

FAMILY LAW COUNCIL

Mr Des Semple
Telephone: (02) 9335 7989 Chairperson
Facsimile: (02) 9335 8818 Family Law Council
Mobile: 0412 242 442
KPMG
Level 25
45 Clarence Street
SYDNEY NSW 2000

30 October 1998

Dear Attorney-General

ADVICE ON THE TRANSFER OF THE FAMILY SERVICES PROGRAM

You have requested urgent advice from the Family Law Council regarding the proposed transfer of the Family Relationships Services Programs (FRSP) from the Attorney-General's portfolio to the new Family and Community Services portfolio. In considering the matter, Council has examined a number of options and is of the view that the entire program, which is currently administered by the Family Services Branch of the Legal Aid and Family Services Division of the Attorney-General's Department, should not be moved to the new Department of Family and Community Services.

Council recognises that the Administrative Arrangements Orders already provide for the transfer. However, we understand that it is open to the Government to reverse or modify these arrangements.

Council's view is that retaining the programs within the Attorney-General's Department would be more likely to promote the delivery of services in a way that is efficient and effective, and in accordance with the Government's policies. Further, the child contact centres and mediation services which I understand would probably remain in the Legal Aid and Family Services Division of Attorney-General's Department could come to be viewed as the family law arm of PDR while the rest would be viewed as family relationships.

We therefore discuss three options, which are, in order of preference:

- (1) Retention of the FRSP program in the Attorney-General's Department;
- (2) Part transfer through a Service Level Agreement of 2 service activities, Adolescent mediation and family therapy and Family skills training, to the Family and Community Services Department, leaving the four core family law service activities with the Attorney-General's Department;
- (3) Transfer of the FRSP program to the Family and Community Services Department through a Service Level Agreement with the Attorney-General's Department.

The Program

The service activities of the program in question are:

1. Family and children's counselling;
2. Family and children's mediation;
3. Marriage and relationship education;
4. Child contact centres;
5. Adolescent mediation and family therapy;
6. Family skills training.

Programs 1-4 are integral in assisting Australian families at times of breakdown, and uphold government policy of discouraging families from litigation.

Option 1: Retention of the FRSP program in the Attorney-General's Department

Reasons for Council's view

Consistency with government policy

Mediation and counselling are integral to government policy of discouraging litigation. In addition, the marriage and relationship education component, as well as the child contact services, are also integral in assisting Australian families at the time of relationship breakdown. Locating these programs in a large portfolio such as Family and Community Services runs the very grave risk that important links will be lost in the large administrative infrastructure of the new portfolio.

A further dimension of how the proposed change will disrupt government policy relating to the Primary Dispute Resolution (PDR) reforms is also evident. You have laid out your proposals to achieve a more cohesive and integrated approach to PDR services. The proposed relocation threatens to severely disrupt this important agenda. Council has previously advised you in relation to your proposals concerning PDR services and it is the firm view of Council that the proposed changes to the Administrative Arrangements Orders will make your PDR reform agenda much more difficult to implement.

A further reason the Council believes that the FRSP services should not be relocated into the new Family and Community Services Department is because of the need to maintain a very close connection between services provided in the community, non-judicial services provided by the Court and the Government's diversionary strategies. Diversionary strategies work best when they are quite specific in their objectives and are directed by qualified and experienced

personnel. Such strategies do not work when they become generalised or remote from their area of focus.

It should also be noted that the recommendations of To *Have and to Hold*, the recent report of the House of Representatives Standing Committee on Constitutional and Legal Affairs, have informed Government policy in family matters. The current proposal is at odds with these recommendations and the policies flowing from them.

Need to retain an integrated approach

Family law policy is best developed when it is informed by the experience and practice of all aspects of family law. Council understands that this concern is shared by your Department. It has been working on proposals for adjustment and change to address this and to secure greater information flow between the related Departmental functions of family law and FRSP.

The Government's decision to relocate the FRSP will make these connections extremely difficult to secure.

In addition, the integrated quality strategy project (FAMQIS) developed by the Family Services Branch and peak bodies over the past 2 years is at risk. FAMQIS requires at least another 12 months to finalise FAMNET, the second stage, a data collection project for service providers.

The present arrangement within Family Services Branch provides diversionary strategies to a range of family law problems to which mediation and legal aid are integral.

Effect of splitting services

Information, research and services available for the development of a comprehensive and holistic family law policy are best used where associated aspects of programs are collocated. Consistency and standards between programs must be retained. Service providers will have complicated arrangements in dealing with 2 departments and there could be administrative and accountability problems. Attempts at integration of PDR services will suffer.

Option 2: Part transfer of service activities with a Service Level Agreement

Services Activities 1-4 listed above are fundamental to the way the Court works. In the event that the FRSP is to be transferred, then Council believes that the transfer should be limited to Adolescent mediation and family therapy and Family skills training. These two services would be the most appropriate to transfer to the Family and Community Services Department, leaving the four core family law service activities with the Attorney-General's Department.

The reason for this division between core and non-core programs is that in looking at the overall structure of the programs, it is evident that there is an essential connection of the 4 core programs back to the Family Court which is part of the Attorney-General's portfolio. Through the Court, clients may be referred directly (by court order) or indirectly (by other service providers) to the core service activities.

Option 3: Transfer all of the FRSP programs to the Family and Community Services Department with a Service Level Agreement

Council believes that there is a need for a comprehensive service level agreement between the 2 portfolios which will ensure the continuity of the relevant program and services and protect the very real and essential connection between family law policy and family relationships service delivery.

Further, any such transfer should be done with reference to timing because of the ongoing development of the FAMQIS and FAMNET projects.

If this option is taken, it is essential that the details of the service level agreement be considered by the affected portfolios and that care is taken to preserve the integrity of the FRSP.

SUMMARY

In summary, Council's view is that the FRSP should remain intact in the Attorney-General's Department in order to:

- be consistent with Government policy;
- provide a continuum of services;
- enable early intervention for troubled families.

If any service activities are to be transferred, the core activities (1-4 listed above) should remain with the Attorney-General's Department, and if any or all activities are transferred, a Service Level Agreement must be in place between the 2 portfolios.

Yours sincerely

Des Semple

Chairperson