

FAMILY LAW COUNCIL DISCUSSION PAPER – RESPONSE

1. Exchange of Information between Family Courts and family services:

a) The kinds of information that may be conveyed to the Family Courts:

- Physical violence that hasn't been reported to the police services and so cannot be discovered through subpoenas
- Other forms of family violence, such as, emotional, sexual, financial
- Attitude of parents to their children and any likely unreported aggression/abuse towards the children
- Drug and/or alcohol abuse
- Anger management requirement
- Psychological services referral.

b) Further information in a s60-I certificate:

Should any of the issues in a) above surface in FDR then acknowledgement of their existence could be included in a short questionnaire attached to the certificate.

c) Observational reports:

In a questionnaire format to reduce likelihood of a breach of privacy and to provide consistency between the reporting agencies.

d) Other possible ways:

A client could be made aware that information provided could be provided to the courts and/or shared between agencies. However, if a recommendation is made for individual counselling/therapy then this will retain traditional privacy boundaries.

2. Risk Assessment and the Family Law System (opportunities existing for early assessment of risk to children in Family Law matters)

a) Screening Tools:

A standard screening tool such as the DOORS system would facilitate the exchange of basic information discussed in 1. above.

The resulting report could be attached to a s60-I certificate so providing basic information to the courts.

b) A standard screening tool, when the results are discussed with the parties, might have the benefit of encouraging the parties to seek the necessary assistance to achieve a resolution outside the court system.

- c) Should a DOORS type system be initiated the requirement would probably have to be mandated through legislation and practitioners may be required to attend a short training course to ensure some standardisation of reporting.

3. Services outside the family law system: information sharing.

With regard to those matters that come within the parameters of Child Safety Agencies the two papers by Richard Chisholm referred to in the Discussion Paper cover in depth methods of enhancing communication between family courts and child safety agencies.

However, families with complex needs but with one parent willing and able to act protectively for the child, may not enter the court system and hence not come under that protective umbrella.

Should a Collaborative Process be adopted to assist families with complex needs stay out of the court system, an information sharing system between the agencies would benefit the clients.

To protect privacy rights such a system might require a two tier involvement by the agencies. The first tier being the Family Law matter where the clients will provide authority for agencies to share information on their matter. The second tier will be personal counselling as advised by the agencies and necessary for the progress of the matter that will remain under Privacy agreements.

4. Supporting Children where safety concerns are identified:

For those families where only one parent poses a risk to the children and child protection agencies do not become involved, certain protections need to be initiated to ensure the safety of the children.

- Access to the children by the parent failing to protect the children needs to be limited. Currently this is done through the court system or by the protective parent acting unilaterally:
- Provide s60-I providers with the ability to refer parties to support courses (PPP, Anger Management etc) prior to issuing a s60-I certificate. The certificate can then indicate compliance or non-compliance by one or both parties:
- Ensuring adequate financial support for agencies providing the required support services:

5. Services outside the Family Law System (enhanced interaction between providers and the family courts)

- On presentation to the FDR provider the client may be required to complete a questionnaire to discover any current or previous involvement with child protection, family violence, mental health, drug and alcohol support services and sign an authority for these agencies to exchange information. Should authority be withheld, then, the courts could be advised of this on the s60-I certificate.
- A case co-ordinator would need to be appointed as liaison between the agencies.

6. Integrated Responses for Families with Complex Needs

- Potential benefits to clients
- It is suggested that the assessment process (discussed at 2. above), would likely reveal the matters that are suitable for simple resolution through mediation and those that may need a more complex process.

- The assessment process will also have the additional benefit of providing authority to the practitioners when advising parties of the need to meet requirements such as counselling, PPP courses or other similar courses.

- **The Collaborative Process**
It is proposed that a Collaborative Process be adapted to respond to the needs of the parties with complex issues and that, if deemed appropriate by the primary agency (eg the agency initiating the process) parties are required to attend support services before a s60-I certificate is issued.
- Agencies would be assisted by changes in the Family Law Legislation to require parties to participate in a collaborative process prior to the issuing of a s60-I certificate.

It is proposed the system may operate in the following way:

- A party attend an agency or law firm following a relationship breakdown
- A DOORS style assessment takes place
- If the assessment shows low conflict and minimal social needs then the matter could proceed through the normal channels of negotiation or mediation. Should these parties not reach agreement a further assessment may need to be undertaken by the FDR provider prior to applying to the courts
- If high conflict and/or abuse is registered then the parties will be required to attend various professionals trained in the collaborative process, to resolve issues
- Should the assessment indicate that the children of the relationship are in need of protection the initiating agency could be mandated to report the matter to Child Protection Services
- The initiating agency will need to ensure that there is a legal involvement to ensure that any resolution is within the objectives and parameters of the FLA
- There may need to be a requirement that such matters are finalised by an Application for Consent Orders and that a copy of the DOORS assessment be attached as a final protection for such parties. Registrars of the Family Court may need to be given the powers to make enquiries of the initiating agency and also to order parties attend a conference with the Registrar to discuss any issues raised.

7. Case Co-ordination for families with complex needs

Once parties have been assessed as 'a family with complex needs' a case co-ordinator could be appointed by the initiating agency. This case co-ordinator would be trained as a liaison with practitioners and the court system and continue through the process to ensure continuity. Such a co-ordinator would also provide stability for the parties and could prevent the overuse of the initiating agencies' services and facilities.