice on immunity for family counsellors and family dispute resolution practitioners under the Family Law Act (2005) provided with the National Alternative Dispute Resolution Advisory Council
- *Statistical Snapshot of Family Law 2002–2003* (2005)
- Advice on the '*Child Paramountcy Principle*' in the Family Law Act (2006)
- Advice on the proposed section 64D of the Family Law Amendment (Shared Parental Responsibility) Bill 2005 (2006)
- *Relocation* (2006)*
- *Collaborative Practice in Family Law* (2006)
- Advice on the recommendations made in Council's 2000 report: Litigants in Person (2006)
- Advice on Children with Intellectual Disabilities (Regulation of Sterilisation) Bill 2006 (2006)
- *Statistical Snapshot of Family Law 2003–2005* (2007)
- *The Answer from an Oracle: arbitrating family law property and financial matters* (Discussion Paper) (2007)
- *Improving Post-Parenting Order Processes* (2007)
- Binding financial agreements letter of advice (2008)
- Advice on Kinship carers of Indigenous Children (2008)
- Mental Health letter of advice (2008)
- Arbitration letter of advice (2008)
- *Improving responses to family violence in the family law system: An advice on the intersection of family violence and family law issues* (2009)

2000 – 2004

- *Parenting Plans* (2000)
- *Litigants in Person* (2000)
- *The Best Interests of the Child? – The Interaction of Public and Private Law in Australia* Discussion Paper No 2 (2000)
- *Cultural-Community Divorce and the Family Law Act 1975* (2001)

- *Statistical Snapshot of Family Law 2000-01*
- *Family Law and Child Protection* (2002)
- *Best Practice Guidelines for Lawyers doing Family Law Work* (2004)
- *Pathways for Children – A review of children’s representation in family law* (2004)
- *Review of binding financial agreements provisions in Parts VIII and VIIIA of the Family Law Act 1975* (Letter of Advice to the Attorney-General) (2004)
- *Operation of Division 11 of Part VII of the Family Law Act 1975* (Letter of Advice to the Attorney-General) (2004)
- *The ‘Child Paramountcy Principle’ in the Family Law Act* Discussion Paper (2004)
- *The Legal Practitioner’s Guide* (2004) produced with the Child Support Agency and the Family Law Section of the Law Council of Australia
- *Recognition of traditional Aboriginal and Torres Strait Islander child-rearing practices. Response to Recommendation 22: Pathways Report, Out of the Maze* (2004)

1995 – 1999

- *Magistrates in family law* (1995) *
- *Family law appeals and review* (1996)
- *Involving and representing children in family law* (1996) *
- *Parental child abduction* (1998) *
- *Child and Family Services Principles and Standards* Discussion Paper No 1 (1998)
- *Interim Report: Penalties and Enforcement* (1998)
- *Child Contact Orders: Enforcement and Penalties* (1998)
- *Violence and the Family Law Act: financial remedies* Discussion Paper (1998)

1990 – 1994

- *Patterns of Parenting After Separation* (1992) *
- *Family Mediation* (1992) *
- *Interaction of Bankruptcy and Family Law* (1992) *
- *Section 64A of the Family Law Act* (1992)
- *Choices - A Paper on Superannuation* (1992)
- *Comments on the Report of the Joint Select Committee on the Operation and Interpretation of the Family Law Act* (1993)
- *The Operation of the (UK) Children Act 1989* (1994)
- *Female Genital Mutilation* (1994) *
- *Sterilisation and Other Medical Procedures on Children* (1994) *

- *Parent child contact and the Family Court* Issues Paper 14 (1994) Joint Issues Paper with the Australian Law Reform Commission

1985 – 1989

- *Report on Maintenance Assessment and Collection* (1985)
- *Creating Children: A uniform approach to the law and practice of reproductive technology in Australia* (1985) *
- *Administration of Family Law in Australia* (1985) *
- *Cinderella Re-visited: Rights and Responsibilities in Step-families* (1986) *
- *Access - Some Options for Reform* (1987) *
- *Arbitration in Family Law* (1988) *
- *Child Sexual Abuse* (1988) *
- *Representation of children in Family Court proceedings* (1989) *
- *Spousal Maintenance Discussion Paper* (1989)

1980 – 1984

- *Wardship, Guardianship, Custody, Access, Change of Name - Watson Committee Report* (1982)
- *Ministers of Religion and Admissible Evidence under section 18 of the Family Law Act 1975* (1982)

1976 – 1979

- *Birth Certificate Revision of the Sexually Reassigned* (1978)
- *Children's Wishes: Section 64(1)(b) of the Family Law Act 1975* (1978)
- *Migrants and the Family Court* (1978)
- *Maintenance enforcement under the Family Law Act 1975* (1979)
- *Property and Maintenance After Death* (1979)
- *Jurisdiction of Magistrates under the Family Law Act 1975* (1979)
- *Lending policies of Banks and Building Societies* (1979)
- *Superannuation and Family Law* (1979)

* Discussion papers were also issued for consultation purposes on each of these matters.

APPENDIX B: COUNCIL COMMITTEES 2009-2010

Unless otherwise stated, committee members serve in their capacity as members or observers of the Family Law Council. Members' names are included whether they served for the full reporting year or not. Project status details are correct as at 30 June 2010.

Statistical Snapshot Working Group

The Statistical Snapshot working group is finalising production of its biennial report on family law. As this report has not yet been finalised, the scope and coverage of the snapshot is being further considered.

Members of the working group have included:

- Principal Registrar Ms Angela Filippello *Convenor*
- Mr John Mathieson
- Mr David Monaghan

APPENDIX C: COMPLIANCE WITH ANNUAL REPORT GUIDELINES

The following information is provided in compliance with the Department of Prime Minister and Cabinet's 2010 *Requirements for Annual Reports*.

Enabling legislation

The Family Law Council was established by the Attorney-General pursuant to section 115 of the *Family Law Act 1975*, which provides:

- (1) The Attorney-General may establish a Family Law Council consisting of persons appointed by the Attorney-General in accordance with subsection (2).
- (2) The Council shall consist of a Judge of the Family Court and such other judges, persons appointed or engaged under the *Public Service Act 1999*, officers of the Public Service of a State, representatives of organisations that provide family and child counselling and other persons as the Attorney-General thinks fit.
- (3) It is the function of the Council to advise and make recommendations to the Attorney-General, either of its own motion or upon request made to it by the Attorney-General, concerning:
 - (a) the working of this Act and other legislation relating to family law;
 - (b) the working of legal aid in relation to family law; and
 - (c) any other matters relating to family law.
- (4) The Attorney-General shall appoint one of its members to be Chairperson of the Council.
- (5) A member of the Council shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, the member shall be paid such remuneration as is prescribed.
- (5A) A member of the Council shall be paid such allowances as are prescribed.
- (5B) Subsections (5) and (5A) have effect subject to the *Remuneration Tribunal Act 1973*.
- (5C) Subject to this section, a member of the Council holds office for such period, not exceeding 3 years, as is specified in the instrument of appointment, but is eligible for re-appointment.
- (6) A member (including the Chairperson) may resign by writing signed and delivered to the Attorney-General.
- (6A) The Attorney-General may terminate the appointment of a member by reason of the misbehaviour, or physical or mental incapacity, of the member.
- (6B) If a member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, the Attorney-General shall terminate the appointment of that member.

- (7) Meetings of the Council shall be convened by the Chairperson or the Attorney-General.
- (8) The Council shall cause records to be kept of its meetings.
- (9) The Council shall, as soon as practicable after 30 June in each year, prepare and furnish to the Attorney-General a report of the operations of the Council during the year that ended on that 30 June.
- (10) The Attorney-General shall cause a copy of a report furnished under subsection (9) to be laid before each House of the Parliament within 15 sitting days of that House after the receipt of the report by the Attorney-General.
- (11) For the purposes of this section, a Federal Magistrate is taken to be a judge.

Responsible Minister

The responsible Minister is the Attorney-General, who appoints the Chairperson and members, has power to terminate the appointment of a member in the circumstances specified in subsection 115(6A) of the Family Law Act. Under subsection 115(7), the Attorney-General may also convene Council meetings.

Annual Report

The Family Law Council is required to furnish an Annual Report to the Attorney-General for presentation to Parliament as soon as practicable after 30 June each year (subsection 115(9)). Subsection 115(10) requires that the Annual Report be tabled within 15 sitting days of its receipt by the Attorney-General. The Council's *Annual Report 2008 – 2009* was tabled in the House of Representatives on 2 February 2010.

Advertising and market research

The Council was not involved in any advertising or market research activity during 2009-10.

Access to information

The Family Law Council is an agency for the purposes of the *Freedom of Information Act 1982* and the following information is provided under section 8 of that Act. The Council's operation is open to external scrutiny. However, there have been no significant developments in this regard.

Council's Secretariat maintains a general mailing list of persons interested in family law and related issues. Persons or organisations wishing to be added to the mailing list should contact Council's Secretariat. Copies of papers released for consultation purposes, such as discussion papers, Council's reports and the quarterly newsletter are distributed free of charge to people on the mailing list.

Supplementary mailing lists are usually prepared on individual projects for the purposes of public consultation. As far as it is possible to do so within its limited resources, Council makes every effort to ensure that interested persons and organisations are consulted on issues of relevance to them.

The Family Law Council maintains the following categories of documents, which are available to the public as detailed below:

- (a) reports to the Attorney-General
- (b) discussion and consultation papers
- (c) letters of advice to the Attorney-General
- (d) the Council newsletter, *Family Law Council News*
- (e) minutes of Council and Council committee meetings
- (f) papers prepared for quarterly meetings of Council
- (g) correspondence
- (h) documents relating to internal administration and management
- (i) research notes and papers prepared in Council's Secretariat or provided to the Secretariat, and
- (j) submissions from interested persons and organisations.

A list of Council reports is provided at Appendix A. That list also indicates the matters on which discussion papers have been issued.

Council has a home page on the internet. The home page contains a range of Council documents and information. The home page may be viewed at <<http://www.ag.gov.au/flc>>. Annual reports are available electronically at <<http://www.ag.gov.au/flc/annualreports>>.

Hard copies of reports, including this annual report, and letters of advice to the Attorney-General (categories (a) and (c)), Discussion Papers and the Council's newsletter (categories (b) and (d)) are available on request from the Council's Secretariat and may be inspected in Council's Secretariat in Canberra. Supplies of discussion papers are usually discarded after a final report has been released.

Minutes of Council and Council committee meetings (category (e)) may be inspected at Council's Secretariat in Canberra.

A bound set of Council meeting papers (category (f)) for the period 1976–1996 is held by National Archives of Australia in Canberra. A further bound set is held by the Director of Research covering the period 1976 to 22 November 2002 in Canberra. The Director of Research also holds unbound copies of meeting papers since November 2002.

It is Council's policy to make available publicly copies of submissions (category (j)) it receives as a result of its consultation processes. This applies unless a person making a submission specifically requests that the confidentiality provisions of the Freedom of Information Act should apply or there are strong reasons for not disclosing information in a submission (eg. if the submission contains personal information about an individual).

Other documents (categories (g), (h) and (i)) are kept on Family Law Council files and are maintained for Council by the Attorney-General's Department. Access to these documents may be sought through the Council under the Freedom of Information Act. It is Council's policy to release such information, wherever possible.

The Director of Research is available to advise and assist any person seeking access to Council documents. The only person authorised to refuse access to documents is the Chairperson of Council.

There were no requests for access to Council documents under the Freedom of Information Act during 2009–10.

The information officer for the purposes of freedom of information requests and for general inquiries is:

The Director of Research
Family Law Council
Attorney-General's Department
3-5 National Circuit
BARTON ACT 2600

Telephone: 02 6141 6666
Fax: 02 6141 3246

Office hours are 9.00am – 5.00pm Mondays to Fridays (excluding public holidays).

INDEX

A

- Appointments 2
- Australian Institute of Family Studies..... 1, 3, 6, 9
- Australian Law Reform Commission..... 3, 4, 6, 13

B

- Best Practice Guide for lawyers doing family work
..... 7, 12

C

- Child Support Agency..... 4, 12
- Contact details..... 5

E

- Evaluation of the 2006 Family Law Reforms 1, 6, 9

F

- Family Court of Australia 2, 3, 4, 10
- Family Court of Western Australia 3, 4
- Family Courts Violence Review 1, 6, 9
- Family Law Section of the Law Council of
Australia 4, 7, 12
- Family Law System Conference 7
- Family Law System Reference Group 7
- Family Relationship Services Australia 4
- Family violence..... 1, 6, 7
- Federal Justice System Amendment (Efficiency
Measures) Act (No. 1) 2009* 1
- Freedom of Information 16, 17, 18

I

- Improving responses to family violence in the
family law system: An advice on the intersection
of family violence and family law issues . 1, 6, 7,
8, 9, 11

M

- Members..... 2

N

- National Alternative Dispute Resolution Advisory
Council (NADRAC)..... 6, 7, 11
- National Council to Reduce Violence against
Women and their Children 1, 9

O

- Observers 3

P

- Professor Richard Chisholm..... 1, 6, 9
- Publications 11

R

- Reports and papers 11

S

- Secretariat..... ii, 4, 5

T

- The Resolve to Resolve: Embracing ADR to
improve access to justice in the federal
jurisdiction..... 6, 7
- Time for Action..... 1, 9