



FAMILY LAW COUNCIL
ANNUAL REPORT
2013-14

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



FAMILY LAW COUNCIL

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October 2014

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 2013 to 30 June 2014.

Yours sincerely,

A handwritten signature in cursive script that reads 'Helen Rhoades'.

Professor Helen Rhoades
Chairperson

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YEAR IN REVIEW

This year the Family Law Council continued its work program under the direction of Chair, Professor Helen Rhoades. Council worked on a diverse range of family law issues over the twelve months, concentrating its resources in the first half of the year on the substantial work involved in delivering its report, *Parentage and the Family Law Act 1975*. The report, delivered on 17 December 2013, was in response to terms of reference issued in June 2012 under the former Government. The report provided 19 recommendations to the Attorney-General, Senator the Hon George Brandis QC.

The report provided advice on a range of issues in relation to who is considered to be a parent under the *Family Law Act 1975* (the Family Law Act). Council considered the changes in family structures and the differing ways families are now being formed, the role and meaning of 'parent'. Council considered how the status of the people who are raising children and the way in which the child's family was formed impacted on outcomes for children. Council was appreciative of those who made presentations to Council, participated in consultations and made submissions for Council's consideration. These contributions assisted Council in formulating its views.

Council held three formal meetings during this financial year as well as one teleconference for members to further progress Council's views on the terms of reference on parentage. The formal meetings provided an opportunity for different disciplinary and professional groups and services within the family law sector to exchange information and raise issues of importance. Meeting in the Attorney-General's Department in Canberra on 24 October 2013, the Council and its observer agencies used most of that opportunity to finalise the collective views of meeting participants to ensure the views expressed in the report on parentage did in fact represent the wider community.

Meeting again in the Attorney-General's Department in Canberra on 20-21 February 2014, discussions included topics such as: the AIFS Independent Children's Lawyer Study; expert reports in the family law system; the complexities involved in the case *Stanford & Stanford* [2012] FamCAFC 1; Circuit Courts and the access to family law services in regional areas; family violence and financial disputes; productivity and judicial resourcing, and the resource implications of the Part VII framework. From the wide and varying discussions held at this meeting, Council agreed to write to the Attorney-General, offering suggestions for new terms of reference. Council and its observer agencies welcomed Deputy Chief Justice Faulks to that meeting, where he discussed the Full Court's consideration of the 'special skills' principle in property matters – *Kane & Kane* [2013] FamCAFC 205.

Professor Rhoades met with the Attorney-General in May 2014 to discuss Council's suggested topics for its next terms of reference. Although no reference was issued before the end of the reporting year, a number of issues were being considered for Council to undertake.

The discussion with the Attorney-General helped to inform the third formal meeting of Council, held in the Commonwealth Law Courts Building in Brisbane on 19-20 June 2014. Council and representatives from its observer agencies discussed a broad range of topics including: issues raised in correspondence about the models of family law mediation currently being used in Victoria Legal Aid and Legal Aid NSW; the Australian Institute of Family Study's research on family violence; family violence clinical training modules; self-represented litigants in family law matters; managing children's cases involving vexatious proceedings; the Federal Circuit Court's Reconciliation Action Plan, and the Government's deregulation agenda.

Through letters to both the new and former Attorneys-General, Council raised a number of continuing or emerging family law system issues. Those issues included: the protection of vulnerable witnesses in family law proceedings; Council's interest in having a principles-based simplification of Part VII of the Family Law Act; the need for enhanced integrated service delivery to family law system clients; management of cases involving clients with mental illness, and examining how the family law system might better address the needs of children and families affected by family violence in relation to post-separation financial disputes.

Council also wrote to the Human Rights Children's Commissioner to thank the Commission for its input to the Council's terms of reference. Council reinforced its intention to improve collaboration between the Commonwealth family law system and the State and Territory child protection systems to contribute to achieving the best outcomes for children and expressed willingness to work with the Commission in that regard.

Council's continuing commitment to improve the family law system for Aboriginal and Torres Strait Islander clients was supported through engagement with Mr Warren Mundine. Council welcomed him to his new role as Chairman of the Prime Minister's Indigenous Advisory Council and expressed its interest in canvassing his views on family law and the issues that affect Aboriginal and Torres Strait Islander families. Council also hosted Judge Josephine Willis from the Federal Circuit Court at its June 2014 meeting to talk about the Court's Reconciliation Action Plan. Judge Willis thanked Council for its 2012 report on *Improving the family law system for Aboriginal and Torres Strait Islander Clients*, as Council's report helped the Court in formulating its Plan.

Council member, Ms Colleen Wall, presented a paper at the February 2014 meeting written by Aqua Dreaming Ltd that raised issues of significant traditional importance to Aboriginal people. The work done by Aqua Dreaming Ltd was helpful to Council and its observer agencies, as it provided a deep insight into the impediments and challenges faced by Aboriginal people engaging with the family law system. The work articulated a number of issues to be considered when developing expert reports for use in the family law system.

Ongoing engagement with agencies whose functions are impacted by family law issues is important to Council, as it ensures better outcomes for families across Australia. This was particularly highlighted this year during Council's work on its fifth term of reference (report delivered in December 2013), to consider *whether the Family Law Act could be amended 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 purpose of Commonwealth law*. The Council was assisted by the Departments of Foreign Affairs and Trade and Immigration and Border Protection, to help formulate its views in responding to the reference. Through meeting with each agency, first-hand exchanges of experiences in the family law system were facilitated. Council understands these discussions were of benefit to all meeting participants.

Council also engaged with other relevant agencies affected by family law issues through input it provided to the National Plan Secretariat on the *National Plan to Reduce Violence against Women and their Children 2010-22 – submission to inform the development of the Second Action Plan* and to the Government's Inquiry on the *Child Support Program*.

Early in the year, the Council engaged with the Chief Judge of the Federal Circuit Court, Chief Justice of the Family Court of Australia and the Chief Judge of the Family Court of Western Australia on matters relating to the identification of impacts that changes to legal aid eligibility requirements have had upon the family law system in light of changes to the legal

aid eligibility requirements in Victoria and Tasmania. Council welcomed the input from the heads of jurisdiction.

The depth and breadth of the issues addressed throughout the year assisted Council in performing its function as outlined in s115 of the Family Law Act – being *to advise and make recommendations to the Attorney-General on the workings of the Act, Legal Aid and other family law matters*. This function also 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*’.



The Family Law Council and representatives of its observer agencies meeting with Judge Josephine Willis to discuss the Federal Circuit Court’s Reconciliation Action Plan - 19 June 2014

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 2013-2014 were as follows:

NAME	POSITION	DATE OF CURRENT APPOINTMENT	EXPIRY OF TERM
Professor Helen Rhoades	Melbourne Law School, University of Melbourne, Victoria	9 July 2013	8 July 2016
Judge Kevin Laphorn	Federal Circuit Court, Queensland	9 July 2013	8 July 2016
Dr Rae Kaspiew	Senior Research Fellow, Australian Institute of Family Studies, Victoria	9 July 2013	8 July 2016
Mr Jeremy Culshaw	Partner, Culshaw Miller Lawyers, Western Australia	9 July 2013	8 July 2016
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
Ms Elizabeth Kelly	Deputy Secretary Attorney-General's Department, Australian Capital Territory	6 June 2011	Resigned 18 Sept 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.

Council saw a significant change to agency representatives during the year. Mr Khanh Hoang from the Australian Law Reform Commission attended his final meeting in October 2013, as did Justice Susan Duncanson from the Family Court of Western and Council welcomed the return of Magistrate (and Principal Registrar) David Monaghan as the new representative for the Family Court of Western Australia following the October meeting. Mr Steve Hackett's last meeting as the representative for Family & Relationship Services Australia was in February 2014 and Ms Sue Holmes temporarily returned to Council for the June 2014 meeting (after a ten year break) as the Family & Relationship Services Australia representative. Ms Sheree Tierney attended the June 2014 meeting as the new representative from the Department of Human Services - Child Support Policy, replacing Ms Yvonne Marsh.

Meeting participants from the Attorney-General's Department also changed. In July 2013, Ms Tamsyn Harvey became the Assistant Secretary of the Family Law Branch, attending meetings in an ongoing capacity through her responsibilities for family law policy. In November 2013, Mr Greg Manning was appointed as First Assistant Secretary, Access to Justice Division and attended the February 2014 meeting on behalf of the Department.

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
Department of Human Services - Child Support Policy	Ms Yvonne Marsh Ms Debbie Hayer Ms Sheree Tierney
Family Court of Western Australia	Justice Susan Duncanson Magistrate David Monaghan
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

**Family Law Council members and observers
June 2014**



*Front row left to right: Ms Pam Hemphill, Dr Rae Kaspiew, Ms Tamsyn Harvey,
Ms Kylie Beckhouse, Ms Colleen Wall, Ms Jennie Hannan
Middle row left to right: Ms Sue Holmes, Ms Adele Byrne, Ms Sheree Tierney,
Judge Kevin Laphorn, Justice Robert Benjamin
Back row left to right: Magistrate David Monaghan, Mr Jeremy Culshaw,
Mr Phillip Cameron, Professor Lawrie Moloney, Professor Helen Rhoades*

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 webpages on the Attorney-General's Department's website and annual budget.

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, who usually attends Council's meetings. Research, policy advice and drafting support is provided by staff across the Family Law Branch, as required, based on topic or subject area expertise.

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 was assisted by Dr Cressida Limon, a part-time Research Fellow based at the University of Melbourne, supervised by the Chair of Council. Dr Limon completed her work upon delivery of the report, *Parentage and the Family Law Act 1975*, in December 2013.

Committees

When needed, Council can choose to form committees to address the workload of Council. Members and observers to Council can assist in committee work. No committees were formed in 2013-2014.

Relationship with family law organisations and other agencies

It is important to Council that close contact is maintained with other bodies in the family law field as well as bodies that come in contact with the family law system. 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.

Council's Chair, Professor Helen Rhoades met in August 2013 with the (then) recently appointed Chair of the Victorian Coronial Council as well as the Productivity Commission in relation to its inquiry into access to justice arrangements in Australia. Council's Chair also attended the Chief Justice's Forum in November 2013 and on the same day in Sydney, Ms Kylie Beckhouse represented Council at the Productivity Commission's Alternative Dispute Resolution Roundtable.

Council welcomed Deputy Chief Justice John Faulks as a guest speaker at its February 2014 meeting. Chief Justice Faulks lead an interesting discussion on the Full Court's consideration of the 'special skills' principle in property matters – *Kane & Kane* [2013] FamCAFC 205, highlighting a number of sections of the Family Law Act that pose a challenge in considering such cases.

Judge Josephine Willis was invited to speak with Council at the June 2014 meeting on the Federal Circuit Court's Reconciliation Action Plan (RAP). Council's report on *Improving the family law system for Aboriginal and Torres Strait Islander Clients* (2012) helped inform the work done in achieving the Federal Circuit Court's RAP.

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.

Council would like to particularly acknowledge Dr Cressida Limon in her work with the formulation of Council's report to the Attorney-General on its terms of reference on family formation and how the Family Law Act deals with parentage involving artificial reproductive technology including surrogacy. Dr Limon provided invaluable assistance to Council in forming its views on the recommendations made in its report.

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 Attorney-General's Department and family courts in providing their facilities for meetings, as well as the assistance provided, particularly by the court staff, during those meetings.

ACCOUNTABILITY

The following information is provided in compliance with the Department of Prime Minister and Cabinet's 2014 Requirements for Annual Reports to the extent that those requirements apply to the reporting responsibilities of the Family Law Council.

Finance

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 costs form part of the Department's audited financial statements published in the Department's Annual Report.

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. Observer agency representatives attend meetings at their own expense.

During the year, Council's meetings were held in the Attorney-General's Department in Canberra and in the Harry Gibbs Commonwealth Law Courts in Brisbane at no cost for venue hire.

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.

Responsible Minister

The responsible Minister is the Attorney-General, who appoints the Chairperson and members, and 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 2012 – 2013* was tabled in the Senate on 23 October 2013.

Advertising and market research

The Council was not involved in any advertising or market research activity during 2013-14.

Privacy Policy

As the Council is supported by a secretariat based in the Attorney-General's Department in Canberra, the collection, use and storage of personal information is managed in line with the Department's Privacy Policy and in accordance with the *Privacy Act 1988*.

Access to documents

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 on that website 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.

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 FOI 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 Chairperson of Council is authorised to refuse access to documents.

There were no requests made to the Council for access to Council documents under the Freedom of Information Act during 2013–14.

The information officer for the purposes of requests under the FOI Act and for general inquiries is:

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

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

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

APPENDIX A: COUNCIL PUBLICATIONS

Reports and papers

In addition to its Annual Reports, Council has produced 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 2014

- *Parentage and the Family Law Act 1975* (December 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 Paramountcy 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 Paramountcy 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: ENABLING LEGISLATION

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, family counsellors, family dispute resolution practitioners 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.