

Relationships Australia Northern Territory welcomes the opportunity to provide feedback to the Family Law Council regarding this important issue. Clients accessing family law services in the Northern Territory are faced with specific challenges related to living in this region.

The remoteness is a significant issue with many families moving to the NT on short term contracts and finding themselves separated from family support when relationships begin to unravel. The remoteness and size of many communities can also make it difficult to access adequate services, particularly when negotiating family law matters.

Statistics regarding the severity and prevalence of domestic and family violence in the Northern Territory is alarming, with more than 60% of assault offences being associated with domestic violence. Indigenous women are particularly vulnerable to this, and make up 73% of domestic violence victims in this region (NT Government, Dept. of the Attorney-General and Justice 2015, *Domestic and Family Violence Reduction Strategy*).

Child abuse is also a significant issue in the Northern Territory, with notifications going up 29.7% between 2012-13 and 2013-14. The poverty and social disadvantage experienced by many Aboriginal communities contributes to the prevalence of child abuse or neglect being significantly higher for Indigenous NT children, with child abuse notifications of 46.1 per 1,000 Aboriginal children compared with 4.4 per 1,000 non-Aboriginal children in the 2013-14 period (Australian Institute of Family Studies 2015, *Child protection and Aboriginal and Torres Strait Islander children*, CFCA Resource Sheet— September 2015).

The Aboriginal and Torres Strait Islander population of the NT face significant challenges in accessing family law services. Many reside in remote communities with limited facilities and access to language translation and support to negotiate the complicated legal process is often unavailable.

Family law service professionals at Relationships Australia are accustomed to managing many complex and high risk matters. Their professional knowledge and expertise has been drawn upon to inform this submission.

How can the exchange of information between the family courts and family relationship services (such as family dispute resolution services, counselling services and parenting order programs) be improved and facilitated in a way that maintains the integrity of the therapeutic service provision?

- Relationships Australia Northern Territory family dispute resolution practitioners consider that the existing information exchange arrangements between the family courts and family relationship services are adequate. If improvements to information exchange were to be enacted that result in reducing the level of confidentiality in family dispute resolution sessions this is likely to impact the integrity of the therapeutic service provision in a significantly negative way.

Clients are in an extremely vulnerable state when they present for Family Dispute Resolution. They have a lot of anxiety about the process and the success of the mediation is often based on the rapport a mediator can build with them.

Any information about safety concerns are discussed at the intake and assessment stage. If a Family Dispute Resolution Practitioner (FDRP) has concerns for anyone's safety mandatory reports are made to the relevant authorities at this point. FDRPs do not investigate claims or do any forensic work regarding these matters, it is simply as reported to them by the client.

For the confidentiality and inadmissibility provisions to be repealed any information provided to the courts would not be based on a thorough investigation, rather they would simply be based on what has been disclosed by the client. Information regarding serious matters is more appropriately available from the relevant agencies FDRPs make mandatory reports to, based on a more thorough investigation.

In an adversarial case clients will invariably note in their affidavits to the courts any concerns they have about the other party in relation to the safety of the children. It seems much more relevant to gather the information from a primary source.

- In terms of information from other service providers to FDRPs, the relevance of such information has limited value because the work FDRPs do in mediation is directed by the clients themselves, rather than the mediators. Therefore even though an FDRP may have access to information, their role is not directive in terms of the arrangements. If a matter has come to Family Dispute Resolution it is because an assessment has been made that both parents have the capacity to make decisions regarding the care of the children. So while FDRPs can flag concerns about the children's safety and well-being, the final decisions lie with the parents.
- As the community becomes increasingly aware of the ongoing impacts of trauma, it could be beneficial for those working in family law services to be provided with trauma-specific training on a national level.

What opportunities exist for ensuring the early assessment of risk to children in family law matters?

- Family Dispute Resolution Practitioners and Child Consultants often identify children at risk, and are mandated to report these concerns under state/territory child protection legislation. The local child protection authorities then investigate matters further. It would be more prudent therefore for information on children at risk to be sourced from child protection agencies to receive a forensic perspective rather than the word of mouth information given to FDRPs.
- Unfortunately the reports mentioned above are often provided to an already overloaded child protection system. More resource allocation and recognition of the needs of these agencies would benefit all those relying on their information.

How can services such as child protection departments, mental health, family violence, and drug and alcohol services make relevant information available to the courts to support decision-making in cases where families have complex needs?

- Because of the high rates of domestic violence and child abuse in the NT, we support the courts continuing to have access to information from crisis service providers such as child protection, domestic violence and mental health services.
- Is there potential to broaden and more strongly articulate and use the role of the separate child representative within the court system? This could be used in advocacy and presentation of some of the important information that might assist a child's voice be heard in terms of impact of issues such as substance abuse, mental health and family violence etc. If changes were to be implemented this could make the pathway clearer for FDRPs and Child Counsellors to share information with a confidence around what is used and how it would be introduced to the court. Below is some information on how this role is used in other jurisdictions:-

In July 2015, Kylie Beckhouse, on behalf of the Australian Institute for Family Studies prepared a presentation on Representing Children in Legal Proceedings – Learnings from the US, Canada and the UK.

There were a number of significant differences in approach between some of these nations and Australia, which were in part –

- a. A safety assessment very early in the life of a matter which involved active evidence gathering for courts within 60 days of a matter coming to court.
- b. To team social workers with lawyers to address the educational, social and psychological issues that arise within a legal matter, and support the family through the process. This is a significantly different approach to Australia's method of utilising child representatives and family consultants.
- c. Having more professionals involved in the tasks of gathering evidence of a child's life, taking on the brokering role in case management, and ensuring the voice of the child is heard.

A transcript of the presentation can be found at <https://aifs.gov.au/cfca/audio-transcript-representing-children-legal-proceedings>.

A copy of the slide show can be found at https://aifs.gov.au/cfca/sites/default/files/Representing_children_in_legal_proceedings.pdf

What services are needed to support families and children who use the family law system where child safety concerns are identified?

- Relationships Australia in Alice Springs has forged strong links with New Ways for Families in the USA. This organisation is using a conflict resolution model in the US where judicial staff and judges in particular are trained to work with high conflict families (also usually high risk families) and have a process whereby judges make parents accountable for demonstrating incremental changes to their method of interacting.

More information on this model can be found at <http://www.newways4families.com/Published-Articles/judges-structure.html>

- It is important that judges and judicial staff are aware of the up to date support services currently available in their local communities in order to make informed decisions / referrals.

How can interaction between the family courts and relevant services, including child protection departments, family violence, mental health services, drug and alcohol services and support services for Aboriginal and Torres Strait Islander families, be enhanced?

- The 'Improving the Family Law System for Aboriginal and Torres Strait Islander Clients' Report' (2012) prepared by the Family Law Council recommended a range of actions be implemented in the domains of culture, structure, law reform and application. Some of these recommendations appear to have been adopted, however several remain outstanding.

Community Education – Providing culturally appropriate, understandable and accessible information on the justice system and rights and responsibilities under the law.

Promoting Cultural Competency – Developing a consistent cultural competency framework for the family law system.

Building Collaboration and Enhancing Service Integration – the creation of a roadmap of services for families in the family law system.

Early Intervention and Prevention – the development of strategies that assist families to access intervention services early in the development of relationship difficulties.

Building an Aboriginal and Torres Strait Islander Workforce in the Family Law System – an increase in the number of Aboriginal and Torres Strait Islander professionals in the court system.

Family Consultants and Liaison Officers – Further funding for Indigenous Family Consultants and Liaison Officers.

Access to Court, Legal and Family Dispute Resolution Services – A review of accessibility and appropriateness of court and family law services, particularly to those in remote locations.

Interpreter Services – strategies to improve access to interpreter services.

Torres Strait Islander Customary Adoption (Kupai Omasker) – Recommendations for action on this matter was dependent on the outcome of the Queensland Government enquiry into Kupai Omasker.

What opportunities exist for developing integrated responses to families with complex needs who use the family law system?

- For the needs of those in the CALD communities is there a possibility of engaging more with community elders and providing information and education on parenting programs, child protection laws etc.?
- For any integrated responses that are developed, how will these be provided to remote and rural clients?

How might a more co-ordinated legal system for families with complex needs be created?

- In 2012 the NT Government introduced the Family Safety Framework in Alice Springs, and are currently rolling it out in the Darwin region. This is an action-based integrated service response to current high risk clients which is case managed by the police force. While at this stage it is not pitched at family law services, it does however benefit some of the family law clients with multiple needs.

The Family Safety Framework provides case management and some information sharing between police, hospitals and medical clinics, courts, NGOs, child protection, housing, schools, and correctional services. There may be aspects of this model which are translatable to the needs of the courts.

More information on the Family Safety Framework can be found at <http://www.pfes.nt.gov.au/Police/Community-safety/Family-Safety-Framework.aspx>.