

FAMILY LAW COUNCIL

ANNUAL REPORT

2012–13

ISSN: 0155-2953
ISBN: 978-1-925118-01-8

© Commonwealth of Australia 2013

All material presented in this publication is provided under a Creative Commons Attribution 3.0 Australia (<http://creativecommons.org/licenses/by/3.0/au/deed.en>) licence.

For the avoidance of doubt, this means this licence only applies to material as set out in this document.

The details of the relevant licence conditions are available on the Creative Commons website (accessible using the links provided) as is the full legal code for the CC BY 3.0 AU licence (<http://creativecommons.org/licenses/by/3.0/legalcode>).

Use of the Coat of Arms

The terms under which the Coat of Arms can be used are detailed on the It's an Honour (<http://www.itsanhonour.gov.au/coat-arms/index.cfm>) website.

Contact us

Inquiries regarding the licence and any use of this document are welcome at:

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

Telephone: (02) 6141 6666
copyright@ag.gov.au

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 5452

Or visit the Council's web page on the Attorney-General's Department's website <<http://www.ag.gov.au/flc>>.

This report is also available electronically at <http://www.ag.gov.au/flc>.



FAMILY LAW COUNCIL

3-5 National Circuit
BARTON ACT 2600

Telephone: 02 6141 6666
Fax: 02 6141 5452

September 2013

Senator the Hon George Brandis QC
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 2012 to 30 June 2013.

Yours sincerely,

Professor Helen Rhoades
Chairperson

Contents

1. Year In Review	1
2. Organisational structure	3
Council members	3
Observers	4
Council staff.....	4
3. Meetings and Consultations	6
1-2 November 2012 – Canberra, ACT.....	6
21-22 February 2013 – Melbourne, VIC	6
13-14 June 2013 – Sydney, NSW	7
Acknowledgments	8
Relationship with other family law organisations	8
4. Advice to the Attorney-General	9
5. Implementation of Recommendations	10
Government response to recommendations	10
6. Financial Report	11
Financial accountability.....	11
Appendix A: Council Publications	12
Reports and papers.....	12
Appendix B: Council Committees 2012-2013	16
Appendix C: Compliance with Annual Report Guidelines	17
Responsible Minister	18
Annual Report.....	18
Advertising and market research	18
Access to information	18

1. YEAR IN REVIEW

This year the Family Law Council continued its work program under the direction of Chair, Professor Helen Rhoades. Council worked on diverse family law issues and welcomed a new Attorney-General, the Hon Mark Dreyfus MP, appointed as the Commonwealth's first law officer in February 2013, after the previous Attorney-General, the Hon Nicola Roxon MP, resigned her position.

Council is currently working on terms of reference issued by the former Attorney-General to consider and advise on surrogacy, family formation and how the *Family Law Act 1975* deals with parentage involving artificial reproductive technology. It is due to report in December 2013. Council has spent a significant proportion of its time this year on the terms of reference.

The initial terms of reference were issued in June 2012, with a fifth consideration being added in September 2012 for Council to consider:

v. Are there any amendments to the Family Law Act that could be made to assist other Commonwealth agencies, such as those responsible for immigration, citizenship and passports, to identify who the parents of a child are for the purposes of Commonwealth laws?

At the November 2012 meeting held in Canberra, Council had the opportunity to discuss the additional term of reference directly with representatives from the Department of Foreign Affairs and Trade and the Department of Immigration and Citizenship. The discussion covered issues experienced with the intersection of the Commonwealth laws relating to the legal parentage of children.

Also in November, Council was asked by the former Attorney-General, Nicola Roxon, to provide comment, at short notice, on the establishment of a Royal Commission into Institutional Responses to Child Sexual Abuse. This was provided to the Royal Commission on 26 November 2012.

In January 2013 the Australian Government announced \$2.56m of extra funding for Aboriginal and Torres Strait Islander Legal Services (ATSILS) to deliver family law services to Aboriginal and Torres Strait Islander clients across Australia. Funding of \$1.2m was also provided for Community Legal Centres (CLCs) to improve the capacity of these CLCs to deliver better targeted family law services to Aboriginal and Torres Strait Islander clients. This funding recognised recommendations in Council's report into Improving the Family Law System for Aboriginal and Torres Strait Islander Clients (February 2012).

Council convened a sub-committee to look at, where appropriate, ways to 'flag risks' so that judicial officers are aware of issues such as family violence in cases before them, and to encourage collaboration between the family law system and state and territory child protection systems.

Council, along with the Family Law Section of the Law Council, also provided its analysis to the department on the Issues Paper on Binding Financial Agreements. A letter of advice was provided to the Attorney-General in May 2013. Council's letter advised of its substantial agreement on the majority of contents provided by the Family Law Section of the Law Council.

The Hon Shayne Neumann MP, Parliamentary Secretary to the Attorney-General met with Council at its June 2013 meeting in Sydney. Mr Neumann had the role of assisting the Attorney-General with family law related matters. Council had a general discussion about ways the family law system could be improved.

**Family Law Council members and observers
February 2013**



Left to right: Mr Stephen Hackett, Ms Pam Hemphill, Ms Kylie Beckhouse, Mr Geoff Sinclair, Judge Kevin Laphorn, Mr Jeremy Culshaw, Professor Helen Rhoades (Chair), Mr Phillip Cameron, Ms Yvonne Marsh, Ms Jennie Hannan, Mr Khanh Hoang, Ms Colleen Wall, Justice Robert Benjamin, Dr Cressida Limon (Research Fellow), Ms Adele Byrne and Justice Susan Duncanson.

Absent at the time of the photo: Ms Elizabeth Kelly, Dr Rae Kaspiew, Ms Cathy Rainsford and Professor Lawrie Moloney

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 1975* (the Act). Appointment is for a period of up to 3 years and members may be re-appointed.

Under the Act, Council shall consist of a Judge of the Family Court and any such judges, persons appointed or engaged under the *Public Service Act 1999*, officers of the Public Service of a State, family counsellors, family dispute resolution practitioners and other persons as the Attorney-General thinks fit. The Act does not specify the number of members of Council. It has been the policy of successive governments that Council membership attempts to encompass equity and diversity in gender and cultural background and cover a range of geographical locations.

Members of the Family Law Council during the year 2012-2013 were as follows:

NAME	POSITION	DATE OF CURRENT APPOINTMENT	EXPIRY OF TERM
Professor Helen Rhoades	Melbourne Law School, University of Melbourne, Victoria	9 July 2010	8 July 2013
Judge Kevin Laphorn	Federal Circuit Court, Queensland	9 July 2010	8 July 2013
Dr Rae Kaspiew	Senior Research Fellow, Australian Institute of Family Studies, Victoria	9 July 2010	8 July 2013
Mr Jeremy Culshaw	Partner, Culshaw Miller Lawyers, Western Australia	7 December 2010	8 July 2013
Ms Elizabeth Kelly	Deputy Secretary Attorney-General's Department, Australian Capital Territory	6 June 2011	Whilst in Deputy Secretary position
Ms Kylie Beckhouse	Executive Director, Family Law, Legal Aid NSW, New South Wales	7 June 2012	6 June 2015
Justice Robert Benjamin	Family Court of Australia, Tasmania	7 June 2012	6 June 2015
Ms Jennie Hannan	Executive General Manager Services Anglicare WA, Western Australia	7 June 2012	6 June 2015
Ms Colleen Wall	Director, Nguin Warrup (Black Drum) Ltd, Queensland	7 June 2012	6 June 2015

On 4 June 2013, the Attorney-General reappointed Professor Rhoades as Chair of Council and Judge Laphorn, Dr Kaspiew and Mr Jeremy Culshaw as members of Council for a further three years from 9 July 2013.

Observers

There are no provisions in the Act relating to the appointment of observers on Council. However, Council currently has observers from 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.

The agencies listed have observer status on Council, represented throughout the year by:

ORGANISATION	REPRESENTED BY
Australian Institute of Family Studies	Professor Lawrie Moloney
Australian Law Reform Commission	Professor Rosalind Croucher Mr Khanh Hoang Ms Robyn Gilbert
Department of Human Services - Child Support Policy	Ms Yvonne Marsh
Family Court of Western Australia	Justice Susan Duncanson
Family Law Courts	Ms Pam Hemphill
o Family Court of Australia	Ms Angela Filippello Mr Phillip Cameron
o Federal Circuit Court of Australia	Ms Adele Byrne
Family Law Section of the Law Council of Australia	Mr Geoff Sinclair
Family & Relationship Services Australia	Mr Stephen Hackett

Council staff

The Department provides Council with resources, including a Secretariat. The functions of the Secretariat are to:

- provide policy advice, research services and drafting assistance to Council in the performance of its functions under section 115 of the Act;
- provide secretariat, administrative and other support services to Council, especially in relation to meetings of Council and in the drafting and production of Council's reports, discussion papers, letters of advice and other material; and
- manage Council's webpage on the Attorney-General's Department's website and annual budget.

Secretariat staff are employed by the Department in accordance with the Attorney-General's Department Enterprise Agreement 2011, a collective agreement made under the *Fair Work Act 2009*. 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. Salary ranges are consistent with the collective agreement and no performance payments were made during the year.

Council's Secretariat is provided by staff in the Family Law Branch of the Department. A part-time Project Officer (APS Level 6) is the primary contact and the main coordination point for Council's work program. That position is assisted by a Director and the Assistant Secretary of the Family Law Branch. Research, policy advice and drafting support is provided by staff across the Family Law Branch on the basis of topic or subject area expertise as required.

Council was also assisted with research for its terms of reference on surrogacy, family formation and how the Act deals with parentage involving artificial reproductive technology by Dr Cressida Limon, a part-time Research Fellow based at the University of Melbourne and supervised by the Chair of Council.

3. MEETINGS AND CONSULTATIONS

Council held three meetings during this financial year. At meetings, members of the judiciary, academics, family service providers and other experts were invited to address Council primarily on areas related to the current terms of reference and also on other matters of interest such as child protection and research on parental responsibility. The meetings also provided an opportunity for different disciplinary and professional groups and services within the family law sector to exchange information and raise issues of importance.

Council's members also held two teleconferences during the year. The first was to discuss Council's input into the establishment of a Royal Commission into Institutional Responses to Child Sexual Abuse. The second was to further progress Council's views on the terms of reference and to discuss Council's comment on the Department of Foreign Affairs and Trade's Discussion Paper on the Definition of Parental Responsibility in the *Australian Passports Act 2005*.

1-2 November 2012 – Canberra, ACT

The meeting was held in Canberra at the Attorney-General's Department in Barton. Council welcomed back, after a four year break, Ms Yvonne Marsh. Ms Marsh represented as an observer for the Department of Human Services – Families and Child Support Policy. Council also welcomed Mr Phillip Cameron, representing as an observer for the Family Court of Australia.

Council welcomed Dr Cressida Limon, engaged in August as Council's Research Fellow, to provide support on Council's terms of reference on surrogacy, family formation and how the *Family Law Act 1975* deals with parentage involving artificial reproductive technology. Discussions were held with the Department of Foreign Affairs and Trade and the Department of Immigration and Citizenship with particular focus on the fifth terms of reference relating to resolving issues of parentage under different Commonwealth laws. Associate Professor John Tobin was a guest speaker, providing information and analysis on the Convention on the Rights of the Child in relation to the terms of reference.

A number of other issues were discussed over the two days, including: AIFS research on parental responsibility; an Issues Paper prepared by the department on Binding Financial Agreements, and a Model Child Protection Memorandum of Understanding prepared by Professor Richard Chisholm, who attended the meeting to present his recommendations. It was also agreed to establish a sub-committee to discuss ways to 'flag risks' and make judicial officers aware of relevant issues, such as family violence, in matters before them, as well as ways to share information within the family law system.

21-22 February 2013 – Melbourne, VIC

The meeting was held in the Chief Justice's Conference Room in the Owen Dixon Commonwealth Courts Building in Melbourne. Welcomed as observers to the meeting were Mr Khanh Hoang who represented the Australian Law Reform Commission and Ms Cathy Rainsford who represented the Attorney-General's Department. Council noted that (former) Magistrate Susan Duncanson was appointed to the bench of the Family Court of Western Australia in December 2012 which resulted in her change of title to 'Judge' and Professor Rhoades was promoted from Associate Professor to Professor in January 2013. Council acknowledged the swearing in of the Hon. Mark Dreyfus QC MP as the Attorney-General and Minister for Emergency Management on 4 February 2013.

The meeting predominantly discussed issues on the terms of reference. Guest speakers were invited to present their perspectives. Council thanked Ms Ivy Trevallion, the Hon Alastair

Nicholson, Chief Federal Magistrate John Pascoe, the Hon Nahum Mushin and individuals from Vanish and Tangled Webs for sharing their time and personal stories and experiences.

Other issues discussed at the meeting included further work on Binding Financial Agreements and the sub-committee met to discuss 'flagging risks' and ways to make judicial officers aware of issues, such as family violence, in matters before them; and improving collaboration sharing between the family law system and state and territory child protection systems.

Council subsequently wrote to the department, in April 2013, suggesting an extension of the department's work on cross sector and agency collaboration between the child protection and family law systems to include law enforcement, legal and service sectors, with the aim of improving information sharing.

13-14 June 2013 – Sydney, NSW

The meeting was held in the Family Law Courts in the Lionel Bowen Building in Sydney. Council welcomed Ms Robyn Gilbert to the meeting who represented as an observer for the Australian Law Reform Commission and acknowledged it was Ms Cathy Rainsford's last Council meeting as an observer for the Attorney-General's Department.

Council noted the renaming of the Federal Magistrates Court to the Federal Circuit Court on 12 April 2013. Council discussed vulnerable witness protection in the Family Law Court in relation to self-represented litigants.

The main focus of the meeting was on Council's terms of reference to consider and advise on surrogacy, family formation and how the Family Law Act 1975 deals with parentage involving artificial reproductive technology. Guest speaker, Mr Sam Everingham, President of Surrogacy Australia, provided valuable insights into the use of overseas surrogacy arrangements by Australian couples and outlined the results of surveys of the organisation's members.

Council also met with the Hon Shayne Neumann MP, Parliamentary Secretary to the Attorney-General. Mr Neumann provided an overview of his role in assisting the Attorney-General in relation to family law matters. He also invited Council members and observers to provide their views about current issues affecting the family law system.



The Family Law Council and its observers meeting with the Hon. Shayne Neumann MP, Parliamentary Secretary to the Attorney-General – 14 June 2013.

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 operation of the family law system to inform its work.

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.

Assisting with the formulation of Council's report to the Attorney-General on its current terms of reference on surrogacy, family formation and how the Family Law Act 1975 deals with parentage involving artificial reproductive technology, is Research Fellow, Dr Cressida Limon. Dr Limon has provided assistance to Council in forming its views on the recommendations to be made in its report.

Particular acknowledgement and thanks are extended to Ms Cathy Rainsford for her contribution to Council's work during her time as Acting Assistant Secretary, Family Law Branch, Attorney-General's Department. The June meeting was Ms Rainsford's last meeting with Council before she moved to another position within the Department.

The staff of the Family Law Branch who assisted Council progress its work program and provided Secretariat support and coordination also require special acknowledgement. The Family Law Branch staff support Council by providing significant expertise in many areas of family law.

Finally, Council and its observers appreciate the ongoing support of the family courts in providing their facilities for the Sydney and Melbourne meetings, as well as the assistance provided by the court staff at those meetings.

Relationship with other family law organisations

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 the family law system. In addition Council also consults regularly with other organisations and individuals with expertise or experience in the field of family law.

The Council held a seat on the Family Law System Reference Group. The Reference Group, established in July 2009, was discontinued in August 2012.

Council's Chair attended the Chief Justice's Forum in November 2012. Various issues were discussed, including Council's terms of reference, litigants with mental health concerns and the National Legal Needs Survey.

Council adopted several strategies in gathering information to address the terms of reference, including consultations with community groups, legal practitioners, the judiciary and organisations within the family law sector to assist in its formation of views for its report to the Attorney-General its current terms of reference. The report is due to be delivered to the Attorney-General in December 2013.

4. ADVICE TO THE ATTORNEY-GENERAL

Council's function as outlined in s115 of the *Family Law Act 1975* (the Act) is to advise and make recommendations to the Attorney-General on the workings of the Act, Legal Aid and other family law matters, as detailed in Appendix C. This function contributes to the Attorney-General's Department performance against Outcome 1 '*A just and secure society through the maintenance and improvement of Australia's law and justice framework and its national security and emergency management system*'.

During the year Council concentrated its resources on the substantial work involved in the terms of references issued by the Attorney-General in June 2012.

In November 2012, the former Attorney-General, the Hon Nicola Roxon MP, asked Council to provide input into the establishment of a Royal Commission into Institutional Responses to Child Sexual Abuse. Council considered the Consultation Paper and provided its response in the same month.

Council also provided a letter of advice to the Attorney-General, of its own motion, in May 2013 to express its views on the Attorney-General's Department's Binding Financial Agreement Issues Paper. Council's views will be considered in the continuing work of the department on Binding Financial Agreements.

5. IMPLEMENTATION OF RECOMMENDATIONS

In accordance with its statutory function, Council makes recommendations to the Attorney-General as requested by the Attorney-General, or by its own motion. Advice and recommendations are usually made in reports on major issues or in letters of advice on specific matters.

Government response to recommendations

The government's initial response to Council's reports on ways in which the family law system meets the needs of clients from Indigenous and culturally and linguistically diverse backgrounds (February 2012) was to provide funding initiatives to improve greater access to justice for people from Indigenous and culturally and linguistically diverse backgrounds. Scholarships were provided for those people wanting to obtain qualifications in family dispute resolution. Funding was also provided to support the expansion of the Building Connections parenting education program to include a specific focus on the needs of Indigenous families.

On 31 January 2013, the former Attorney-General, the Hon Nicola Roxon MP, announced that Aboriginal and Torres Strait Islander Legal Services (ATSILS) would receive approximately \$2.56m in additional one-off funding to deliver family law services to Aboriginal and Torres Strait Islander clients. The funding will support the employment of up to 17 senior family lawyers in the eight ATSILS across Australia. It will also improve the capacity of ATSILS to deliver more and better targeted family law services to women, children and their families.

The former Attorney-General also announced that Community Legal Centres (CLCs) will receive \$1.2m in additional one-off funding to deliver family law services to Aboriginal and Torres Strait Islander families. This funding will support the employment of up to 10 senior family law lawyers in 10 CLCs. It will improve the capacity of these CLCs to deliver better targeted family law services to Aboriginal and Torres Strait Islander clients.

Council's report into Improving the Family Law System for Aboriginal and Torres Strait Islander Clients, and the recommendations in that report, formed part of the rationale for the government's decision to provide the funding boost.

Council continued its discussions with the department on its work on cross sector and agency collaboration between the child protection and family law systems. Following Council's sub-committee meeting on Flagging Risks in February, Council wrote to the department asking for representatives from the various law enforcement agencies across Australia to be included in the next National Family Law and Child Protection Collaboration meeting (collaboration meeting).

The department wrote to Council, noting that it recognised the benefits of encouraging collaboration between law enforcement agencies, state and territory child protection agencies and the federal family law courts to improve information sharing where children are involved in family violence or child abuse. The department was unable at that time to include law enforcement agencies to the collaboration meeting but stated it will give further consideration to how law enforcement agencies may be able to be involved in future forums.

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 travel costs for observers.

Table 3: Family Law Council Total Expenditures for 2012–13

Item	Expenditure
Sitting Fees (includes superannuation)	28,174.52
Secretariat staff salary (includes superannuation)	57,008.51
Venue Hire & Incidentals	Nil
Meeting Costs	2,727.48
Travel	23,809.26
Memberships	Nil
Consultants	Nil
Publications/Printing	1,030.00
TOTAL	112,749.77

Financial accountability

Council's total yearly expenditure for 2012-13 was \$112,749.77. This figure shows as an increase on the previous year (\$68,351.42) as it includes salary costs and superannuation for a part-time Project Officer (APS Level 6) who provided secretariat support.

Council's meetings were held in major cities and meeting venues were provided by the Attorney-General's Department in Canberra, the Chief Justice at the Commonwealth Courts Building in Melbourne and the Family Law Courts in Sydney, at no cost to Council. Council would like to thank those who provided meeting venues. Council's costs form part of the 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. 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>.

2010 – 30 June 2013

- Advice on the Attorney-General's Department's Binding Financial Agreement Issues Paper (May 2013)
- Advice on the establishment of a Royal Commission into Institutional Responses to Child Sexual Abuse (November 2012)
- Advice on International Parental Child Abduction proposed amendments discussion paper (June 2012)
- Advice on improving the interface between the child protection and the family law systems (May 2012)
- *Improving the Family Law System for Aboriginal and Torres Strait Islander Clients* (February 2012)
- *Improving the Family Law System for Clients from Culturally and Linguistically Diverse Backgrounds* (February 2012)
- Advice on Education campaign for Family Violence Bill (December 2011)
- Advice on International Parental Child Abduction - Child Support (August 2011)
- Advice on the decision of *Rastall and Ball* [2010] FMCA 1290 regarding the application of the confidentiality and inadmissibility provisions in the Family Law Act to family dispute resolution intake sessions (June 2011)
- Advice on International Parental Child Abduction (March 2011)
- Advice on Enhanced Family Dispute Resolution (December 2010)
- Advice on confidentiality and inadmissibility in the Family Law Act seeking consideration of broader information sharing and integration across the family law system to deal with family violence and child abuse (October 2010)

2005 – 2009

- *Improving responses to family violence in the family law system: An advice on the intersection of family violence and family law issues* (2009)
- Arbitration letter of advice (2008)
- Mental Health letter of advice (2008)
- Advice on Kinship carers of Indigenous Children (2008)
- Binding financial agreements letter of advice (2008)
- Improving Post-Parenting Order Processes (2007)

- The Answer from an Oracle: arbitrating family law property and financial matters (Discussion Paper) (2007)
- *Statistical Snapshot of Family Law 2003–2005* (2007)
- Advice on Children with Intellectual Disabilities (Regulation of Sterilisation) Bill 2006 (2006)
- Advice on the recommendations made in Council’s 2000 report: Litigants in Person (2006)
- *Collaborative Practice in Family Law* (2006)
- *Relocation* (2006)*
- Advice on the proposed section 64D of the Family Law Amendment (Shared Parental Responsibility) Bill 2005 (2006)
- Advice on the 'Child Paramourncy Principle' in the Family Law Act (2006)
- *Statistical Snapshot of Family Law 2002–2003* (2005)
- A letter of advice provided jointly with the National Alternative Dispute Resolution Advisory Council on immunity for family counsellors and family dispute resolution practitioners under the Family Law Act (2005)

2000 – 2004

- *Recognition of traditional Aboriginal and Torres Strait Islander child-rearing practices. Response to Recommendation 22: Pathways Report, Out of the Maze* (2004)
- *The Legal Practitioner’s Guide* (2004) produced with the Child Support Agency and the Family Law Section of the Law Council of Australia
- *The ‘Child Paramourncy Principle’ in the Family Law Act* Discussion Paper (2004)
- *Operation of Division 11 of Part VII of the Family Law Act 1975* (Letter of Advice to the Attorney-General) (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)
- *Pathways for Children – A review of children’s representation in family law* (2004)
- *Best Practice Guidelines for Lawyers doing Family Law Work* (2004)
- *Family Law and Child Protection* (2002)
- *Statistical Snapshot of Family Law 2000-01*
- Advice on Recommendation 109 ALRC Report - Managing Justice (2001)
- *Cultural-Community Divorce and the Family Law Act 1975* (2001)
- *The Best Interests of the Child? – The Interaction of Public and Private Law in Australia* Discussion Paper No 2 (2000)
- *Litigants in Person* (2000)
- *Parenting Plans* (2000)

1995 – 1999

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

1990 – 1994

- *Parent child contact and the Family Court* Issues Paper 14 (1994) Joint Issues Paper with the Australian Law Reform Commission
- *Sterilisation and Other Medical Procedures on Children* (1994) *
- *Female Genital Mutilation* (1994) *
- *The Operation of the (UK) Children Act 1989* (1994)
- *Comments on the Report of the Joint Select Committee on the Operation and Interpretation of the Family Law Act* (1993)
- *Choices - A Paper on Superannuation* (1992)
- *Section 64A of the Family Law Act* (1992)
- *Interaction of Bankruptcy and Family Law* (1992) *
- *Family Mediation* (1992) *
- *Patterns of Parenting After Separation* (1992) *

1985 – 1989

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

1980 – 1984

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

1976 – 1979

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

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

APPENDIX B: COUNCIL COMMITTEES 2012-2013

When needed, Council can choose to form committees to address the workload of Council. Members and observers to Council can assist in committee work.

To help progress discussions on the issue of flagging risks to judges about family violence and other matters, a sub-committee was formed for the February 2013 meeting. The sub-committee discussed ways to flag risks and share information between the family law system and state and territory child protection systems. This resulted in a letter to the department in April 2013.

Members of the sub-committee were:

- Judge Kevin Laphorn (Convenor)
- Ms Jennie Hannan
- Ms Elizabeth Kelly (by phone)
- Ms Kylie Beckhouse
- Mr Geoff Sinclair

APPENDIX C: COMPLIANCE WITH ANNUAL REPORT GUIDELINES

The following information is provided in compliance with the Department of Prime Minister and Cabinet's 2013 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* (the Act), 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.

Paragraph (11), 'For the purposes of this section, a Federal Magistrate is taken to be a judge' was repealed in April 2013 to incorporate the amendment to the title change from the Federal Magistrates Court to the Federal Circuit Court.

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 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 2011 – 2012* was tabled in the Senate on 17 October 2012.

Advertising and market research

The Council was not involved in any advertising or market research activity during 2012-13.

Access to information

The Family Law Council is an agency for the purposes of the *Freedom of Information Act 1982* (FOI Act) and is required to comply with the requirements of the FOI Act relating to the Information Publication Scheme (IPS). Council prepared its Agency Plan in accordance with subsection 8(1) of the FOI Act. The Agency Plan is available on Council's web page on the Attorney-General's Department's website <<http://www.ag.gov.au/flc>>. The following information is provided under section 8 of the FOI Act. The Council's operation is open to external scrutiny.

Council's Secretariat maintains the Family Law Council's web page on the Attorney-General's Department's website <<http://www.ag.gov.au/flc>>. Electronic access to the work of Council is available for Letters of Advice, Submissions, Reports to the Attorney-General and Annual Reports.

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. Submission invitations are also found on Council's web page on the Attorney-General's Department's website <<http://www.ag.gov.au/flc>> when applicable.

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) minutes of Council and Council committee meetings
- (e) papers prepared for regular meetings of Council
- (f) correspondence
- (g) documents relating to internal administration and management
- (h) research notes and papers prepared in Council's Secretariat or provided to the Secretariat, and
- (i) 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 an internet presence. Council's pages contain a range of Council reports, including annual reports, documents and information. The home page may be viewed at <<http://www.ag.gov.au/flc>>.

Hard copies of recent reports, including this annual report, discussion papers and letters of advice to the Attorney-General (categories (a), (b) and (c)), may be available on request from the Council's Secretariat and may be inspected in Council's Secretariat in Canberra. Electronic copies of documents and reports are generally available on Council's web page on the Attorney-General's Department's website <<http://www.ag.gov.au/flc>> and can also be provided on request. Supplies of discussion papers are usually discarded after a final report has been released.

Minutes of Council and Council committee meetings (category (d)) may be inspected at Council's Secretariat in Canberra, or where available electronically, on Council's web page on the Attorney-General's Department's website <<http://www.ag.gov.au/flc>>.

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

It is Council's policy to make available publicly copies of submissions (category (i)) 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 (f), (g) and (h)) are kept on Family Law Council files and are maintained for Council by the 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.

Council's Secretariat 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 2012–13.

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

Secretariat - Family Law Council
Attorney-General's Department
3-5 National Circuit
BARTON ACT 2600

Telephone: 02 6141 6666
Fax: 02 6141 5452
Email: enquiries@ag.gov.au

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