Evaluation of the Family Relationship Centre legal assistance partnerships program

Final report

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Executive summary

This report presents findings from an evaluation of the FRC Legal Assistance Partnerships Program. The program, which commenced in December 2009, is being funded by the Attorney-General’s Department to enable Family Relationships Centres (FRCs) to partner with legal service organisations so that legal information, advice and assistance may be provided to clients of FRCs.

The evaluation of the program comprised five studies that were implemented progressively between June and December 2010. Data were collected through quantitative and qualitative approaches to address key research questions around the extent to which the program was achieving core objectives relating to the best interests of children, addressing power imbalances and less adversarial dispute resolution, as well as other key objectives. These studies canvassed the perspectives of managers, legal and family relationship practitioners, and clients participating in the program.

The following summary highlights the key themes and issues from the evaluation and provides an overview of the main findings.

Key findings

Overall, the conclusions to be drawn from the evaluation are very positive, and most partnerships are functioning well or very well. Most report high or very high levels of collaboration and enthusiasm for the project, while recognising the need to work through issues arising out of the significant cultural differences experienced by each professional group. The legacy of being hesitant about involving lawyers was evident in some individual statements from FRC staff, and a very small number of partnerships appeared to be functioning poorly, or to be still at the very beginning of development.

Partnerships and effectiveness of services

- Providing legal services was generally rated by legal and family relationship practitioners and clients who had participated in the program as being effective in assisting clients to progress their case.

- The types of services offered and the effectiveness of each legal service varied, but two that were rated as core services were: individual advice sessions (including advice on family violence concerns) and group information sessions. While there was near consensus among professionals and clients about the value and importance of individual legal advice, views on providing general legal information in a group setting were more mixed. Some partnerships reported that this was an important service with strong uptake, while others had had less successful experiences and a few had stopped offering this service altogether.

- There was considerable variation in attitudes and approaches to lawyer assisted FDR. The evaluation found that, at this stage, this service is not offered to a great extent. While most professionals indicated a strong belief in the potential of this service, a range of reasons were given for not offering this service, including the resource-intensive nature of the service, conflict of interest issues and the need to develop an agreed practice model. Some philosophical concerns were expressed by a small number of family relationship practitioners about losing the child focus if lawyers became actively engaged in FDR.

- In partnerships where lawyer assisted FDR was offered, a mixed picture of its effectiveness emerged from data collected from professionals and clients. Some practitioners reported positive outcomes, while others expressed more caution. Only 5 clients (from a non-
randomised sample of 33) reported experiencing lawyer assisted FDR. The qualitative data from these clients revealed experiences ranging from very positive to neutral to somewhat negative. Client feedback, though limited, reinforced other data suggesting that lawyer assisted mediation has considerable potential if well-targeted and supported by clear protocols.

- Conflict of interest issues pertaining to legal practitioners were mostly dealt with satisfactorily in the program. However, in areas where there were limited legal services available, or large distances between services, the availability of a legal service to provide advice in situations of conflict was a concern. Some partnerships reported that it was difficult to secure legal advice for each party and that some clients were disadvantaged, either because no other lawyer was available or because they had to travel significant distances to see a lawyer. Some lawyers reported that FDR staff did not, at this stage, fully appreciate the special conflict of interests issues that arise for lawyers.

**Core objectives**

- From the perspective of staff and managers, there was a very positive assessment of the program achieving its core objectives relating to improving the focus on the best interests of children, addressing power imbalances and assisting clients in less adversarial dispute resolution.

- Legal service managers and staff were more likely than their FRC counterparts to agree that the program was meeting these objectives. The largest difference in agreement rates between these two professional groups was found with respect to the ability of the program to improve the focus on the best interests of children.

**Other key objectives**

- There was also high levels of agreement from the perspectives of managers and staff that the program would achieve other key objectives, such as improving clients’ understanding of the law, better integration of services and more effective dispute resolution. In particular, the proposition that the program would assist clients to better understand the law relating to parenting arrangements was overwhelmingly endorsed, with almost all staff and managers from both FRCs and legal service organisations agreeing that this would be the case.

**Benefits**

- A substantial majority of staff reported positive relationships with their partner organisations and suggested considerable benefits in relation to the program meeting clients’ needs.

- One of the main benefits identified by professionals was that the program contributed to improving cross-professional collaboration and understanding. A majority of staff agreed that the program would improve their capacity to work with practitioners outside their organisation, and evidence gathered in the evaluation pointed to the program assisting staff to gain a deeper understanding of each other’s roles and responsibilities.

- The multidisciplinary approach of the partnerships was also felt to support a more client-focused approach and provide more holistic delivery of services.

- Along with these benefits to professionals and clients, participants also spoke of benefits to the family law system as a whole, emphasising the capacity of the program to reduce the use of an adversarial approach and prevent matters from inappropriately reaching court.
Challenges

- While, interdisciplinary practice was identified as a key benefit of the program, responses from participants also indicated that this aspect of the program involved overcoming some difficulties.
- The most commonly noted challenge was that of working in an interdisciplinary manner when the disciplines themselves had different histories, cultures, roles and responsibilities.
- Resources were generally seen as another important challenge. The success of the program overall has led to high levels of demand for legal services within some centres. A perceived lack of resources was seen as a barrier to the effectiveness of the program in terms of restricting the types of services that could be made available. In some cases, resourcing issues were given as a reason why initiatives such as lawyer assisted FDR could not be offered at this stage. Practitioners from both disciplines, but especially from FRCs, noted that a considerable amount of administrative work supporting the program was essentially unfunded.

Client experiences

- The experiences of clients also contribute important insights into the FRC Legal Assistance Partnerships Program. With only a small number of exceptions, most clients reported positive experiences of their engagement with the FRCs, with clear evidence from around a third of clients interviewed that these positive outcomes were connected to the operation of the partnership program itself.
- Data collected from clients indicate that legal services provided as part of the program fulfilled three inter-related needs. First, it assisted with informing parents of their obligations and responsibilities and, importantly, gave most parents a realistic view of where they stood from a legal perspective. Second, legal assistance supported a number of clients in terms of the advocacy role provided through contact with a partnerships lawyer. This was a source of empowerment for some clients, particularly some women who reported experiencing domestic violence or men who had been unable to negotiate time with their children. Third, legal advice and assistance services assisted parents to better understand the dispute resolution options available to them and which pathway might best suit them.
- Some clients reported frustration with the limited nature of the legal advice provided. These concerns centred around a feeling that they were disadvantaged when the other party was eligible for legal aid and they were not. Some clients reported receiving advice about property and financial matters, while others said this advice was unavailable but would have been useful. There was also frustration that court representation was not available in a limited number of cases, although partnerships lawyers appear to have provided important assistance to clients in these cases by assisting with document preparation.

In summary, the Evaluation revealed high levels of enthusiasm for the program at this relatively early stage of its development. Overall, the conclusions to be drawn from the evaluation are very positive, with most partnerships functioning well or very well.

At the same time, given the significant shift in policy that the program represents, it is not surprising that some concerns were raised in the survey material and in the qualitative interviews. Most of these concerns are evolutionary in nature. They relate mainly to protocols and procedures and an ongoing effort to understand the cultural differences that exist between the two professions. Given the goodwill that clearly exists at present, these concerns are capable of resolution. Some concerns however, go to present and future resource issues, with some participants noting that a perceived lack of resources could restrict the provision of legal services.
as part of the program and limit the effectiveness of the program. The program has great potential to assist:

- those clients for whom FDR is more likely to be successful when supported by a greater level of legal awareness or legal certainty; and
- those who can make use of some FRC services but for whom the mediation process is inappropriate; or unlikely to be helpful in the immediate future.
Chapter 1 Introduction and methodology

1.1 Overview and background

This report outlines the findings of an evaluation of the FRC Legal Assistance Partnerships Program. This Attorney-General’s Department (AGD)-funded program involves Family Relationships Centres (FRCs) forming partnerships with federally funded legal services (community legal services and legal aid commissions) so that legal information, advice and assistance may be provided to clients of FRCs. The program commenced operation in December 2009 with legal service organisations receiving funding totalling $4.2 million to partner with FRCs. The evaluation was conducted from July to December 2010. Broadly, the findings from the evaluation suggest that despite a general acknowledgement of significant cultural differences, there is substantial respect and goodwill between community-based lawyers and FRC staff. We find that the program has contributed to higher levels of cooperation between these two groups and that, not infrequently, this cooperation appears to flow through to the provision of better and more efficient services for clients.

The 65 FRCs that operate around Australia were established as a key part of the 2006 family law reform package, which was intended to bring about wide-ranging cultural change in the way separation was managed. The centres were intended to be a highly visible entry point that operated as a doorway to other services and help families to access these services (Kaspiew et al., 2009). The Legal Partnerships Program was announced in June 2009 and represented a policy change intended to ‘help separated or separating families by providing access to early and targeted legal information and advice when attending Family Relationship Centres’ (McClelland, 2009). Overall, the program was intended to improve the way the family law system responded to clients by facilitating access to legal advice at an early stage and by increasing the levels of cooperation between different parts of the system.

Perhaps not surprisingly, a variety of operating approaches have been adopted by different partnerships. The main area of variation has been the combination of legal services offered by particular partnerships. Key services include the provision of general family law related legal information and legal education for clients, individual legal advice for clients, legal support in family dispute resolution (FDR), assistance with drafting parenting agreements and consent
orders, and the provision of information about the law and legal processes for FRC staff. On the other side, FRC staff have in a variety of ways assisted lawyers to achieve a more in-depth understanding of child-sensitive interventions in general, and child-sensitive FDR in particular.

The program is situated in a particular policy and practice context that arises from the way various aspects of the family law system have evolved in past decades, together with emerging practice and policy directions. A number of significant issues and challenges highlighted by the evaluation findings eventuate from this context. For this reason, it is necessary to canvass briefly some relevant background issues. A key aspect of this background concerns modes of dispute resolution and decision making in the family law context, with increasing emphasis being placed on non-court interventions over the past two decades. In the current environment, a key intervention is FDR, a term that was adopted as part of the 2006 changes. The Family Law Amendment (Shared Parental Responsibility) Act 2006 (Cth) defines FDR (s 10F) as:

a process (other than a judicial process) (a) in which a family dispute resolution practitioner helps people affected by separation and divorce to resolve some or all of their disputes with each other; and (b) in which the practitioner is independent of all the parties involved in the process.

As noted in the AIFS Evaluation of the 2006 Family Law Reforms (Chapter 5), the term FDR had been preceded by a number of earlier terms, all of which are forms of the more generic concept of family mediation. Increasingly it has been recognised that rather than stemming primarily out of legal questions, most disputes over post-separation parenting reflect at their heart a complex range of psycho-social issues. Given this, it has been recognised within the FRCs that FDR must pay some attention to these issues if resolutions are to be sufficiently robust to respond to the inevitable changes in the circumstances of children and their families. This is one reason why FRCs have routinely adopted a range of what might be called “pre FDR” interventions, such as child-focused information sessions.

A key question that arises regarding these developments is what place lawyers might have in such FRC processes. The Every Picture Report of the House of Representatives Standing Committee on Family and Community Affairs (2003), which helped shape the 2006 reforms, did not address this question because its recommendations pointed to a different set of structures. But the Every Picture Report did advocate a “non adversarial source of assistance to replace (emphasis added) lawyers and courts” (p. 89).

Initial policies concerning the operation of the FRCs meant that legal practitioners were originally excluded from direct involvement with their clients at FRCs (Attorney-General’s Department, 2007). However the 2009 policy change was based on the view that the provision of non-adversarial legal services could facilitate the resolution of parenting disputes (McClelland, 2009). Such a policy change is consistent with some of the findings of the AIFS Evaluation of the 2006 Family Law Reforms, which noted that the aims of legal and service professionals had the capacity to complement or collide with each other.

In its chapter on FDR, the AIFS Evaluation concluded that:

Active engagement between FDR practitioners, family lawyers and other family law professionals is likely to lessen the risk of re-creating between the professionals themselves many of their own clients’ experiences of high conflict and low trust. More broadly, any initiatives designed to promote a shared commitment to responsible FDR between lawyers and FDR professionals, and between lawyers and

1 Protocols for the provision of legal assistance, information and advice in FRCs were also developed by the Attorney-General’s Department. These protocols are attached as Appendix A.
other service sector professionals, are likely to improve the efficacy of services generally, FDR in particular, and the family law system in general (p 110).

The history behind the implementation of the FRCs, and the debate more widely about the respective roles, advantages and disadvantages of legal and social science approaches to dispute resolution in the family law context, raise issues for the operation of the Legal Partnerships Program that are clearly relevant to the findings of this evaluation. The program requires two sets of professionals with quite divergent disciplinary training and practice approaches, and different though overlapping ethical obligations, to work together in an environment that is personally challenging and in which policy continues to evolve.

In common with previous research that has examined the challenges of interdisciplinary collaboration in the family law context (Rhoades, Astor, Sanson & O’Connor, 2008; Dimopoulos, 2010; Kaspiew, et al., 2009), the present evaluation demonstrates that such collaboration involves surmounting significant difficulties. Despite this, the evaluation also reveals that the aims of the Legal Partnerships Program are strongly supported by a sizeable majority of participants on both the legal and social science side of the professional divide.

Issues arising from the interdisciplinary nature of the program are germane to the core questions examined in the methodology for this evaluation. This is described in depth in the next section.

1.2 Methodology and studies comprising the evaluation

The evaluation of the Legal Partnerships Program is made up of five studies that were implemented progressively throughout the evaluation period.

Ethics approval to undertake the evaluation studies was obtained from the AIFS Ethics Committee.

Overall, three critical questions informed the evaluation of the program, namely:

- Are the outcomes reached consistent with the best interests of the children?
- Do the processes adequately address any power imbalances between the parents?
- Are the processes non-adversarial?

Data to address these questions was collected through five separate studies involving qualitative and quantitative approaches that canvassed the perspectives of managers, professionals and clients.

A brief overview of each study is described below.

Study 1—Implementation phases study

Throughout this report when the term ‘partnered legal services’ (or simply ‘legal services’) is used it refers to all legal partners involved in the Legal Partnerships Program. This study had two components. The first component involved open-ended scoping discussions with managers and staff from FRCs and partnered legal services. Legal services partners were Community Legal Centres/Services and Legal Aid Commissions. In addition to delivering similar legal services to the Community Legal Centres/Services, Legal Aid Commissions in NSW and Western Australia also undertook a coordinating function in each state. In some instances, Legal Aid Commissions also provided services in cases where conflict of interest occurred. The second component involved an online survey of FRC and legal services managers.
Component 1 of the implementation phases study—open-ended interviews

In order to gain an insight into how the program was being implemented in practice, members of the evaluation team visited or conducted scoping discussions over the telephone with around ten services and other agencies that were providing legal training as part of the program.

Participants were recruited via email and telephone calls, and discussions were conducted in July 2010. The information gained from these interviews allowed the evaluation team to gain insight into the diverse approaches being applied as part of the program. This information was also important in refining the Managers’ Survey instrument, particularly in further developing questionnaire content around the different types of legal services being offered in the program.

Following this exercise, all managers of services involved in the Legal Partnerships Program were formally invited to participate in the evaluation via a letter that was sent by both post and email. An information sheet explaining more about the evaluation and informing managers of the evaluation’s timeline and where their help was required was also included.

Component 2 of the implementation phases study—Managers’ Survey

The second component of Study 1 sought information from the FRC managers and managers of legal service organisations partnering with these FRCs via an online survey (20–30 minutes in length).

Survey questionnaires were further developed during June to early July 2010 with feedback provided by the Attorney-General’s Department (AGD) and other AIFS researchers incorporated into the survey instruments. The online surveys were developed using the LimeSurvey software program with assistance from AIFS IT and Web Publishing teams. Minor changes to the wording of a few questions were made based on pilot testing of the online instrument by five AIFS researchers not involved in the evaluation. The final survey content covered:

- History of cooperation or relationships between the responding organisation and their partners or similar organisations.
- Information on how the program was being implemented.
- Legal services offered and their perceived effectiveness in assisting clients to progress their case.

The survey also allowed for managers to enter written comments in response to questions probing the benefits and challenges associated with the program, and the factors that facilitated or hindered cooperation between their organisation and their partner.

Leading up to the commencement of the survey, the research team was in communication with managers to notify them of the upcoming Managers’ Survey and to advise them of the timing for the next aspects of the evaluation.

In preparation for the recruitment of participants, the research team also invested considerable effort over June and July 2010 to update the original contact lists with contact details for FRC and Legal Service managers. This involved:

- confirming the contact details of FRC and Legal Service managers and updating new contact details where there had been staff changes; and
- clarifying the specific role of each participating Legal Aid Commission as part of the program.

2 See Appendix B, Attachment 1 for a copy of the final survey instruments.
Through this process the research team identified additional partnerships. This resulted in managers from 106 Legal Service organisations (101 Community Legal Centres/Services and 5 Legal Aid Commissions) and 64 FRCs being invited to participate in the study.

The Managers’ Survey went live online on 11 August 2010 with managers receiving an email containing a link to the website hosting the survey and a password to access the survey. Two reminder emails were sent during August and follow-up phone calls were made to all managers of services who had not completed the survey in early September in order to maximise survey response rates.

The survey was closed on 14 September 2010 with an overall response rate of a little over 85%.

### Studies 2 and 3—FRC Staff Survey and Legal Services Staff Survey

The next two studies in the evaluation involved two online surveys (around 25 minutes in length) seeking information from FRC staff and legal practitioners involved in the program on how effective the partnership services have been in assisting clients.

Draft survey questionnaires were developed during August 2010. As with the Managers’ Survey described above, feedback was sought from both AGD and other AIFS researchers, and survey questionnaires were updated to reflect the comments provided as part of this process.

The Staff Surveys were again developed using LimeSurvey with key questions asked in the Managers’ Survey also being asked in the Staff Surveys to enable comparisons of program effectiveness from the perspective of managers and staff. Also included in the Staff Surveys were survey questions from instruments used in AIFS *Evaluation of the 2006 Family Law Reforms*. These data items provided benchmark data that were compared with those collected in the present study.³

Managers were sent an update email informing them of the evaluation’s progress to date and reminding them of the remaining components of the evaluation being rolled out a few days prior to the start of the Staff Survey. Staff were then recruited to participate via an email sent to their manager that contained a link to the survey website and passwords for up to five staff members to access the survey.⁴ Managers were asked to forward this email to staff involved in the program and to encourage them to complete the survey. Managers could request additional passwords in cases where more than five of their staff were involved in the program. This email also contained a short reminder covering the next study (staff telephone interviews) with contact details if staff wished to participate in a short (approximately 30 minute) interview in relation to their experiences of the program.

The two Staff Surveys commenced on 16 September 2010 and closed on 28 October with reminder emails and phone calls used to maximise participation in the survey. By the closing date, 94 FRC staff and 59 Legal Services staff had fully completed the survey.

### Study 4—In-depth qualitative study of the experiences of FRC and Legal Services Staff

This study offered FRC and legal practitioners from organisations involved in the Legal Partnerships Program the opportunity to be contacted by telephone for a confidential interview of approximately 30 minutes. The purpose of this study was to obtain data capable of generating deeper insights into issues raised in the FRC and Legal Services Surveys of managers and staff.

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³ See Appendix B, Attachments 2 and 3 for a copy of the final survey instruments.

⁴ An additional Legal Partner organisation had been identified at the time of the staff survey, resulting in staff from 107 Legal Service organisations and 64 FRCs being invited to participate in the study.
The interviews canvassed the history of relationships before the program commenced, the legal services being offered and their effectiveness, the level of cooperation between staff at each partner organisation, and the overall effectiveness of the program. Some of the staff interviews were with the managers of services.

Draft interview questions were developed in August 2010. Feedback was sought from both AGD and other AIFS researchers and the instrument updated to reflect the comments provided as part of this process.5

Participants for the interviews were primarily recruited via emails inviting staff to participate in the online surveys, with staff also invited to contact the Institute if they wished to take part in the follow-up interview. Managers were also provided with the opportunity to nominate staff within their services that they believed were best placed to provide information about the program.

Staff from 50 services took part in this study. Interviews were conducted with staff from 25 FRCs and 25 Legal Service organisations between late September and early December 2010. In some interviews, multiple staff from an organisation participated in this component of the evaluation, resulting in 66 participants (36 from FRCs and 30 from Legal Service organisations) completing an interview.

### Study 5—In-depth qualitative study of client experiences

Gathering clients’ perspectives of the program was another important aspect of the evaluation. Information collected from the Study 1 scoping interviews indicated that the models of service delivery across the FRCs vary greatly, and that clients’ understandings and experiences of their interactions with the different components of the FRC would be difficult to interpret using the online survey of clients format initially proposed as part of the AIFS Evaluation design. This is the main reason that this aspect of the evaluation was revised and qualitative data rather than quantitative data collected as part of this component of the evaluation.

The study opted for places greater emphasis on generating in-depth qualitative data from a sample of clients who accessed legal services as part of the program. Clients were invited to participate in a confidential telephone interview (approximately 20 minutes) that covered their circumstances, prior service use, their experience attending a FRC, their experience of receiving a legal service or services that formed part of the Legal Partnerships Program, and their overall satisfaction levels.

Draft interview questions were developed in August 2010. Feedback was sought from both AGD and other AIFS researchers and the instrument updated to reflect the comments provided as part of this process.6

As part of the sequential roll out of the evaluation studies, we began recruitment of clients for interview in late September 2010 after the Managers’ Survey was complete and recruitment for the Staff Survey and staff interviews were well advanced. We then invited managers of both FRCs and Legal Services to help recruit for interview clients who had completed or nearly completed their involvement in the program. The initial request to managers was via email with follow-up via email and telephone as required. We proposed two main recruitment methods but worked with services to adapt the approach to best suit individual services. The two options used were:

1. Sending a service (either FRC or Legal Assistance Service) a client invitation letter and information sheet together with post-paid envelopes for them to address and mail out to 10–

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5 See Appendix B, Attachment 4 for a copy of the final interview topic guide for staff.
6 See Appendix B, Attachment 5 for a copy of the final interview topic guide for clients.
30 clients. The invitation letter informed potential client participants about the evaluation and asked them to contact AIFS directly if interested in participating in an interview.

With the client’s permission, a service could supply us with the names and contact details of clients who had agreed to be approached for a telephone interview.

Fourteen FRCs and four Legal Assistance Services (LAS) volunteered to help recruit clients for interview. Five services chose to use a mail-out to clients (option 1) with 100 letters of invitation sent out in total. Thirteen services opted to contact clients directly with eight of these services providing AIFS with contact details (with the client’s permission, option 2). Five services were ultimately unable to identify clients willing to speak with the evaluation team or did not have any clients that fitted the criteria.

A total of 33 clients who had received services in the Legal Partnerships Program were interviewed between October and early December 2010. Forty-seven clients expressed an initial interest in taking part in the research with 11 clients indicating their interest via the mail-out option and 36 agreeing to be contacted by AIFS by phone or email. Follow-up contact by the research team resulted in just over 70% of clients completing an interview. Fourteen clients could not be engaged (six ultimately declined to be interviewed, six could not be contacted and two were judged by the research team to be too fragile to proceed with an interview).

1.3 Structure of this report

Chapter 2 provides an overview of how the partnerships operate in a structural sense and describes the combinations of services offered. This chapter also covers other issues associated with implementation of the Legal Partnerships Program including professionals’ assessment of the effectiveness of services provided in the program and the way conflict of interest issues are handled. Chapter 3 focuses on the impact of professional and organisational dynamics on the formation and implementation of partnerships.

Chapter 4 examines whether the core and key objectives of the Legal Partnerships Program are being achieved from the perspectives of both professionals and clients who have received services in the program. This chapter also considers whether the program has been effective in cases involving family violence and where issues of mental and physical health and wellbeing are involved. Chapter 5 builds on the findings in the previous chapter by providing further insights on professionals perceptions of the strengths, benefits and challenges of the Legal Partnerships Program.

Chapter 6 examines clients experiences of the Legal Partnerships Program and provides an overview of the issues clients were dealing with, the services they received and their perspectives on whether these services were beneficial.

Finally, Chapter 7 summarises the key evaluation findings and conclusions.
Evaluation of the Legal Assistance Partnerships Program
Indicators of Effective Partnerships and Ideas about Possible Best Practice

Overall, the AIFS Evaluation drew positive conclusions in terms of the effectiveness of organisations partnering together as part of the FRC Legal Assistance Partnerships Program, with most participants reporting very high levels of collaboration and enthusiasm for the project.

Data collected in the evaluation indicates that the six characteristics noted below were strongly associated with highly effective partnerships. The Report did not aim to directly link these characteristics with recommendations about best practice. Following a request from AGD however, we have made a series of brief comments that simply attempt to place these characteristics in a broader context. The comments do not come from a systematic analysis of the data as “best practice” questions were not asked. Rather, the comments are our best attempt to reflect impressions and feedback from practitioners that made intuitive sense to us as researchers. The primary aim of the comments is to create space for considering possible ways forward.

Characteristic 1.

Successful pre-existing relationships with partners and previous experience of working in successful collaborative partnerships.

The evaluation data show that a prior relationship with their partner or similar organisation was a common (though not essential) feature of successful partnerships between FRCs and legal service organisations. Participants spoke of the benefits of close and effective previous working relationships in terms of aiding communication and understanding, which in turn assisted with the effective delivery of legal services as part of the program.

Comment 1.

It was noted that successful pre-existing relationships were also commonly associated with services linked to strong and active family pathways networks. Amongst other things, these networks encourage active facilitated referrals between professionals and between services. It is true that such cross-referrals also occur in locations that do not appear to have a strong family pathways network. But it would appear that where they exist, the networks “value add” to referral processes by promoting interdisciplinary relationships at more than one level. For example, family pathways networks organise social gatherings and seminars with local and external speakers. Some also promote cross-disciplinary case-focused presentations that can be extremely helpful in promoting better understanding of differing roles and responsibilities.

Characteristic 2.

Agreement and clear understanding about roles and responsibilities of each professional in the partnership.

The evaluation strongly suggests that where the differing legal and family relationship roles and responsibilities are clearly understood, partnerships are more likely to work well together in the service of the clients.
Comment 2.

Roles and responsibilities need to be not only formally understood and negotiated, but frequently applied and reviewed in case-related practice. When within the limits of professional confidentiality, legal and non-legal practitioners communicate with each other in the service of achieving the best possible result for particular children and particular family members, opportunities are created for increased inter-professional understanding and inter-professional goodwill. This in turn is likely be of considerable benefit to clients and simultaneously increase practitioner satisfaction.

Characteristic 3.

*Mutual respect and high levels of trust between lawyers and family relationship practitioners that recognise the expertise of each group.*

The evaluation points to trust and respect and ongoing efforts to maintain and promote that trust and respect as key ingredients for a successful partnership.

Comment 3.

There seems to be general recognition that:

- trust and respect do not “just happen” ; it takes time to achieve and can be easily lost
- in a field that of its very nature can be immensely challenging, the achievement and maintenance of trust and respect is therefore an ongoing task
- how each professional group manages and resolves its differences with each other will impact on how differences between clients are managed and resolved

Characteristic 4

*Regular formal and informal communication between partner organisations.*

Not surprisingly, highly successful partnerships had communication protocols that achieved a balance between structure, clarity of purpose, and opportunities for open discussion and innovative practices.

Comment 4.

While many post-separation parenting disputes have a recognisable pattern, each also has a combination of features that is unique to the particular dispute. Thus the dynamics of each partnership must adapt to the needs of each individual case. Regular ongoing good quality communication between the partners would seem to be essential if the partnerships are to continue to deliver the best outcomes at the right time. In addition, with the inevitable changes in staffing and with changes in practice priorities that occur from time to time, creating time and resources for maintaining good communication will continue to be very important.
Characteristic 5

*Client data suggested that recognising the real nature of the dispute and/or prioritising issues so that the most important or most urgent was dealt with first, was an important practice principle.*

This is essentially a question of effective triage to identify the most pressing questions requiring resolution. Legal and family relationship professionals must have the skill and understanding to offer the right help at the right time and to facilitate or support in a timely way, the help that their clients may require from other professionals.

Comment 5

Assisting to resolve many post-separation parenting disputes requires empathy, patience and a clear head. Negotiations can be facilitated in a variety of ways, including FDR. In facilitating such negotiations, an understanding of the impact of differing parenting practices and an understanding of children’s developmental needs is important. Legal advocates can assist in reinforcing these understandings in the advice they give to clients.

In relation to more directly legal questions, there is greater need for more specific professional input and for agreement between the professionals about the primary issue(s) in dispute. Not infrequently (as in the case of disputed fatherhood noted in the Report) the first response almost certainly needs to be a legal one. At the same time, the legal response in such a case needs to be tempered by a recognition that this is also likely to be a highly emotional issue for both parties that will require debriefing, whatever the outcome of the DNA testing.

Characteristic 6

*Client data suggest the need for co-ordination between legal advice and family relationship processes.*

Resolving and managing family law disputes across professional boundaries raises questions not merely of what to do, but of when to do it and how to do it. More specifically, the Legal Partnerships Program has brought into greater relief, the best practice issue of co-ordinating the content, timing and process of legal advice with the content, timing and process of interventions by family relationship practitioners.

Comment 6

Family relationship professionals in FRCs provide advice and support in a context where parents may also be receiving advice from lawyers. It is important that these processes complement rather than cut across each other in any particular case. This requires each type of professional to be aware of the involvement of other professionals and to have an explicit understanding about how the processes can operate constructively together. Inter-professional communication and trust and understanding about roles and responsibilities are crucial ingredients in addressing this important aspect of collaborative practice.

Best practice in this field will require ongoing efforts to appreciate the starting points and processes that characterise each profession. The partnership program draws attention to this in ways that may not previously have been so evident.
Chapter 2 Partnerships: Implementation, services offered and preliminary insights into effectiveness

This chapter provides an overview of:
1. how the legal services partnerships have been implemented in practice;
2. the nature of the services provided;
3. the views of managers and staff about the effectiveness of different services and whether the provision of legal services in this model makes a difference to client outcomes; and
4. the issues and challenges that have been encountered in implementing the Legal Services Partnership Program, including how to identify legal need, the ability to obtain legal assistance and the handling of interest issues.

The material presented in this chapter is drawn from both the quantitative surveys completed by the managers and staff and the follow-up qualitative interviews conducted with them.7

2.1 Structure of partnerships

The FRC Legal Assistance Partnerships Program gives Family Relationships Centres (FRCs) and legal service organisations a significant degree of flexibility as to how set up the partnerships. This flexibility has resulted in a significant diversity in the nature of the partnerships and how they are operating.

FRCs and Legal Assistance Services (LAS) could have more than one partner. About half of FRC managers reported having one legal service partner (51%), 43% reported having two partners and 7% three or more partnerships (Table 2.1). Legal services managers were more likely to indicate having two or more partners (55%) than one partner (45%). Partnerships involving three or more organisations were reported by 23% of LAS managers.

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7 In the Managers’ survey, some managers indicated that one survey response covered multiple partnerships. For data items focused at the organisation level (such as cooperation between the two partner organisations) these multiple responses are excluded from the analysis and only the original survey response is included in the analysis. Where managers were asked to comment on the quality of partnerships (e.g., the ability of their partner FRC to identify the nature of legal services clients require), these multiple responses are included in the cases in which these types of data items are analysed.
Table 2.1  Managers’ reports on number of partner organisations

<table>
<thead>
<tr>
<th></th>
<th>FRC managers (%)</th>
<th>LAS managers (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 partner</td>
<td>50.8</td>
<td>45.3</td>
</tr>
<tr>
<td>2 partners</td>
<td>42.6</td>
<td>31.4</td>
</tr>
<tr>
<td>3 or more partners</td>
<td>6.6</td>
<td>23.3</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100.0</strong></td>
<td><strong>100.0</strong></td>
</tr>
<tr>
<td><strong>No. of respondents</strong></td>
<td>61</td>
<td>86</td>
</tr>
</tbody>
</table>

Notes: Analysis based at the organisation level. Where managers indicated one survey response covered multiple partnerships, these additional responses are excluded from the table.

Source: Managers’ Survey.

Table 2.2 provides information on the number of lawyers who were participating directly in the program as reported by FRC managers and LAS managers.

The most common number of lawyers involved in the program reported by FRC managers is one lawyer (39%), followed by two lawyers (33%) and three or more lawyers (28%). LAS managers were more likely to report that they had one lawyer involved than were FRC managers (45%) and less likely to report having two lawyers (27%) or three or more lawyers (28%).

Table 2.2  Managers’ reports on number of lawyers participating directly in the program

<table>
<thead>
<tr>
<th></th>
<th>FRC managers (%)</th>
<th>LAS managers (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 lawyer</td>
<td>38.6</td>
<td>45.4</td>
</tr>
<tr>
<td>2 lawyers</td>
<td>33.3</td>
<td>26.7</td>
</tr>
<tr>
<td>3 or more lawyers</td>
<td>28.1</td>
<td>27.9</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100.0</strong></td>
<td><strong>100.0</strong></td>
</tr>
<tr>
<td><strong>No. of respondents</strong></td>
<td>57</td>
<td>86</td>
</tr>
</tbody>
</table>

Notes: Analysis based at the organisation level. Where managers indicated one survey response covered multiple partnerships, these additional responses are excluded from this table. Four FRC managers who did not respond to this question excluded from this table. Percentages may not total 100.0 due to rounding.

Source: Managers’ Survey.

Services are provided in a variety of locations, although the majority are provided at FRCs (Table 2.3). In some cases services are provided exclusively at FRCs (reported by 56% of FRC managers and 34% of LAS managers), and some are provided at both FRCs and the LAS (reported by 33% of FRC managers and 41% of LAS managers). Around 17% of LAS managers and only 10% of FRC managers indicated that services are provided exclusively at legal services. An FRC staff member participating in the qualitative interview spoke of the benefits of delivering services at the FRC in the context of this not happening at their service:

What would be great is even if they [lawyer] can allocate themselves here one day a week and this way if we have people dropping in who would need legal advice, why don’t you sit down and have a consultation with … It’d be great to have a one-stop shop really. (FRC staff)
### Table 2.3  Manager’s reports on location of where services were primarily provided as part of the Legal Partnerships Program

<table>
<thead>
<tr>
<th>Where is partnership primarily provided?</th>
<th>FRC managers (%)</th>
<th>LAS managers (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Your FRC or your legal service</td>
<td>55.7</td>
<td>17.4</td>
</tr>
<tr>
<td>Your legal partner/s site/s or your partner FRC site</td>
<td>9.8</td>
<td>33.7</td>
</tr>
<tr>
<td>Both at the FRC and legal partner/s site/s</td>
<td>32.8</td>
<td>40.7</td>
</tr>
<tr>
<td>Outreach</td>
<td>–</td>
<td>1.2</td>
</tr>
<tr>
<td>Other</td>
<td>1.6</td>
<td>7.0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100.0</strong></td>
<td><strong>100.0</strong></td>
</tr>
<tr>
<td><strong>No. of respondents</strong></td>
<td><strong>61</strong></td>
<td><strong>86</strong></td>
</tr>
</tbody>
</table>

Source: Managers’ Survey.

The survey of FRC and LAS managers (administered between August and September 2010) were asked about the length of time the program had been running. The majority of managers said the program had been running for 6 months or more, with 62% of FRC managers and 73% of LAS managers reporting this. A further 31% of FRC managers and 26% of LAS managers reported that the program had been running for less than 6 months, with the remainder answering that they were “not sure” or that the program had “not started yet”.

#### 2.1.2 Partnership functioning

While data from the surveys of FRC and LAS managers show that levels of respect and cooperation between partnered services to be overwhelmingly positive, reports from a small number of survey participants suggest that in these partnerships there is some way to go.

Qualitative data from both the surveys and interviews with managers and staff provide some insights into the circumstances in which partnerships have failed to thrive. The key concern voiced by participants who did not have a positive view of the partnerships was a lack of interest or engagement from the other service. While a number of service providers reported a lack of engagement as an issue at some point, most had been able to still provide some services to clients. However, in one case this perceived lack of engagement had led to no services being provided to clients at the time of the survey.

The solicitor in the FRC/CLC program is extremely cooperative … The same cannot be said for all of the other staff in the CLC … It is shameful. Perhaps the AG should reconsider future funding and allow the FRCs to be funded in this program rather than the CLC, especially as it has a more positive working relationship with solicitors in private practice that the CLC does. If this does not occur we will re-evaluate our involvement with this project in the future. (Managers’ Survey—FRC respondent)

It is important to note, however, that the qualitative interviews also show that in some partnerships a lack of progress in getting the program up and running existed despite considerable enthusiasm and goodwill by both parties. In some cases, there was a sense that despite the best efforts of both partners, the program had failed to engage clients. In these cases, FRCs and legal services were trying to work together to understand their lack of success to date.

Last month I met with them because we weren’t getting any people, any clients. So the Principal Solicitor and I had a meeting with them to discuss to make sure that everything was okay on their part, which we found out that it was … They were all
referring—well advising people that they could come to the centre for legal advice. The general consensus was that they found people had enough. They want to—they’re going through this mediation process. They didn’t want to do another step. They didn’t want to go and get legal advice. They’d just had enough. A lot of people declined because of that fact. (LAS Manager)

2.2 Services offered

2.2.1 Nature of legal services offered

The initial proposals put forward for the partnerships indicated some diversity in approach to the nature and combinations of services offered, and approaches to these issues changed as the program was implemented and client needs became clearer to the organisations.

2.2.1.1 The proposals

The most frequently proposed services were:
- legal information sessions (92%);
- individual legal advice (85%);
- consent orders (65%);
- lawyer assisted family dispute resolution (48%); and
- telephone, email or teleconference consultations (25%).

With regard to lawyer assisted family dispute resolution (FDR), three proposals identified the need to develop a model of practice to be implemented at a later stage. Only one proposal addressed legal assistance specifically for domestic violence, and this also involved development of a case management model for family violence.

Services that were less frequently proposed but planned for delivery were:
- legal information sessions for FRC staff (17%);
- outreach of services to other locations (13%);
- individual legal information sessions (13%); and
- legal advice for parenting plans (12%).

There was no specific mention in the initial proposals of legal advice for protection orders, property and financial matters, or being a sounding board to parents’ lawyers in the proposals initially put forward. However these services were later offered by a number of partnerships as part of the program (discussed later in this chapter in Table 2.4).

The range of services to be offered was negotiated between the parties to the partnership and was influenced by the partners’ views of what constellation of services would best meet the needs of the local community. This is an area where change and development occurred over time and as the program was implemented the partners could gauge the level of uptake and form some view of efficacy:

Then we talked about what else we could do which we came up with a legal information session. So we worked extensively with [our legal partner] and even after we delivered them [the services], what wasn’t working and what was working. So that was great. (FRC manager)
2.2.1.2 Legal services offered in the program

Results from the survey of FRC and LAS managers that went into the field some 7 to 8 months after the start of the implementation of the program highlight some significant differences between expectations and experience in the combinations of services offered. The survey asked managers to nominate what types services were being offered (from a list of 14 options) and to indicate whether they were ‘a core’ or ‘occasional’ service. Managers were also given the opportunity to identify any other legal services that were being offered that were not included in the survey. Table 2.4 shows that legal advice to clients individually was the most commonly offered legal service, with 97% of LAS managers and 93% of FRC managers identifying this service as being offered as part of the partnerships project. A considerable majority of managers regarded this legal service as a core service (75% vs 76% of FRC and LAS managers). An FRC manager whose partner was not offering this service said in an open-ended response box in the Managers’ survey that:

At present [the] FRC doesn’t have legal advice available to our clients as the CLC [community legal centre] we are in partnerships with does not offer this service. We believe that this is a serious gap in client services. (Managers’ Survey—FRC respondent)

Another FRC manager noted that the demand for individual advice was so high that other services could only be offered in a restricted way:

Large demand for legal advice sessions limit the lawyer’s availability for other service. (Managers’ Survey—FRC respondent)

Legal advice on family violence issues (93% and 86% of LAS and FRC managers respectively) and legal information for clients in a group setting (72% of LAS managers and 84% of FRC managers) were two other services that were commonly offered as part of the partnerships. While there was a general consensus that individual legal advice is a core service, there was moderate divergences in views between FRC and LAS managers in terms of the frequency with which legal advice on family violence issues was offered as a core service. Around 60% of LAS managers nominated this as a core service compared to 46% of FRC managers. A contrasting pattern emerges in relation to group legal information sessions, with 63% of FRC managers and 45% of LAS managers rating this as a core service.

While other legal services such as legal information sessions for FRC staff regarding parenting matters, legal service assistance with drafting consent orders and legal advice on protection orders specifically were frequently offered (67–78% of managers identified these legal services as being offered), these were generally offered as an occasional service (35%–56%) rather than core services (14%–38%). There was some difference in the views of LAS and FRC managers, with legal assistance with drafting consent orders being thought of as a core service by 38% of LAS managers and 21% of FRC managers.

The next most frequently offered services were: legal information to individual clients, legal advice on property and financial matters associated with children’s cases, and legal information to FRC staff on how the court system works. The majority reported that these were occasional rather than core services.

In addition, a little over half of the LAS managers (57%) and 49% of FRC managers also noted that assistance with drafting parenting plans was provided—most again reporting this as an occasional rather than a core service. Some open-ended responses suggested this was due to restricted resources and more support for this service would be desirable:
We … believe assistance for clients to have parenting plans made into consent orders would also be beneficial, as this is the most common request from clients, and feedback from local solicitors would indicate that this doesn’t happen once they leave the FRC. (Managers’ Survey—FRC respondent)

Finally, between 18 and 37% of FRC and LAS managers reported running legal information sessions regarding property and financial matters for FRC staff and lawyer assisted family dispute resolution (FDR). The provision of legal services as a sounding board for clients’ existing lawyers was the least frequently offered service with 13% of LAS managers and 23% of FRC managers reporting this service. These activities were overwhelmingly seen as occasional rather than core services.

In terms of lawyer assisted FDR, responses to the open-ended question in the Managers’ and Staff surveys along with qualitative interviews with staff provided greater insights into the effectiveness of this service in partnerships where it was being offered. Overall there was a mixed picture of the effectiveness of this service. Some participants noted positive outcomes:

I think that’s the thing that they found, particularly with the lawyer assisted FDR, is that it was an issue of—there were drug and alcohol issues. That the reality testing that the lawyers could do in real time really meant that the process went towards resolution, rather than getting stuck. (FRC staff)

Well, both clients that I assisted in the two mediations gave verbal feedback to me afterwards that they thought it was a great service. The first one that we did, the parties had already done a mediation previously through the FRC so they had done the process before. They were really grateful that they had the opportunity to have lawyers this time around. They thought that was really helpful so there was a parenting plan that was drawn up after the first mediation. (LAS staff)

Others noted more mixed experiences with lawyer assisted FDR, for example:

The legally assisted FDR sessions are invaluable for some clients, but are not appropriate or advisable across the board—it would not be helpful for this to become the norm. (Staff Survey—FRC respondent)

Further analysis of legal services offered was also conducted, which identified the different models of service delivery being implemented as part of the Legal Partnerships Program (that is, the combination of legal services offered by organisations). The extent of any differences between the different service delivery models was assessed with reference to the program’s core objectives and managers’ ratings of the effectiveness of legal services. As reported in Appendix C, little difference was found in these key outcomes across each of the model types.

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8 This analysis identified four broad models being offered by partnership organisations: Model 1—provision of legal advice and assistance with drafting consent orders; Model 2—provision of legal advice with group information sessions; Model 3—provision of legal advice with professional development of FRC staff; and Model 4—provision of legal advice with lawyer assisted FDR.
### Table 2.4  Managers’ reports on services offered as part of the FRC Legal Assistance Partnerships Program by organisation of the respondent and whether services were core or occasional services (%)

<table>
<thead>
<tr>
<th>Service</th>
<th>Core service (%)</th>
<th>Occasional service (%)</th>
<th>Total offering service (core or occasional) (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>FRC manager</td>
<td>LAS manager</td>
<td>FRC manager</td>
</tr>
<tr>
<td>Legal advice for clients individually</td>
<td>75.4</td>
<td>76.0</td>
<td>17.5</td>
</tr>
<tr>
<td>Legal advice on family violence issues</td>
<td>45.6</td>
<td>60.4</td>
<td>40.4</td>
</tr>
<tr>
<td>Legal information for clients in a group setting</td>
<td>63.2</td>
<td>44.8</td>
<td>21.1</td>
</tr>
<tr>
<td>Legal information sessions for FRC staff: regarding parenting matters</td>
<td>14.1</td>
<td>27.1</td>
<td>56.1</td>
</tr>
<tr>
<td>Legal service assists with drafting consent orders</td>
<td>21.1</td>
<td>37.5</td>
<td>52.6</td>
</tr>
<tr>
<td>Legal advice on protection orders specifically</td>
<td>15.8</td>
<td>24.0</td>
<td>50.9</td>
</tr>
<tr>
<td>Legal information for clients individually</td>
<td>49.1</td>
<td>38.5</td>
<td>24.6</td>
</tr>
<tr>
<td>Legal advice with property and financial matters associated with children’s matters</td>
<td>14.0</td>
<td>28.1</td>
<td>43.9</td>
</tr>
<tr>
<td>Legal information sessions for FRC staff: regarding how the court system works</td>
<td>8.8</td>
<td>22.9</td>
<td>42.1</td>
</tr>
<tr>
<td>Legal service assists with drafting parenting plans</td>
<td>8.8</td>
<td>20.8</td>
<td>40.4</td>
</tr>
<tr>
<td>Legal information sessions for FRC staff: regarding property and financial matters</td>
<td>7.0</td>
<td>2.1</td>
<td>10.5</td>
</tr>
<tr>
<td>Presence of a lawyer to provide assistance in FDR</td>
<td>14.0</td>
<td>9.4</td>
<td>22.8</td>
</tr>
<tr>
<td>Legal service provides a ‘sounding board’ to parent’s own lawyer/s</td>
<td>1.8</td>
<td>2.1</td>
<td>21.1</td>
</tr>
<tr>
<td>Other legal services taking place?</td>
<td>1.8</td>
<td>9.4</td>
<td>7.0</td>
</tr>
</tbody>
</table>

**Notes**  
Responses from four FRC managers who answered this question but also reported that the program had not yet started have been excluded from this table. Percentages are based on responses from 57 FRC managers and 96 Legal Service managers. Percentages may not total 100.0 due to rounding.

**Source:** Managers’ Survey.

When comparing the planned services in the program proposals with FRC and legal services managers’ reports of services being offered, there were some differences of note. These differences were:

- legal information sessions were offered 8-10% less than was proposed;
- individual legal advice was offered 8-11% more than was proposed;
- consent orders were offered 8-9% more than was proposed; and
- lawyer assisted FDR was offered 11-24% less than was proposed.  

Refer to chapter 6, section 6.5 for further discussion of client’s experience of lawyer assisted FDR.
2.2.1.3 Legal services not currently offered in the program

Participants also had the opportunity to indicate in a write-in text box, what services they would like to offer to clients but at this stage didn’t. Responses to this question were received from 24 staff and 43 managers across the legal services and FRCs. Although a range of potential services was raised, by far the largest number of comments referred to lawyer assisted mediation. Most comments indicated a strong belief in the potential value of this option. Reasons for its absence at this stage included funding issues, conflict issues where only one lawyer is present, reticence, a sense of caution, and the need to develop an agreed practice model:

At this stage of the Pilot we have not participated in any mediation due to lack of funding for the other party and also FRC reticence. Recent training with Legal Aid has addressed FRC concerns re lawyer assisted mediation, and we anticipate this part of our Pilot commencing soon. (Managers’ Survey—LAS respondent)

The goal of legally assisted mediation still seems a long way off. There are major issues, re: both human and physical resources; and there is no clear model of best practice. (Managers’ Survey—FRC respondent)

Lawyer assisted mediation still being blocked by FRC. (Managers’ Survey—LAS respondent)

Lawyer assisted mediation would be of assistance to allow clients to make informed decisions during the mediation process. It has not been developed to a stage that can be implemented at this time. (Managers’ Survey—LAS respondent)

We have had significant difficulty in addressing the issue of conflicts of interest as we are a small community and partnered with the Community Legal Centre. This is the reason we are not offering lawyers on site during FDR, though this would be our preference to offer. (Managers’ Survey—FRC respondent)

Legally assisted FDR is not being promoted with clients at this stage because of lack of practitioner resources; also, I have some concerns about the relative lack of family law experience among the community legal service lawyers. (Managers’ Survey—FRC respondent)

The issue of lawyer assisted mediation also arose in the qualitative interviews. These data suggest a range of complex issues influence whether this service is offered or not. It can, for example, be as a time- and cost-intensive intervention. As with collaborative approaches to family law, there are consequences regarding further involvement of private practitioners when FDR is unsuccessful and legal action may be necessary. This quote from an FRC manager speaks to these issues. It also suggests that, at least at the time, some confusion remained about issues such as private lawyers being involved in the partnership and whether or not the role of partnership lawyer would extend to that of formally representing a client:

The other challenge is that while the family lawyers in private practice are aware of the partnerships program, they are hesitant to participate in the program for legally assisted FDR. If they do it means the client cannot be represented by them at a later time according to the protocols, and taking three hours out of their day to participate in legally assisted FDR is a significant amount of time away from their work practice, therefore the client does not receive the immediate benefits and the issue can then delay the process of FDR and attempting to find a resolution. (Managers’ Survey—FRC respondent)

A few professionals see lawyer assisted mediation as muddying the waters and creating areas of ambiguity regarding professional obligations. For example:
No [we don’t do it]. Because it creates issues of confidentiality and who’s the client and what advice has been given and stuff so, yeah, we don’t do that. (LAS staff)

I believe that it could be in legally assisted mediation sessions where boundaries could be blurred in terms of roles, responsibility, process and participation of parties.  
(Managers’ Survey—FRC respondent)

Two further types of assistance were also frequently mentioned as being desirable but not offered, largely for funding reasons. These were advice and assistance with property and financial matters accompanying children’s cases and assistance with court processes for clients whose matters didn’t resolve in FDR. These responses indicated that some clients who weren’t eligible for legal aid, but also were not sufficiently well-off to be able to spend funds on a private lawyer, were disadvantaged:

   Property matters and general issues not to do with separation. (Managers’ Survey—FRC respondent)

   Court representation for clients who do not qualify for legal aid and cannot afford a private solicitor. Often clients are not in a position emotionally due to DV [domestic violence] issues, lack of education, poor literacy, CALD [culturally and linguistically diverse] to run their own matters in court, even if we prepare their documents for them. (Managers’ Survey—LAS respondent)

Services relating to family violence issues were also raised in a range of ways. Most of these responses indicated that legal advice concerning family violence would be desirable and some referred to a need for FRC staff to have further training on family violence issues, especially in the context of identifying matters that weren’t suitable for FDR.

2.2.2 Effectiveness of legal services offered (manager and staff assessments)

This section draws on data from the Manager and Staff surveys to provide insight into the effectiveness of the various services from the perspective of the professionals that provide them. Overall, these data support the positive picture emerging thus far, with consistently positive ratings by managers and staff. Only minor divergences in views are evident between FRC and LAS participants. For each legal service that was identified as being offered as a core or occasional service as part of the program, managers and staff were asked to make an assessment of how effective the service was in assisting clients to progress their case. Respondents could choose from the following options: “very effective”, “effective”, “not very effective” and “can’t say”. Where services were rated as “not very effective”, participants had the option of describing why the service was not effective in an open-ended “write-in field”.

Overwhelmingly, those managers and staff who made an assessment of individual services rated them as either effective or very effective (Tables 2.5 and 2.6). Most individual services were rated as not very effective by fewer than 8% of the FRC and LAS managers and 5% of FRC and LAS staff. The service that attracted the most “not very effective” ratings (10% of LAS managers; 6% of FRC managers and 23% of LAS staff; 7% of FRC staff) related to group legal information sessions, though it should be noted that, as with a number of the other services, a significant

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10 Due to the small number of Legal Aid Commissions participating in the Managers and Staff surveys, it has not been possible to separately report outcomes by Legal Aid Commissions in the data presented in this report. Throughout this report, the responses of Legal Aid Commissions are included as part of the reporting of LAS Managers and LAS Staff data.
proportion of participants (27–30% of managers, 26% of FRC staff and 8% of LAS staff) felt unable to rate the effectiveness of this intervention. Group legal information sessions emerged as an area in which practice has changed over time in some partnerships that experienced limited uptake. This is likely to explain why these were slightly more likely to be rated as “not very effective”.

A view emerged from the qualitative interviews with managers and staff that clients were more interested in obtaining advice that linked to their particular case. For example:

The information sessions died a sad death … We were lucky to get one or two people for the whole four sessions. So they were a disaster. (LAS Manager)

In this case, the partnership decided to end the information sessions and provide more appointments for individual advice.

However, participants also expressed more positive views of the value of group information sessions. A CLC lawyer noted:

But doing the session really affected my client. I think it allowed her for the first time to see it through the other parent’s eyes. Which was something that she had never considered before because she was always so angry at him.

So that I think I found to be really good because in those sessions there are other parents there, so sometimes they actually open up and give you a bit of information about what they are feeling. You know a dad will talk about their frustration or a mum will talk about her concerns, and it really does allow for other parents to really—oh okay, that’s what might happen to my ex, so that has been good. We have had a case where that really did change things, really made them really want to make arrangements for themselves instead of having to go into the court process and ask someone else to make that decision for them. (LAS Staff)

Returning to the data reported in Tables 2.5 and 2.6, the relatively high proportion of “can’t say” responses (between 4% and 55% for managers and 7% to 52% for staff) regarding effectiveness may reflect the newness of these services in the context of FRC–LAS partnerships. It is notable though, that the two services that were most frequently offered and most often seen as core services (see Table 2.4) were relatively unlikely to attract a “can’t say” response from LAS managers and staff. FRC managers and staff were generally more likely than their LAS equivalents to give a “can’t say” response, probably reflecting the fact that the lawyers are the ones actually performing the service and so seeing the effects in the immediate term.

Finally, there is an indication that lawyer assisted mediation may have been offered more frequently at the time of the Staff Survey compared to when managers were surveyed an average of 4 or 5 weeks earlier. It was found in this regard that 44% of organisations in the staff survey reported that lawyer assisted mediation was being offered as a core or occasional service. This compared with 29% of organisations reported on in the Managers’ Survey.\(^\text{11}\)

\[11\] These results are based on analysis of how many organisations were offering this legal service and not the number of staff participating in the survey where this service was offered, as reported in Table 2.6.
Table 2.5 Managers’ views: Effectiveness of services offered as part of the FRC Legal Assistance Partnerships Program

<table>
<thead>
<tr>
<th>Service</th>
<th>Effective/Very effective (%)</th>
<th>Not very effective (%)</th>
<th>Can’t say</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>FRC manager</td>
<td>LAS manager</td>
<td>FRC manager</td>
</tr>
<tr>
<td>Legal advice for clients individually (n = 146)</td>
<td>84.9</td>
<td>93.6</td>
<td>2.2</td>
</tr>
<tr>
<td>Legal advice on family violence issues (n = 138)</td>
<td>63.3</td>
<td>89.9</td>
<td>1.1</td>
</tr>
<tr>
<td>Legal information for clients in a group setting (n = 117)</td>
<td>66.7</td>
<td>59.4</td>
<td>6.3</td>
</tr>
<tr>
<td>Legal information sessions for FRC staff: regarding parenting matters (n = 115)</td>
<td>87.5</td>
<td>86.7</td>
<td>2.5</td>
</tr>
<tr>
<td>Legal service assists with drafting consent orders (n = 112)</td>
<td>59.5</td>
<td>77.1</td>
<td>4.3</td>
</tr>
<tr>
<td>Legal advice on protection orders specifically (n = 110)</td>
<td>55.3</td>
<td>83.3</td>
<td>2.8</td>
</tr>
<tr>
<td>Legal information for clients individually (n = 99)</td>
<td>76.2</td>
<td>91.2</td>
<td></td>
</tr>
<tr>
<td>Legal advice with property and financial matters associated with children’s matters (n = 99)</td>
<td>45.5</td>
<td>78.8</td>
<td>7.6</td>
</tr>
<tr>
<td>Legal information sessions for FRC staff: regarding how the court system works (n = 99)</td>
<td>93.1 (a)</td>
<td>88.6</td>
<td>6.9 (a)</td>
</tr>
<tr>
<td>Legal service assists with drafting parenting plans (n = 83)</td>
<td>64.3 (a)</td>
<td>72.7</td>
<td>3.6</td>
</tr>
<tr>
<td>Legal information sessions for FRC staff: regarding property and financial matters (n = 44)</td>
<td>80.0 (a)</td>
<td>85.3</td>
<td>20.0 (a)</td>
</tr>
<tr>
<td>Presence of a lawyer to provide assistance in FDR (n = 44)</td>
<td>47.6 (a)</td>
<td>73.9 (a)</td>
<td>4.4 (a)</td>
</tr>
<tr>
<td>Legal service provides a ‘sounding board’ to parent’s own lawyer/s (n = 25)</td>
<td>53.9 (a)</td>
<td>66.7 (a)</td>
<td>8.3 (a)</td>
</tr>
<tr>
<td>Other legal services taking place? (n = 29)</td>
<td>80.0 (a)</td>
<td>91.7 (a)</td>
<td>20.0 (a)</td>
</tr>
</tbody>
</table>

Notes: Responses from four FRC managers who reported that the program had not yet started have been excluded from this table. Respondents were only asked about the effectiveness of a legal service if they answered that this service was either a core service or an occasional service. (a) Calculated percentage is based on fewer than 30 respondents.

Source: Managers’ Survey.
### Table 2.6  
Staff views: Effectiveness of services offered as part of the FRC Legal Assistance Partnerships Program

<table>
<thead>
<tr>
<th>Service</th>
<th>Effective/Very effective (%)</th>
<th>Not very effective (%)</th>
<th>Can’t say</th>
</tr>
</thead>
<tbody>
<tr>
<td>FRC staff</td>
<td>LAS staff</td>
<td>FRC staff</td>
<td>LAS staff</td>
</tr>
<tr>
<td>Legal advice for clients individually ( (n = 140) )</td>
<td>81.9 91.2</td>
<td>1.2 1.8</td>
<td>16.9 7.0</td>
</tr>
<tr>
<td>Legal advice on family violence issues ( (n = 124) )</td>
<td>72.9 81.5</td>
<td>3.7 27.1</td>
<td>14.8</td>
</tr>
<tr>
<td>Legal information for clients in a group setting ( (n = 124) )</td>
<td>67.1 68.8</td>
<td>6.6 22.9</td>
<td>26.3 8.3</td>
</tr>
<tr>
<td>Legal information sessions for FRC staff: regarding parenting matters ( (n = 92) )</td>
<td>86.0 80.0</td>
<td>3.5 10.5</td>
<td>20.0</td>
</tr>
<tr>
<td>Legal service assists with drafting consent orders ( (n = 112) )</td>
<td>56.5 76.0</td>
<td>2.0 43.6</td>
<td>22.0</td>
</tr>
<tr>
<td>Legal advice on protection orders specifically ( (n = 107) )</td>
<td>69.4 73.3</td>
<td>4.4 30.7</td>
<td>22.2</td>
</tr>
<tr>
<td>Legal information for clients individually ( (n = 115) )</td>
<td>79.8 86.1</td>
<td>1.3 19.0</td>
<td>13.9</td>
</tr>
<tr>
<td>Legal advice with property and financial matters associated with children’s matters ( (n = 94) )</td>
<td>61.2 73.3</td>
<td>2.0 36.7</td>
<td>22.2</td>
</tr>
<tr>
<td>Legal information sessions for FRC staff: regarding how the court system works ( (n = 71) )</td>
<td>82.5 90.3</td>
<td>17.5 9.7</td>
<td></td>
</tr>
<tr>
<td>Legal service assists with drafting parenting plans ( (n = 86) )</td>
<td>48.9 71.8</td>
<td>2.1 48.9</td>
<td>25.6</td>
</tr>
<tr>
<td>Legal information sessions for FRC staff: regarding property and financial matters ( (n = 35) )</td>
<td>85.0 (a) 80.0 (a)</td>
<td>15.0 (a) 20.0 (a)</td>
<td></td>
</tr>
<tr>
<td>Presence of a lawyer to provide assistance in FDR ( (n = 77) )</td>
<td>59.6 60.0 (a)</td>
<td>1.9 38.5</td>
<td>36.0 (a)</td>
</tr>
<tr>
<td>Legal service provides a ‘sounding board’ to parent’s own lawyer/s ( (n = 31) )</td>
<td>47.6 (a) 80.0 (a)</td>
<td>52.4 (a) 20.0 (a)</td>
<td></td>
</tr>
<tr>
<td>Other legal services taking place? ( (n = 18) )</td>
<td>80.0 (a) 69.2 (a)</td>
<td>20.0 (a) 30.8 (a)</td>
<td></td>
</tr>
</tbody>
</table>

**Notes:** Responses from six FRC staff who reported that the program had not yet started have been excluded from this table. Respondents were only asked about the effectiveness of a legal service if they answered that this service was either a core service or occasional service. (a) Calculated percentage is based on fewer than 30 respondents.

Source: FRC Staff Survey and LAS Staff Survey.

#### 2.2.3 Did the legal services make any difference?

A further means of examining the question of whether the Legal Partnerships Program was making any difference for clients was a question that required respondents (only asked of staff) to indicate their view as to whether ‘the legal services provided to clients as part of the Legal Partnerships Program is important in determining the outcome of their case/dispute’. One of six
responses could be nominated, with further optional opportunity to comment in an open-ended text box. The set response options were: “strongly agree”, “agree”, “neither agree nor disagree”, “disagree”, “strongly disagree”, and “can’t say”.

Again, a generally positive response pattern is evident. Table 2.7 reveals that while majorities of both legal professionals and FRC professionals agreed the legal services played an important role in determining the outcome, legal professionals were more likely to strongly agree. Thus compared to FRC staff, twice the proportion of legal service staff “strongly agreed” that legal services were important in determining the outcome (31% vs 63%). There were only minor differences between LAS and FRC staff in neutral responses.

<table>
<thead>
<tr>
<th>Staff: “In your view, to what extent do you agree or disagree that the legal services provided to clients as part of the Legal Partnerships Project is important in determining the outcome of their case/dispute.”</th>
<th>FRC staff (%)</th>
<th>LAS staff (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly agree</td>
<td>30.9</td>
<td>62.7</td>
</tr>
<tr>
<td>Agree</td>
<td>46.8</td>
<td>23.7</td>
</tr>
<tr>
<td>Neither agree nor disagree</td>
<td>7.5</td>
<td>6.8</td>
</tr>
<tr>
<td>Disagree</td>
<td>3.2</td>
<td>5.1</td>
</tr>
<tr>
<td>Strongly disagree</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Can’t say</td>
<td>11.7</td>
<td>1.7</td>
</tr>
<tr>
<td>Total</td>
<td>100.0</td>
<td>100.0</td>
</tr>
<tr>
<td>No. of respondents</td>
<td>94</td>
<td>59</td>
</tr>
</tbody>
</table>

Source: Managers’ Survey.

Qualitative responses to the question of whether legal services were important in determining the outcome were made by 35 participants. There is a considerable degree of overlap between the issues raised in these responses and the discussion in Chapter 5 Benefits and challenges). The responses indicated that staff believed that with legal advice, clients were able to:
- understand what the law says;
- make informed decision in FDR processes on the basis of this understanding;
- be aware of their rights and obligations under the law and under court orders; and
- understand the court process and likely court outcomes, and be persuaded of the wisdom of reaching a reasonable settlement as a result.

These issues are neatly summarised by one participant:

Clients are made aware of their rights and responsibilities and are thereby empowered to make reasonable and equitable decisions. (Staff Survey—LAS respondent)

2.3 Operational issues

2.3.1 Identification of legal needs

A possible challenge in the context of the Legal Partnerships Program is in the capacity of the professionals that are the first point of call in most instances—the FRC professionals—to identify whether legal advice is in fact necessary. In order to examine this question, managers and staff
were asked to indicate their responses to the proposition that staff at the FRC or partner FRC ‘were almost always able to identify the legal needs of clients’.

The results are positive overall, but LAS managers were less positive about this than FRC managers. Table 2.8 shows that a majority of managers rated the FRCs’ ability to identify the legal services required by clients as good or excellent. However, compared with FRC managers, LAS managers were considerably less likely to provide these ratings (69% vs 98%), and LAS managers also had a broader range of responses with only 21% rating the FRCs’ ability to identify the legal services required by clients as excellent, 48% as good and 22% as average.

Encouragingly however, LAS managers who had been associated with the program for six months or more were somewhat more inclined than other LAS managers to rate the FRCs’ ability as excellent or good (72% of LAS managers where the program had been running six months or more compared with 62%). This suggests that as time goes on, LAS managers may become more confident about their FRC partners in this regard and/or that FRCs may become more skilled in identifying what legal services clients require.

The responses from the professionals “on the ground”, the FRC and LAS staff, indicate less confidence in the ability of FRC staff to identify the legal needs of clients (Table 2.9), although responses are positive overall. Consistent with the manager data, FRC staff were more positive than LAS staff. Strong agreement with the proposition that FRC staff were ‘almost always able to identify the legal needs of clients’ was indicated by 25% of FRC staff compared with 15% of LAS staff. One in five FRC staff and nearly one-third (31%) of LAS staff opted for the neutral response of ‘neither agree nor disagree’. Negative (disagree or strongly disagree) responses were made by 14% of LAS staff and just 2% of FRC staff.

Response patterns to another closely related question to probe the extent to which FRC staff understood when clients would benefit from legal assistance, reinforces these findings. As with the data reported in Tables 2.8 and 2.9, a differential of around 30% was found between the views of legal service staff and FRC staff. Almost all FRC staff (99%) agreed or strongly agreed with the statement: “I have a good understanding of when clients would benefit from legal assistance”. In contrast, 70% of legal service staff agreed or strongly agreed that staff at their partner FRC have a good understanding of when clients would benefit from legal assistance. (Table 2.10).

Together, the discrepancy between manager and staff responses to these questions, and the weaker indications of confidence evident among LAS staff and managers, suggest that this is an area requiring further consideration. The question of identifying legal needs can be quite complex, as the circumstances of many clients mean that a range of issues—including, family violence, children’s matters, property and financial matters—may be pertinent.

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12 Caution needs to be exercised in drawing direct comparisons between managers and staff because of different response options in the surveys.
Table 2.8  Managers’ views on ability of FRC to identify the legal services that clients require

<table>
<thead>
<tr>
<th>Ability</th>
<th>FRC managers (%)</th>
<th>LAS managers (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Excellent</td>
<td>52.6</td>
<td>20.8</td>
</tr>
<tr>
<td>Good</td>
<td>45.6</td>
<td>47.9</td>
</tr>
<tr>
<td>Average</td>
<td>1.8</td>
<td>21.9</td>
</tr>
<tr>
<td>Poor</td>
<td>–</td>
<td>5.2</td>
</tr>
<tr>
<td>Very poor</td>
<td>–</td>
<td>3.1</td>
</tr>
<tr>
<td>Can’t say</td>
<td>–</td>
<td>1.0</td>
</tr>
<tr>
<td>Total</td>
<td>100.0</td>
<td>100.0</td>
</tr>
<tr>
<td>No. of respondents</td>
<td>57</td>
<td>96</td>
</tr>
</tbody>
</table>

Notes: Responses from four FRC managers who answered this question but also reported that the program had not yet started have been excluded from this table. Analysis is based at the partnership level. Where respondents indicated that one survey response covered multiple responses these are included in the analysis.

Source: Managers’ Survey.

Table 2.9  Staff: “I have/The staff at my partner FRC are almost always able to identify the legal needs of clients”

<table>
<thead>
<tr>
<th></th>
<th>FRC staff (%)</th>
<th>LAS staff (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly agree</td>
<td>24.5</td>
<td>15.3</td>
</tr>
<tr>
<td>Agree</td>
<td>51.1</td>
<td>27.1</td>
</tr>
<tr>
<td>Neither agree nor disagree</td>
<td>20.2</td>
<td>30.5</td>
</tr>
<tr>
<td>Disagree</td>
<td>2.1</td>
<td>10.2</td>
</tr>
<tr>
<td>Strongly disagree</td>
<td>–</td>
<td>3.4</td>
</tr>
<tr>
<td>Can’t say</td>
<td>2.1</td>
<td>13.6</td>
</tr>
<tr>
<td>Total</td>
<td>100.0</td>
<td>100.0</td>
</tr>
<tr>
<td>No. of respondents</td>
<td>94</td>
<td>59</td>
</tr>
</tbody>
</table>

Source: Managers’ Survey.

Table 2.10  Staff: “I have/The staff at my partner FRC have a good understanding of when clients would benefit from legal assistance”

<table>
<thead>
<tr>
<th></th>
<th>FRC staff (%)</th>
<th>LAS staff (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly agree</td>
<td>69.2</td>
<td>27.1</td>
</tr>
<tr>
<td>Agree</td>
<td>29.8</td>
<td>42.4</td>
</tr>
<tr>
<td>Neither agree nor disagree</td>
<td>10.2</td>
<td>11.9</td>
</tr>
<tr>
<td>Disagree</td>
<td>11.9</td>
<td>1.7</td>
</tr>
<tr>
<td>Strongly disagree</td>
<td>1.7</td>
<td>6.8</td>
</tr>
<tr>
<td>Can’t say</td>
<td>1.1</td>
<td>6.8</td>
</tr>
<tr>
<td>Total</td>
<td>100.0</td>
<td>100.0</td>
</tr>
<tr>
<td>No. of respondents</td>
<td>94</td>
<td>59</td>
</tr>
</tbody>
</table>

Source: Managers’ Survey.
2.3.2 Ability to obtain legal assistance

There was a high level of agreement from staff that practitioners at the FRC were able to get the legal assistance that clients require, with over 80% of both FRC and legal services staff agreeing or strongly agreeing that this was the case. As described further in Table 2.11, while overall agreement rates were similar between the professional groups, a higher proportion of legal service staff strongly agreed with this statement (56%) compared to the corresponding proportion of FRC staff (39%).

The survey material permitted direct comparison between the responses from staff on this aspect of the program with the responses of managers. The most notable feature of this comparison is the high level of consistency between the views of managers and staff; with the results from the managers’ survey, where over 80% of both FRC and LAS managers also agreeing or strongly agreeing that practitioners at the FRC were able to get the legal assistance that clients required, mirroring the results from the staff survey.

The data from the staff survey was further analysed by how long the program had been running. It was found that a higher proportion of all staff strongly agreed with this statement where the partnership had been running for more than 6 months (50%) compared with staff where the partnership had been running for less than 6 months (39%). Again, these are encouraging findings.

The opportunity to provide further comments in a write-in text box was accepted by 21 LAS manager participants and 16 FRC manager participants. These comments shed further light on the positive responses and also provide some insight into the issues underlying the negative responses. Some comments noted both positive and negative issues. As mentioned earlier, the evaluation data indicate that there is clearly a small minority of partnerships that are not working smoothly. Good referral protocols and processes were frequently referred to in positive responses. Lack of referrals seemed to be an underlying issue in most negative comments. Those who agreed were generally positive but noted some teething problems in getting systems in place or said that a lack of resources could lead to delays. Comments from those who neither agreed nor disagreed tended to also focus on resourcing issues. Some comments also referred to resource constraints meaning that demand was not fully met. The following quotations reflect the type of comments made in the open-ended responses boxes, beginning with the positive, neutral or mixed followed by the negative comments:

We have positive feedback from the FRC about the service we provide to their clients but can’t comment globally on the statement. Also, there is a long waiting list for legal advice and information sessions. (LAS Manager)

Two-way referral service operated effectively. (LAS Manager)

We have maintained a flexible approach to try to ensure this. As resources are limited, it is hard to provide the intensive support some clients might appreciate. (LAS Manager)

I disagree as the FRC are not advising the clients of the full range of services available. (LAS Manager)

Our service has met their commitment to the FRC—they are able to get it but it has not been accessed. (LAS Manager)

We are unable to provide legal advice at one of the FRC’s outreach services due to lack of specialist lawyers in that community. (Managers’ Survey—FRC respondent)
There would always be capacity for additional legal assistance as most on-site clinics always booked out. (Managers’ Survey—FRC respondent)

We are limited in what we can offer (mentioned above). For individual clients, absolutely agree. However, for both parties the challenge remains, particularly with respect to legally assisted FDR. (Managers’ Survey—FRC respondent)

As there is no legal advice available to clients, and no opportunity for legally assisted FDR through the CLC, we believe that more assistance is required. (Managers’ Survey—FRC respondent)

Table 2.11 Staff and managers: Practitioners at the FRC are able to get the legal assistance that clients require as part of the program

<table>
<thead>
<tr>
<th></th>
<th>FRC staff (%)</th>
<th>LAS staff (%)</th>
<th>FRC managers (%)</th>
<th>LAS managers (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly agree</td>
<td>38.6</td>
<td>55.9</td>
<td>40.4</td>
<td>45.8</td>
</tr>
<tr>
<td>Agree</td>
<td>43.2</td>
<td>30.5</td>
<td>43.9</td>
<td>34.4</td>
</tr>
<tr>
<td>Neither agree nor disagree</td>
<td>8.0</td>
<td>5.1</td>
<td>8.8</td>
<td>11.5</td>
</tr>
<tr>
<td>Disagree</td>
<td>5.7</td>
<td>5.1</td>
<td>5.3</td>
<td>4.2</td>
</tr>
<tr>
<td>Strongly disagree</td>
<td>1.1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Can’t say</td>
<td>3.4</td>
<td>3.4</td>
<td>1.8</td>
<td>4.2</td>
</tr>
<tr>
<td>Total</td>
<td>100.0</td>
<td>100.0</td>
<td>100.0</td>
<td>100.0</td>
</tr>
<tr>
<td>No. of respondents</td>
<td>88</td>
<td>59</td>
<td>57</td>
<td>96</td>
</tr>
</tbody>
</table>

Notes: Analysis is based at the partnership level. Where the respondents in the Managers’ Survey indicated that one survey response covered multiple partnerships, they are included in the analysis. Responses from four FRC managers who answered this question but also reported that the program had not yet started have been excluded from this table. Responses from six FRC staff who answered this question but also reported that the program had not yet started have been excluded from this table.

Source: FRC Staff Survey and LAS Staff Survey and Managers’ Survey.

2.3.3 Conflict of interest

Conflict of interest issues potentially arise for legal practitioners and FDR practitioners. This evaluation indicates that conflict of interest for legal practitioners is a significant issue for some of the partnerships in the program. Conflict of interest principles apply to individuals and whole services, and mean that where an individual or service has ever acted for one party, they are never able to act for or advise a second party involved in a dispute with the first party. The principle is intended to protect clients by preventing so-called ‘conflicts of interest’ arising through a legal practitioner having past or present professional associations with both parties in a dispute. This is an aspect of ethical practice that underlines the very different professional rules and obligations of legal professionals and social science professionals, particularly family dispute resolution (FDR) practitioners. For example, while legal practitioners are bound to act in the interests of one party and one party only in a dispute, FDR practitioners, as a ‘neutral third party’, do not normally have responsibilities towards a single client.13

It is apparent from the evaluation data that the question of dealing with conflicts of interest has raised some issues and difficulties in forming and implementing partnerships in two main ways.

13 This broader role of a professional such as an FDR practitioner is, of course, subject to duty of care or duty to warn obligations, in which case the focus may switch to an individual, and in which case, further involvement as an FDR practitioner may not be viable.
The first and most significant way is structural: each partnership has had to ensure that that at least two different legal services are involved so that each party may have access to legal advice. In areas where there are limited publicly funded legal services, this has clearly caused some difficulty and inconvenience. The second legal service may be some distance away, meaning that legal advice is less conveniently accessible and available for the party that has to use that service. The second aspect in which the principle has caused difficulty is cultural: some lawyers in particular have indicated that lack of understanding of the issue among FRC staff has resulted in inappropriate referrals of two parties to the same service. These issues are examined first on the basis of quantitative data and then through qualitative insights in this section.

In the staff survey, a question asked participants to indicate the extent of their agreement with the proposition that: “There are effective protocols in place to deal with situations in which a lawyer working in the Legal Partnerships Program has a conflict of interest”. The response patterns reveal a higher level of agreement among FRC staff than among LAS staff. In combination with insights from the qualitative data, this suggests that LAS staff were more sensitive to the complexities involved in this area.

Table 2.12 reveals that overall the majority of participants either strongly agreed or agreed with this statement, some differences were noted between the two professional groups with 70% of Legal Service staff compared to 80% of FRC staff agreeing or strongly agreeing with the statement. Conversely, a slightly lower proportion of FRC staff expressed uncertainty about this statement (12%) compared to 15% of Legal Service staff.

<table>
<thead>
<tr>
<th></th>
<th>FRC staff (%)</th>
<th>LAS staff (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly agree</td>
<td>43.6</td>
<td>44.1</td>
</tr>
<tr>
<td>Agree</td>
<td>36.2</td>
<td>25.4</td>
</tr>
<tr>
<td>Neither agree nor disagree</td>
<td>5.3</td>
<td>8.5</td>
</tr>
<tr>
<td>Disagree</td>
<td>3.2</td>
<td>6.8</td>
</tr>
<tr>
<td>Strongly disagree</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Can’t say</td>
<td>11.7</td>
<td>15.3</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100.0</strong></td>
<td><strong>100.0</strong></td>
</tr>
<tr>
<td><strong>No. of respondents</strong></td>
<td><strong>94</strong></td>
<td><strong>59</strong></td>
</tr>
</tbody>
</table>

Source: Managers’ Survey.

Clearly, the minority of negative responses to this question in the survey data together with qualitative insights, indicate problems in some areas. These problems most frequently occur in the context of geography. In some rural and remote areas, the small numbers of legal services mean that the conflicts that occur are not easily resolved:

We are the only free legal service in this region. The next service is 500 kilometres away. We have to turn away large numbers of potential clients due to a conflict of interest. We offer conflicted clients the use of our telephones to contact the Legal Service Commission or other CLCs [Community Legal Centres] for telephone advice. The FRC workers quite rightly see this as a problem, especially when it is the more disadvantaged client who has to seek assistance elsewhere. (LAS manager)
Conflict clients are severely disadvantaged as they have to fund a private solicitor if another partnership solicitor can’t assist. The partnership solicitors try to take conflict clients for other CLCs where they can, but this reduces the time they can assist their own FRC clients, and it often requires large amounts of travel time to and from the other FRC. (LAS manager)

Regional areas experience lots of challenges including conflicts of interest and access to services. (LAS manager)

Our FRC did not fully understand what a conflict of interest was in regard to our service and this was/is a constant hurdle. (LAS manager)

To have a lawyer on staff available to provide legal advice to both staff and clients and to assist in the FDR process. At present there is no funding provided to provide legal advice when a conflict exists with the current provider. Reasons they are not provided at present is [are] lack of funding and lack of legal services in regional areas. (Managers’ Survey—FRC respondent)

The model would have benefited from a second legal service provider to ensure both parents could be adequately advised and supported. (Managers’ Survey—FRC respondent)

2.4 Summary

This chapter has examined three main issues: (a) the formation and structure of partnerships in the LPP; (b) the combination of services offered; and (c) professionals’ views on the core issue of whether the services made a difference.

- Overall the conclusions to be drawn from the data are very positive, with positive response rates from the majorities of participants in key areas.
- Also evident, however, is that a small minority of partnerships that appeared to be functioning poorly.
- Agreement that legal advice for individual clients was a core service and very effective. Some divergence of opinion on other services. Variation in views on group information. Lawyer assisted mediation point of contention.
- Very positive responses to question of whether the partnership program made a difference.
- Positive responses about FRC staff being able to identify client needs, but perhaps this an area where more dialogue between FRC and LAS professionals may support a refinement of practices.
- Mostly conflict of interest issues dealt with okay but some areas where there are difficulties because of lack of services to deal with conflict issues or where other party needs to use a service that is some distance away.
Chapter 3 Partnerships: Professional attitudes and relationships

This chapter examines the professional and organisational dynamics that affect the formation and implementation of partnerships. Three main issues are considered:

1. the levels of respect between the partner organisations;
2. questions pertaining to enthusiasm for the program and cooperation between the professionals; and
3. perceptions of whether the program will improve interdisciplinary collaboration in the family law system.

The chapter draws on quantitative and qualitative responses from the staff and managers’ surveys and the interviews with Family Relationships Centre (FRC) and Legal Assistance Services (LAS) professionals. Overall, the discussion in this chapter indicates positive professional and organisational dynamics with improvement evident over time. The data also indicate that the program is contributing to the evolution of a more integrated family law system with improvements in interdisciplinary practice and understanding. However, as indicated in the preceding chapter, there is a small minority of partnerships for whom these positive findings do not hold true.

3.1 Relationships and attitudes

To gauge the dynamics surrounding the program’s implementation, the surveys included a series of questions to managers of both FRCs and the legal services about the relationships between the partners both before and after the program had commenced. The dimensions of the relationships measured in the survey included the level of respect between partnered services, the levels of cooperation, and the degree of enthusiasm for the FRC Legal Assistance Partnerships Program of each of the partners.

3.1.1 Levels of respect and cooperation: Past and present

The macro level issues of respect and cooperation from an organisational perspective were examined in the managers’ survey and are reported in this section. Table 3.1 summarises managers’ understandings of the levels of respect between the partner organisations that existed
at two time points: prior to the implementation of the program and after the implementation of the program. Further views were elicited through an invitation to comment further in a write-in text box.

Table 3.1 focuses on: (a) the level of respect that FRC managers believe existed between their FRC and community-based legal services such as CLCs prior to the commencement of the partnership program and at the time of the survey; and (b) the level of respect that Legal Assistance Services (LAS) managers believe existed prior to the partnership program between their organisation and family dispute resolution services such as those in FRCs and at the time of the survey. Managers could respond by choosing one of the following five options: “Very respectful”, “Somewhat respectful”, “Not respectful at all”, “We had/have no contact”, “Can’t say”.

Before the program began, most managers rated the relationship as either very respectful (77% of FRC managers and 59% of LAS managers respectively) or somewhat respectful (13% of FRC managers and 22% of LAS managers respectively). Only one FRC manager and two LAS managers reported that the relationship was “not respectful at all”. Of the FRC managers, 8% reported either no contact with a legal service or were unable to say. Of the LAS managers, however, the equivalent figure was 20%.  

All respondents expressed an opinion about the level of respect that existed between their organisation and their partner organisation at the time of the survey. The proportion of relationships rated as very respectful increased appreciably for both FRC managers (87%) and LAS managers (76%). At the same time, 10% of FRC managers and 24% of LAS managers rated the current relationship as somewhat respectful. No LAS managers rated the current relationship as “not respectful at all”, though two FRC managers gave this rating to a legal partner.

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14 Seven per cent of FRC managers reported that they had no contact with a legal service and a further 1% expressed uncertainty about whether their organisation had a prior relationship. The corresponding proportions of LAS managers providing these responses were 8% and 12% respectively.
Table 3.1 Managers’ views on pre-and post partnership: Levels of respect

<table>
<thead>
<tr>
<th>Before the partnership—how respectful was the relationship between your organisation and community-based legal services such as CLCs?</th>
<th>FRC managers (%)</th>
<th>Before the partnership—how respectful was the relationship between your organisation and family dispute resolution services such as those available in FRCs?</th>
<th>LAS managers (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very respectful</td>
<td>77.1</td>
<td>Very respectful</td>
<td>55.8</td>
</tr>
<tr>
<td>Somewhat respectful</td>
<td>13.1</td>
<td>Somewhat respectful</td>
<td>22.1</td>
</tr>
<tr>
<td>Not respectful at all</td>
<td>1.6</td>
<td>Not respectful at all</td>
<td>2.3</td>
</tr>
<tr>
<td>Can’t say</td>
<td>1.6</td>
<td>Can’t say</td>
<td>11.6</td>
</tr>
<tr>
<td>We had no contact</td>
<td>6.6</td>
<td>We had no contact</td>
<td>8.1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100.0</strong></td>
<td><strong>Total</strong></td>
<td><strong>100.0</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>At this stage—how respectful is the relationship between your organisation and your partner?</th>
<th>FRC managers (%)</th>
<th>At this stage—how respectful is the relationship between your organisation and your partner?</th>
<th>LAS managers (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very respectful</td>
<td>86.9</td>
<td>Very respectful</td>
<td>75.6</td>
</tr>
<tr>
<td>Somewhat respectful</td>
<td>9.8</td>
<td>Somewhat respectful</td>
<td>24.4</td>
</tr>
<tr>
<td>Not respectful at all</td>
<td>3.3</td>
<td>Not respectful at all</td>
<td></td>
</tr>
<tr>
<td>Can’t say</td>
<td></td>
<td>Can’t say</td>
<td></td>
</tr>
<tr>
<td>We have had no contact</td>
<td></td>
<td>We have had no contact</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100.0</strong></td>
<td><strong>Total</strong></td>
<td><strong>100.0</strong></td>
</tr>
</tbody>
</table>

| No. of respondents | 61 | 86 |

Notes: Analysis based at the organisation level. Where managers indicated one survey response covered multiple partnerships these additional responses are excluded from the table. Percentages may not total 100.0 due to rounding.

Source: Managers’ Survey.

The comments offered by participants provide further insights into some of the issues behind the response patterns indicated in Table 3.1, particularly negative responses. While a few participants took the opportunity to make the point that they were operating in a partnership marked by mutual respect in organisations that provided complementary services, a few also took the opportunity to explain the negative dynamics. The comments indicate that personal and organisational issues influence the way relationships develop within the partnership. Some indicate that managerial level enthusiasm was slower to permeate to staff level. Communication and understanding were referred to as key aspects in developing respect. These comments from FRC and LAS managers on past relationships illustrate the range of responses:

- Professional respect for provision of valuable services. (LAS manager)
- Services offered by the FRC are an integral part of the process for parents who are separating. (LAS manager)
- We have always referred clients to both [partner organisations]. Have had a close and effective working relationship for past two and a half years; we worked closely
with [one partner] to establish our child-focused information sessions. (FRC manager)

While the relationship was professional, FRC practitioners and CLC lawyers had serious reservations about each other’s practices. (LAS manager)

Essentially it took some time for a shared understanding of roles to develop. It has not been disrespectful at any time. (FRC manager)

Excellent relationships with FDR providers outside of FRC. However, whilst interpersonal relationships with FRC were respectful, there were “trust” issues both ways—concerns about family violence screening by FRCs, philosophical differences and possibly misunderstandings about aims and processes. (LAS manager)

Present relationships were described in this way:

The relationship is certainly professional but there is some way to go before both really value the benefits of working together. Some FRC staff are starting to see the benefits of this—CLC staff are keen to have a breakthrough in this relationship. (LAS manager)

As the FRC manager, I am very excited about the project. My staff have been less so, but they always grapple with the change implications. They do see the potential though as they recognise that clients really need and want legal advice and many cannot afford any. (FRC manager)

The relationship is developing and communication lines have opened up slightly. (LAS manager)

Highly successful partnership we are proud to be associated with. Mutually respectful. (LAS manager)

We totally respect the role, skill and professional conduct of our partnership lawyer. We also feel that this is reciprocated. (FRC manager)

With the service that they do provide they [legal service] are cooperative, although we have not been able to extend our service as we would have liked. (FRC manager)

Sometimes the FRC management and staff seem reluctant to initiate new legal services and place unnecessary obstacles in the way. (LAS manager)

Working more closely together has improved inter-professional relationships. However, ongoing effort is required to maintain this, particularly given this apparent high staff turnover at FRC. (LAS manager)

The relationship has always been respectful, but now we have a greater sense of what each provides and the strength of this for clients. (FRC manager)

In relation to cooperation, the data similarly indicate that the program has contributed positively in this way as well. Separate questions covering past and present cooperation were asked of managers. Table 3.2 summarises managers’ understandings of the levels of cooperation that existed before commencement of the partnership and at the time of the survey between the legal services, the FRCs involved in the survey and other legal and community-based services. More specifically, Table 3.2 focuses on: (a) the level of cooperation that FRC managers believe existed between their FRC and community-based legal services such as CLCs prior to the commencement of the partnership program; and the level of cooperation that now exists between their FRC and their partnered legal service(s); and (b) the level of cooperation that LAS managers believe existed prior to the partnership program between their organisation and family dispute
resolution services such as those in FRCs; and the level of cooperation that now exists between their organisation and their partnered FRC. Managers could respond by choosing one of the following five options: “Very cooperative”, “Somewhat cooperative”, “Not cooperative at all”, “We had/have no contact”, “Can’t say”.

Previous relationships were reported as having been very cooperative (49% of FRC managers and 37% of LAS managers) or somewhat cooperative (39% of FRC managers and 37% of LAS managers). Indeed, only three LAS managers and one FRC manager reported a prior relationship that was non-cooperative. Of the FRC managers, 10% reported either no contact with a legal service or were unable to say, and 22% of LAS managers reported no contact or were unable to say. 15

Following the creation of the partnership arrangements 82% of FRC managers and 74% of LAS managers reported a very cooperative relationship, while 16% of FRC managers and 24% of LAS managers reported the relationship as somewhat cooperative. This represents a clear increase in the number of very cooperative relationships. Indeed, following the partnership arrangements only one LAS manager and no FRC managers reported a relationship that was “not cooperative at all”. 16

Further evidence of very cooperative relationships between FRCs and their partner legal organisations is provided through qualitative data from an open-ended question probing the level of cooperation between organisations participating in the program, collected as part of the survey of managers. Where survey respondents chose to make a comment on this question, the majority made favourable comments. Pre-existing relationships and established referral processes were mentioned by some participants as assisting cooperation. Some comments also indicated that the day-to-day process of working together, along with the more formal processes that establishing a partnership involves, had built cooperation. However, there were also several comments that indicated negative relationships. The following examples illustrate the range of comments:

- Working very well a great partnership with great outcomes for clients. (FRC manager)
- We have a fantastic partnership that operates seamlessly. (FRC manager)
- Highly successful partnership we are proud to be associated with. Mutual understanding, clear communication processes have enabled this. (LAS manager)
- I am at the FRC 3 or 4 days per week offering advice and delivering information. This has really helped us build the relationship we need to work together. (LAS manager)
- Open communication between the legal service and the FRC, regular meetings and working on/finalising guidelines for the partnership. (LAS manager)
- We are flexible with each other and have a common goal of meeting the needs of clients. We email regularly and have face to face meetings every couple of months to ensure the partnership operates effectively. (FRC manager)

15 When they were asked how cooperative relationships were between their organisation and their partner or similar organisations before the partnership, 7% of FRC managers reported they had no contact with a further 3% reporting they could not say whether their organisation had a prior relationship. The corresponding proportions for LAS managers were 9% and 13%.

16 When they were asked how cooperative relationships were between their organisation and their partner at the stage of the partnership when the survey was conducted, 1.6% of FRC managers reported they had no contact. No FRC managers reported they could not say and no LAS managers reported no contact with their partner or could not say responses.
Numerous attempts have been made to encourage referrals from the FRC, but referrals have not been forthcoming and the reasons for this remain obscure. (LAS manager)

Our initial contact with the FRC when it was first established was not good. Subsequently it has become very good indeed. (LAS manager)

Table 3.2 Managers’ views on pre-and post partnership: Levels of cooperation

<table>
<thead>
<tr>
<th>Before the partnership—how cooperative was the relationship between your organisation and community-based legal services such as CLCs?</th>
<th>FRC managers (%)</th>
<th>Before the partnership—how cooperative was the relationship between your organisation and family dispute resolution services such as those available in FRCs?</th>
<th>LAS managers (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very cooperative</td>
<td>49.2</td>
<td>Very cooperative</td>
<td>37.2</td>
</tr>
<tr>
<td>Somewhat cooperative</td>
<td>39.3</td>
<td>Somewhat cooperative</td>
<td>37.2</td>
</tr>
<tr>
<td>Not cooperative at all</td>
<td>1.6</td>
<td>Not cooperative at all</td>
<td>3.5</td>
</tr>
<tr>
<td>We had no contact</td>
<td>6.5</td>
<td>We had no contact</td>
<td>9.3</td>
</tr>
<tr>
<td>Can’t say</td>
<td>3.3</td>
<td>Can’t say</td>
<td>12.8</td>
</tr>
<tr>
<td>Total</td>
<td>100.0</td>
<td>Total</td>
<td>100.0</td>
</tr>
</tbody>
</table>

| No. of respondents | 61 | 86 |

<table>
<thead>
<tr>
<th>At this stage—what level of cooperation is there between your organisation and your partner?</th>
<th>FRC managers (%)</th>
<th>At this stage—what level of cooperation is there between your organisation and your partner?</th>
<th>LAS managers (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very cooperative</td>
<td>82.0</td>
<td>Very cooperative</td>
<td>74.4</td>
</tr>
<tr>
<td>Somewhat cooperative</td>
<td>16.4</td>
<td>Somewhat cooperative</td>
<td>24.4</td>
</tr>
<tr>
<td>Not cooperative at all</td>
<td>1.6</td>
<td>Not cooperative at all</td>
<td>1.2</td>
</tr>
<tr>
<td>We have had no contact</td>
<td>1.6</td>
<td>We have had no contact</td>
<td></td>
</tr>
<tr>
<td>Can’t say</td>
<td></td>
<td>Can’t say</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>100.0</td>
<td>Total</td>
<td>100.0</td>
</tr>
</tbody>
</table>

| No. of respondents | 61 | 86 |

Notes: Analysis based at the organisation level. Where managers indicated one survey response covered multiple partnerships these additional responses are excluded from the table. Slight variation in proportion of respondents who reported “No contact” in Table 3.1 and this table is based on respondent’s answering slightly differently to each question. Percentages may not total 100.0 due to rounding.

Source: Managers’ Survey.

3.1.2 Enthusiasm for the partnership

Managers and staff participating in the survey were also asked to indicate the levels of enthusiasm for the program that they perceived existed within their own organisation and at their partner’s organisation. Figures 3.1 and 3.2 depict the patterns of answers provided by FRC managers and LAS managers respectively, with Figures 3.3 and 3.4 depicting staff survey responses. Overall, data contained in the figures below are largely consistent with data presented in the earlier tables. FRC and LAS managers report solid levels of enthusiasm for the partnership
by their own and their partners’ staff, with “strong agreement” outweighing “agreement” for the core proposition in each figure. Only two FRC managers disagreed with the proposition that there was enthusiasm for the project from their partner (but not from their own staff). On the other hand, eight LAS managers disagreed (three strongly) with the proposition that there was enthusiasm for the project from their FRC partner (though again, not from their own staff). One of the striking features of the figures below is the difference in the proportion of LAS managers who strongly agreed that staff at their organisation were enthusiastic about the project (66%) compared to staff at their FRC partner (38%).

Similar observations hold true for the responses from staff (Figures 3.3 and 3.4). Overall, almost all respondents agreed or strongly agreed that staff at their own organisation were enthusiastic about the program (92%). When asked to reflect on their partner organisation’s staff level of enthusiasm, the proportion of respondents who agreed or strongly agreed with this statement was 78%. Figures 3.3 and 3.4 further present these data by organisation of the respondent. As with the managers’ survey reported in Figures 3.1 and 3.2, the same striking contrast is evident in LAS staff responses dealing with levels of enthusiasm in their own and their partner organisation: 70% strongly agreed staff at their own organisation were enthusiastic compared to 44% indicating strong agreement about their partner organisation.

These response patterns indicate a significant perceptual difference on the part of LAS managers and staff as to the attitudes of their partners. In this context, it is significant that FRC managers and staff consistently rated their own organisation’s enthusiasm as greater than their partner’s. It appears that this is an area where understanding between the professionals involved in the partnerships requires further development.

The opportunity to provide open-ended comments on the question of enthusiasm once again elicited a range of responses, highlighting some of the issues that may influence the response patterns to the quantitative questions. Positive responses indicated enthusiasm and commitment, with some emphasising the perceived benefits to clients. Negative responses referred to suspicion and perceived concerns among FRC staff about the involvement of lawyers. An interesting aspect of such responses by LAS managers was a perception of varied views among FRCs and even individuals within FRCs.

Characteristic of positive responses were these comments:

From the start all staff were excited, willing and highly committed—we knew this was an opportunity to assist clients to make informed decisions which were based in the best interests of their children. (LAS manager)

This observation was echoed in the comments of another FRC manager:

All staff of the FRC welcomed this new initiative and were on board from the beginning—especially for the clients.

These quotes illustrate the kinds of concerns raised in mixed or negative responses:

Some FRC staff have been enthusiastic but some have resisted the involvement of lawyers in the FRC process altogether. (LAS manager)

Things don’t seem to go any further than an expression of enthusiasm. (LAS manager)

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17 These data are not shown in the figures.
18 These data are not shown in the figures.
The level of enthusiasm has depended on the liaison worker at the FRC. Currently the level of enthusiasm, motivation and willingness to work collaboratively is high. (LAS manager)

Figure 3.1  FRC managers—at this stage, staff and management at this FRC or our legal partner have been enthusiastic about the Legal Partnerships Project

Source: Managers' Survey.
Figure 3.2  LAS managers—at this stage, staff and management at this legal service or our FRC partner have been enthusiastic about the Legal Partnerships Project

Source: Managers’ Survey.

Figure 3.3  FRC staff—at this stage, staff and management at this FRC or our legal partner have been enthusiastic about the Legal Partnerships Program

Source: Managers’ Survey.
3.2 Summary

This chapter has examined the professional and organisational dynamics that influence the formation, implementation and impact of the partnerships in the program. Overall, the data indicate that relationships between partner organisations are largely respectful with levels of respect increasing over time. Similarly, positive findings emerge in connection with cooperation. Interestingly, while enthusiasm was generally rated highly by partnership members in relation to themselves and their partner organisations, a perceptual discrepancy emerged regarding legal partners’ beliefs about the enthusiasm of their FRC partners. Majorities of legal partners indicated that their enthusiasm was significantly greater than that of FRC partners, but FRCs rated their own enthusiasm more highly than their legal partners. Overall, the program is seen to be contributing to improved inter-professional collaboration. The question of whether these findings also contribute to more substantive improvement in the way the system deals with some core issues is discussed further in the next chapter.
Chapter 4 Core objectives, other key objectives, and challenges linked to cases involving violence, mental health and addiction issues

The main source of information for this chapter is the quantitative survey data derived from legal services and Family Relationships Centre (FRC) managers and staff. Qualitative data are then examined as a platform to consider some of the reasoning behind these responses.

The chapter begins by identifying the extent to which, from managers’ and staff perspectives, and from the perspective of clients, the FRC Legal Assistance Partnerships Program is achieving its core objectives of:

1. improving the focus on the best interests of children;
2. improving the ability to address power imbalances between parents in mediation or negotiation; and
3. assisting clients to engage in less adversarial dispute resolution processes.

Considered next is the extent to which, from managers’ and staff perspectives, the program is achieving other key objectives of:

1. assisting clients to better understand the law regarding parenting arrangements after parents separate;
2. assisting clients to make better post separation parenting arrangements;
3. developing a better integration of services for clients; and
4. assisting clients to resolve disputes more effectively, to make better parenting arrangements and to engage in effective dispute resolution processes.
Finally, staff and managers’ assessment of the capacity of the program to enhance the development of parenting arrangements in cases involving violence, mental health and addiction issues is considered.

### 4.1 Core objectives

Response patterns to questions related to the core objectives are shown in Figure 4.1 below. Overall, there were quite high rates of agreement or strong agreement with the proposition that the Legal Partnerships Program will achieve each of these objectives. Thus:

- Agreement or strong agreement rates regarding improving the focus on the best interests of children varied from 64% to 92%.
- Agreement or strong agreement rates regarding improving the ability to address power imbalances between parents in negotiations or mediation varied from 66% to 84%.
- Agreement or strong agreement rates regarding providing assistance to clients to engage in less adversarial dispute resolution processes varied from 74% to 86%.

Figure 4.1 also reveals that Legal Assistance Services (LAS) managers and staff were more likely to agree or strongly agree with each of the statements than FRC managers and staff. Possible reasons for the general findings regarding the core objectives and for the differential response rates between legal and FRC respondents are considered below against each of the objectives.

![Figure 4.1](image)

**Figure 4.1** Staff and managers: Proportion who agreed or strongly agreed that the Legal Partnerships Program will achieve the core objectives

Source: Managers’ Survey, FRC Staff Survey and Legal Services Staff Survey.
4.1.1 Improving the focus on the best interests of the children

The largest difference in agreement rates between the partnership groups was found with respect to the statement relating to improving the focus on the best interests of children. As noted, 92% of legal service staff agreed with this statement compared with 64% of FRC Staff. With managers, the gap was a little smaller—85% vs 67%.

Two questions arise. First, why would some managers and staff be unwilling to suggest that a program aimed at providing a more comprehensive service for parents has not brought about a better focus on the best interests of the child? And second, why do proportionally more FRC respondents than legal service respondents hold this belief?

The first important thing to note is that easily the next largest category of responses from FRC staff and managers in relation to the question about improving the focus on children was “neither agree nor disagree” (20% of managers and 21% of staff). This compares with 7% and 12% among legal services staff and management, respectively. The level of disagreement among all four groups was very low—with 6% of FRC staff representing the highest response rate and 2% of legal services staff representing the lowest. In addition, the “can’t say” category was virtually non-existent among the legal services respondents (no legal services staff and only 1% of legal services managers). Among the FRC respondents, the “can’t say” category was higher (but still relatively low at 9% of staff and 10% of managers).

It is likely that the low formal disagreement rates across all four groups are a function of the very small number of FRCs and legal services that were not enthusiastic about the program. This issue is discussed in more detail in Chapter 2. The “neither agree nor disagree” response rate is likely to represent a realistic assessment by those for whom the roll out of the program was either relatively new or was still in the process of being “bedded down”.

The more optimistic assessment on the part of the legal services respondents (they were also considerably more likely than their FRC counterparts to strongly agree with this and the other two propositions) may in part reflect the difference between delivering a child-focused message to a single client, and assessing its impact on both parents, and at times on additional family members. The former occurs when lawyers provide information to individuals in groups (which always take place without the presence of former partners), or give advice to an individual parent. The latter is always an issue for family dispute resolution (FDR) practitioners and other FRC staff, who need to assess at a minimum, what impact the child-focused message has had on the former couple in their roles as post separation parents. Not infrequently, family relationship practitioners are also conscious of the impact of the intake, advice giving and mediation processes on other key family members, such as new partners and grandparents.

The qualitative data also reveal that many relationship practitioners and a considerable number of lawyers appeared to be aware of the importance of addressing the question of how to deliver legal information and legal advice in a way that reinforces, rather than inadvertently cuts across, key child-focused messages. At one level, the “best interests” message embedded in the legislation is clear. But some lawyers, for example, recognised the difficulty of explaining what they saw as unnecessarily complex legislation in a way that did not distract clients from the key issue of their role as parents.

I have to say trying to run the legal information sessions … to explain all the ins and outs of the ridiculous legislation. People just tune out—they’re just not interested, they just want to know about their case. Does the complexity of the legislation present a challenge? I think on that issue alone, it absolutely does. You want to be able to engage people. How do you engage people in 20 minutes and give them a fairly accurate overview of the Family Law Act. It’s impossible. (LAS staff)
One lawyer, who also recognised this difficulty, took a pragmatic approach. She noted that after she had completed her legal information session, which at the FRC in question was followed immediately by the children in focus session conducted by a family relationship practitioner, she would make a comment along the following lines:

I’ve been talking about what you can do legally, but can I really commend this next part of the presentation to you because what she [the family relationship practitioner] is really going to do is focus you in on the children. At the end of the day that’s what the family court would do as well. (LAS staff)

On a broader front, while some concerns were expressed about family relationship practitioners and lawyers being “on the same page” when it came to nuts and bolts practice, there were numerous statements suggesting that the intentions of both groups of professionals to promote the best interests of the child were clear. One family relationship practitioner spoke of some past difficulties with private lawyers in this regard, but then added:

What I have found is that with Community Legal Services they will encourage clients to come through mediation to make an effort in negotiating in relation to their children. (FRC staff)

Another family relationship practitioner made a more global observation:

I know that there are more and more child-friendly lawyers out there than there used to be. But it’s taking a while. (FRC staff)

Although a focus on the interests of the child was commented on specifically by a number of clients, it was mainly within the context of the child-focused information sessions or FDR, as noted in chapter 6, which concentrate exclusively on clients’ experiences of the program. Legal services were most frequently appreciated for the individual support they offered. At their best, they complemented the child-focused messages that were part of the FRC information sessions and part of FDR. In speaking about the group information, one client noted:

It’s all about the children, the needs of the children … I was very happy with that information. (Client)

Another observed:

The Kids in Focus seminar and also the mediation sessions made sure we also put [child’s] interests first. It put her first and the skill of the mediator allowed us to see things that we wouldn’t have seen on our own or situations where if I do this, it’s going to have this consequence, which was unintended perhaps. They do things really skillfully so we’re aware of how our actions are affecting each other and that might not be good primarily because it ends up having a negative consequence on [child]. (Client)

One client appreciated the balanced approach of the staff:

They were supportive towards me but they were also not totally focused on me and to him; they were like we’ve got to do what’s in the best interests of the children kind of thing. They weren’t all about helping me and getting the kids away from him and stuff, they were like, he has rights as well, which I think was good. (Client)

On the other hand, several clients made the point that a weakness of the services received was that they could not guarantee that their former partners would focus on the children. For example:

I mean I think the needs of the children change. I think what you can agree on doesn’t necessarily work in practice all the time when you’re dealing with someone like [former partner], who insists on things being exactly as it’s written. I think, in
the end, it’s not within the best interests of the children. I think perhaps there needs to be some more parental education about that when you’re doing these kind of mediation things, because I think there needs to be some element of flexibility built into that … I don’t think that was emphasised enough. (Client)

### 4.1.2 Improving ability to address power imbalances

More than three-quarters of lawyers and approximately two-thirds of family relationship practitioners believed that the partnership program improved their ability to address power imbalances between parties in negotiations or mediations. Few disagreed with the statement—the highest response being (5%) of FRC staff. Once again, the “neither agree nor disagree” category made up the bulk of the other responses. This was 20–24% of FRC staff and managers and 13–17% of legal services staff and managers.

As Wade (1994) has demonstrated, power in negotiations and mediation comes in a variety of forms, many of which are built into the structures of our society. Some of the issues noted by Wade were reflected in the comments made by respondents. Lawyers in particular emphasised the value of advocacy as a counter to the relatively weak position in which some clients found themselves. The role of partnership lawyers as responsible advocates was also recognised by a number of family relationship practitioners.

There are often power imbalances that are hard to—sometimes hard to control. Sometimes people just need an advocate for them who is there in their best interest.

So you know … I think lawyers can be a really good part of this process, as long as, philosophically, they’re attuned to this process rather than litigation. (FRC staff)

Some partnership lawyers were especially sensitive to the question of violence allegedly perpetrated against women and children. Some spoke with passion of pursuing options that fell in between “traditional” FDR and court processes. In some cases however, this was seen as yet to happen.

Clients who have been a victim of domestic violence, where they don’t want to go to court, want to get in [to mediation]—whether it’s a shuttle mediation, or whether it’s face to face, some of them can—could handle a face to face mediation where there are AVOs [Apprehended Violence Orders] in place, where there are charges that stem from domestic violence. They’re the people we should be helping, and I’ve got clients that would be completely fine in a mediation setting that have been the victims of domestic violence, if they have a lawyer present, and their matter would be finalised. Because they just don’t—they don’t want the other side using court as a tool against them. (LAS staff)

In addition, it was recognised that addressing power differentials is also important for those mainly male clients who feel disenfranchised as parents.

I quite often get a lot of dads coming in saying, I’ve got no rights; the mother has got all the rights. He’s feeling quite powerless and in encouraging a legal advice session, he’s now coming back saying, well I do have a role in my kids’ lives and she can’t keep telling me I have no rights. So it actually does work I think to level out the power imbalance. (FRC staff)

It may be the case, of course, that some FRC staff have yet to witness (or to fully appreciate) the experience of such reassurance from a legal advocate that their client can then take forward into negotiations. This may account for a proportion of the “neither agree nor disagree” category

19 As noted above, clients too spoke quite frequently of feeling supported by their partnership lawyers.
among family relationship practitioners in response to the question asked about power imbalances.

At the same time, “neither agreeing nor disagreeing” may reflect the hope of possibilities yet to be fulfilled. As one respondent put it:

Look, when I first started I thought that [our FRC] would have led the way with the mediations and—because you know it seemed that everyone was on board. But as the time went on it appeared as though they were very opposed to having a solicitor there. They have been quite vocal in meetings that I’ve been with them, that a lawyer isn’t a part of their process and those sorts of things. I’ve often felt that I’m like having to defend my position in meetings, which I feel has been a bit unfair. (LAS staff)

As noted in Chapter 2, lawyer assisted mediations were embraced by a minority of partnerships, treated with caution by some, and seen as a matter of evolution by others. In yet other partnerships, especially in rural and remote areas, there are potential structural problems linked to lawyers’ conflict of interest difficulties.

It the situation described above, it would appear that scepticism about the lawyer’s role remains and that a truly cooperative spirit has yet to be embraced within the partnership. It is perhaps instructive to juxtapose this attitude against the observations of a client who felt threatened by her former partner and experienced lawyer assisted FDR.

Yeah, I think it’s probably a good idea. I’m not sure why at this point. I’m just sort of thinking because of how his decisions are based on control, so I think with lawyers there I’m pretty sure they’ve been through all of this. They know who and what and when, you know. I just think it’s probably better—a better solution for me. (Client)

Another client spoke of the legal support received in the following terms:

At least it gave me confidence and better understanding because I knew what I have to do at the end of the day, and I was confident and comfortable as much as one can be in a situation like that, and I knew that at the end of the day there is a given procedure and as long as I followed the procedure it is going to take me somewhere. I’m not going to stay in a vicious circle. (Client)

4.1.3 Assisting clients to engage in less adversarial dispute resolution

Figure 4.1 illustrates that assisting clients to engage in less adversarial dispute resolution was the core objective most evenly endorsed across the four groups—the difference in agreement rates between FRC and legal services staff being 8% and between FRC and legal service managers was only 5%.

Only three FRC managers (5%) and no managers of legal services disagreed with this proposition. Among the staff, the disagreement rate was slightly higher—eight FRC staff (9%) and three legal services staff (5%); both FRC managers and staff were a little more likely than their legal services counterparts to respond to this question by indicating that they “can’t say”—FRC managers (8%) and FRC staff (3%), legal services managers (2%) and no legal services staff.

As with the previous core objectives questions, the responses that were not in the category of agreement were most commonly in the category of “neither agree nor disagree”—FRC managers (13%) and FRC staff (11%); legal services managers (19%) and legal services staff (8%).
In interviews with legal services and FRC staff and managers, there were references to cultural difference at many levels. But concerns that the partnership program might create opportunities to proceed in an adversarial manner were almost entirely absent. Instead, there appeared to be agreement about the common goal of assisting clients to empower themselves. There was at the same time, broad recognition of the systemic (and sometimes personal) tensions that can be created in simultaneously attempting to represent individuals, remain focused on the children’s needs, perceptions and attachments, and promote a viable solution-focused process for all family members. These tensions are reflected in the personal experience of a client:

I said, it’s more how to handle the break up, the kids, better consistency of him picking up the kids. That used to really bug me. I used to ring him and go, “Why are you doing this?” but now I kind of back away then just sort of—yeah, I guess it does. I definitely have changed the way I react to him, which is definitely a plus. So, yeah definitely, I think so. (Client)

It is perhaps significant that one of the few specific references to adversarial processes was made by a family relationship practitioner, not so much with respect to what he perceived to be happening in the partnership program, but with respect to what might happen if, in his view, the FRCs were opened up to more traditional legal processes.

I guess my concern, and I think it’s shared, the idea of people who don’t know an awful lot about family law or mediation coming and thinking that this is an adversarial process and trying to hijack the whole process. (FRC staff)

### 4.2 Other key objectives relating to client assistance and integration of services

Managers and staff were also asked to indicate their level of agreement with four other key objectives of the program related to assisting clients to better understand the law and make better agreements relating to parenting arrangements, and for clients to ensure integration of services and more effective dispute resolution. These data are presented in Figure 4.2. They again show high rates of agreement by both FRC and legal service staff and managers that the program is meeting these key objectives.
Figure 4.2  Staff and managers: Proportion who agreed or strongly agreed that the Legal
Partnerships will achieve the key objectives

Source:  Managers’ Survey, FRC Staff Survey and Legal Services Staff Survey.

4.2.1 Better understanding of the law

The proposition that the program would assist clients better to understand the law was
overwhelmingly endorsed, with agreement or strong agreement rates varying from 92% to 97%.
Cumulative differences between FRC and legal services staff and managers on this issue were
minimal, although as with the core objectives data, legal services staff were considerably more
likely to “strongly agree” than were their FRC counterparts.

4.2.2 Better agreements relating to parenting arrangements

Three-quarters or more of FRC staff and of legal services staff and managers agreed or strongly
agreed that the program would assist clients to make better agreements relating to parenting
arrangements; however, a little under two-thirds of FRC managers agreed with this proposition.
In addition, legal services staff were somewhat more enthusiastic than their FRC counterparts
about this question (86% vs 75% “agree or strongly agree”), while a similar and somewhat more
pronounced pattern could be observed for legal service and FRC managers (80% vs 64%). Again,
a considerably higher proportion of “strongly agrees” compared to “agrees” could be found
among legal services respondents compared to those from FRCs.

The lower estimates on the part of the FRC staff and managers, and the relatively lower ratios of
“strongly agrees”, may again reflect the fact that FRC respondents are more likely to be a witness
to the final parenting agreements (or non-agreements). In that sense, theirs may be a more
realistic estimate.20 Notwithstanding this however, the dominant narrative remains one of

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20 This would not apply to lawyers involved in lawyer assisted mediations, although at this stage they represent a
minority of the services delivered.
considerable optimism on the part of all respondents regarding the chances of better parenting arrangements under the partnership program.

### 4.2.3 Better integration of services for clients

Agreement or strong agreement that the program would lead to better integration of services for clients varied from 82% to 93%—a very high level of overall agreement. Only one respondent disagreed with this statement, while very few marked the “can’t say” option—a maximum of 5% of FRC staff with no legal service staff reporting this option.

This was the only one of the key objectives in which the cumulative percentage of agreements by FRC respondents (in this case managers) outstripped the cumulative percentage of agreements by their legal services counterparts. The difference was small however, and again legal services managers were more likely to “strongly agree” (45% vs 36%).

An important future question will be how the relationship between FDR and legal services can be combined in ways that, from the perspective of the clients, appears to be seamlessly integrated or seamlessly combined.

Further evidence describing FRCs integration with the wider Family Law system is described in the text box below.
Family Relationship Centres and integration with the family law system: A comparison with results from the AIFS Evaluation of the 2006 Family Law Reforms

The current findings of a high level of agreement that the program will lead to a better integration of services for clients can also be placed in the context of survey results from the AIFS Evaluation of the 2006 Family Law Reforms.

As part of the AIFS Evaluation, data was collected from both lawyers and family relationship service providers about the extent to which Family Relationship Centres are perceived to be working in an integrated way with the rest of the family law system. As detailed previously in the AIFS Evaluation report, FRC service professionals were significantly more likely to agree with this statement (84%) when compared to the responses of lawyers surveyed in 2006 (29%) and again in 2008 (32%).

Table 4.1 Staff: Agreement that the Family Relationship Centres have been able to work in an integrated way with the rest of the family law system

<table>
<thead>
<tr>
<th></th>
<th>Family Law Evaluation</th>
<th>Legal Partnerships Evaluation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>FLS 2006 (%)</td>
<td>FLS 2008 (%)</td>
</tr>
<tr>
<td>Strongly agree</td>
<td>1.4</td>
<td>1.3</td>
</tr>
<tr>
<td>Mostly agree</td>
<td>27.4</td>
<td>30.7</td>
</tr>
<tr>
<td>Sub-total “agree”</td>
<td>28.8</td>
<td>32.0</td>
</tr>
<tr>
<td>Mostly disagree</td>
<td>26.0</td>
<td>34.2</td>
</tr>
<tr>
<td>Strongly disagree</td>
<td>9.3</td>
<td>20.4</td>
</tr>
<tr>
<td>Sub-total “disagree”</td>
<td>35.3</td>
<td>54.6</td>
</tr>
<tr>
<td>Can’t say</td>
<td>35.9</td>
<td>13.5</td>
</tr>
<tr>
<td>Total</td>
<td>100.0</td>
<td>100.0</td>
</tr>
<tr>
<td>No. of respondents</td>
<td>366</td>
<td>319</td>
</tr>
</tbody>
</table>

Notes: FLS refers to Family Lawyers’ Survey; PSS refers to Post Separation Services. Percentages may not total 100.0 due to rounding.

In the current evaluation, the same question was asked in the FRC and Legal Service Staff surveys thereby allowing an exploration of the extent of any change in this aspect of service delivery between the time of the AIFS Evaluation and the current FRC Legal Assistance Partnerships Program. The most noticeable feature when this comparison is made is the difference in the perceptions of lawyers on the extent of FRC integration over this time period. Of the legal services staff surveyed as part of the Legal Partnerships Program evaluation, 80% mostly or strongly agreed that the FRCs were able to work in an integrated way. This compared to 32% of lawyers surveyed as part of the AIFS Evaluation. However, this comparison needs to be qualified as the majority of respondents in the previous 2008 FLS were working in private practice (83%), while respondents in the current survey are from Community Legal Centres and Legal Aid Commissions directly involved in the program.

This data also reveals there has been little change in the proportion of FRC staff who agree or strongly agree with this statement at the time of the current evaluation (84%) when compared to FRC staff surveyed from Post Separation...
4.2.4 Resolving disputes more effectively

Figure 4.2 shows that the responses to this question are almost a mirror image of responses to the question of making better agreements relating to parenting arrangements. Although there were some relatively minor variations with respect to some of the “strongly agree” vs “agree” categories, it would appear that respondents may have seen the question tapping into beliefs about a very similar set of processes.

Again, the lower estimates on the part of the FRC staff and managers and the relatively lower ratios of “strongly agrees” may reflect that as witnesses to the totality of the FDR process, FRC respondents may be a little less likely to prioritise one aspect, such as legal input, in estimating the overall effectiveness of the services provided. But as with the estimate of achieving better agreements via the partnership program, the dominant narrative remains one of considerable optimism.

4.3 Assistance with development of parenting arrangements in cases involving violence, mental health and addiction issues

The AIFS Evaluation of the 2006 Family Law Reforms found that significant proportions of clients in which there were allegations or admissions of violence, mental health and addiction issues were approaching or being referred to FRCs (Kaspiew et al., 2009) and FDR programs conducted by FRCs (Moloney, et al., 2010). In the context of these findings, the extent to which the Legal Partnerships Program may be able to assist in the development of appropriate and safe parenting arrangements becomes a very important question.

On a related point, comparison of data from the AIFS Evaluation of the 2006 Family Law Reforms and the current evaluation related to professionals’ ability and assist clients with family violence is reported in the text box below.
Professionals’ abilities to identify and assist with family violence: A comparison with results from the AIFS Evaluation of the 2006 Family Law Reforms

Table 4.2 provides a comparison of self-assessments by FRC staff in the AIFS Evaluation of the 2006 Family Law Reforms and all professionals who responded to the current Legal Partnerships Program evaluation regarding how well staff are supported in acquiring and maintaining the skills required to work with family violence.

Table 4.2 Positive self-assessment of professionals’ own ability to identify and assist families with family violence in their work

<table>
<thead>
<tr>
<th></th>
<th>Family Law Evaluation</th>
<th>Legal Partnerships Evaluation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>FRC (2009) (%)</td>
<td>FRC Staff (%)</td>
</tr>
<tr>
<td>Identify issues of family violence</td>
<td>97.5</td>
<td>100.0</td>
</tr>
<tr>
<td>Work with clients who have experienced family violence</td>
<td>91.0</td>
<td>98.9</td>
</tr>
<tr>
<td>Work with clients who are at risk of experiencing family violence</td>
<td>90.1</td>
<td>96.7</td>
</tr>
<tr>
<td>Work with clients who have had allegations of family violence made against them</td>
<td>84.6</td>
<td>93.3</td>
</tr>
<tr>
<td>Total no. of respondents</td>
<td>248</td>
<td>94</td>
</tr>
</tbody>
</table>

Notes: The response categories were: “excellent”, “good”, “average”, “poor”, “very poor”, “can’t say/don’t know” and “not applicable”. “Good” and “excellent” are reported together to indicate positive self-assessment. Percentages exclude “not applicable” responses and missing data. With the exception of *, the exclusion for items is less than 5%. * Total proportion “not applicable” was 6.8%.

Despite the positive ratings, there was a trend of Legal Service staff rating themselves comparatively lower than FRC staff. Between 12% (working with clients who have had allegations of family violence against them) to 13% (working with clients who have experienced family violence) less Legal Services staff than FRC staff indicated they felt “excellent” or “good” about their ability to work with cases of family violence. Given the context of the present evaluation, this finding is likely to reflect the different professional training experiences of lawyers compared with relationship practitioners.

FRC staff ratings in relation to working with family violence were already frequently positive in 2009 and this has been sustained in the current evaluation. The greatest improvements have been in relation to working with clients who have experienced family violence and working with clients who have had allegations of family violence made against them. Of note, these were the same two statements identified by LAS staff discussed above. This pattern suggests that similar to FRC staff, LAS staff may experience improvement over time in support for their ability to work with clients who have
experienced family violence and who have had allegations of family violence made against them.

To this end, staff participating in the staff survey were also asked a series of questions in which they were invited to indicate their level of agreement that the program is enhancing the development of parenting arrangements that respond appropriately to cases involving physical violence, emotional abuse, substance abuse, mental illness, and gambling addictions.

**Table 4.3**  
**Staff response: Agreement (agree or strongly agree) with statements about the extent to which the Legal Partnership Program will enhance the development of parenting arrangements involving violence, mental health and addiction issues**

<table>
<thead>
<tr>
<th>Cases involving physical violence</th>
<th>FRC staff (%)</th>
<th>LAS staff (%)</th>
<th>All staff (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staff response</td>
<td>54.3</td>
<td>71.2</td>
<td>60.8</td>
</tr>
</tbody>
</table>

| Cases involving emotional abuse  | 44.7          | 78.0          | 57.5          |
| Cases involving substance abuse  | 42.6          | 59.3          | 49.0          |
| Cases involving mental illness   | 38.3          | 59.3          | 46.4          |
| Cases involving gambling addictions | 29.8      | 42.4          | 34.6          |

| No. of respondents               | 94            | 59            | 153           |

**Notes**  
For most data items the proportion of respondents who answered “can’t say” to each question was similar between FRC and legal service staff. 13.8% of FRC staff and 10.2% of legal service staff answered can’t say to physical violence; 18.1% of FRC staff and 8.5% of legal service staff answered can’t say to emotional abuse; 19.2% of FRC staff and 17.0% of legal service staff answered can’t say to substance abuse; 20.2% of FRC staff and 17.0% of legal service staff answered can’t say to mental illness; 26.6% of FRC staff and 28.8% of legal service staff answered can’t say to gambling addictions.

**Source:** FRC Staff Survey and Legal Services Staff Survey.

Table 4.3 reveals that a modest majority of FRC staff (54%) and a majority of legal services staff (71%) agreed or strongly agreed that the program would enhance the development of parenting arrangements that respond appropriately to cases involving physical violence. On this dimension, 10% of FRC staff and 14% of legal services staff responded to the category “can’t say”.

In cases involving emotional abuse, 45% of FRC staff and 78% of legal services staff agreed or strongly agreed that the program would enhance the development of parenting arrangements that respond appropriately to cases involving emotional abuse. In this case, 18% of FRC staff and 8% of legal services staff felt unable to say.

With regard to cases involving substance abuse, the agreement rate among FRC staff was 43% and among legal service staff 59%. The “can’t say” category on this occasion was reported by 19% of FRC staff and 17% of legal services staff.

FRC staff were less optimistic about the impact of the program on cases involving mental illness (38% with 20% of “can’t says”) and even less optimistic with regard to gambling addictions (30% with 27% of “can’t says”). Legal services staff continued to be more optimistic than their FRC counterparts—59% with 17% “can’t says” for mental illness; and 42% with 29% “can’t says” for gambling addictions.

It can be seen that compared to their assessment of the capacity of the program to meet the more generally worded core and other key objectives, legal services staff express somewhat less optimism with respect to families at the more dysfunctional end of the spectrum. Interestingly though, they remain quite optimistic with respect to the program’s potential impact on cases involving physical violence and emotional abuse. This may reflect the fact that for many community-based lawyers dealing with family violence is a common experience. The data
showing the enthusiasm for the program may mean that many of the partnership lawyers appreciate the fact that they are able to draw upon the resources of relationship practitioners in addition or as an alternative to the more traditional legal options.

FRC staff are considerably more guarded in their assessment of the capacity of the program to improve the lot of family members in this category. The fact that they are least optimistic about the final three categories, each of which has a mental health component, may reflect the fact that many of these respondents come from a social science or mental health background and possibly have a greater appreciation of the fact that significant change in these often requires lengthy and persistent interventions.

Nonetheless, more than half the FRC staff can see possibilities with respect to improving the situation for families in which there is physical violence, and a little under half provided a similar response for cases involving emotional abuse. In areas that have continued to exercise the minds of many commentators and researchers in recent years, these responses provide considerable hope.

4.4 Summary

This chapter has examined the extent to which the Legal Partnerships Program has achieved its core objectives relating to improving the focus on the best interest of children, addressing power imbalances between parents in mediation, and assisting clients to engage in less adversarial dispute resolution processes. Also examined are the program’s ability to meet other key objectives relating to client assistance and improved integration of services. Data from the perspectives of managers and staff show:

- Overall, very positive assessments of the program from the viewpoint of managers and staff with a majority of both FRC and LAS staff and managers agreeing with the propositions relating to core program objectives.
- LAS managers and staff were more likely to agree that the program was meeting its core objectives compared to FRC managers and staff. The largest difference in agreement rates between the professional groups was found with respect to the statement about improving the focus on the best interests of children.
- High levels of agreement were also found that the program would assist in meeting other key objectives. Almost all managers and staff from both FRC and LAS organisations agreed that the program would assist clients better understand the law relating to parenting arrangements after parents separate. There was also a high level of agreement from both professional groups that the program would lead to a better integration of services for clients.
- A modest majority of FRC and LAS staff agreed that the program will assist develop parenting arrangements that respond appropriately to cases involving physical violence, and cases involving emotional abuse. Legal services staff were more optimistic about the ability of the program to assist with these types of cases compared to FRC staff. FRC staff were also less optimistic about the ability of the program to assist with the development of parenting arrangements in cases involving substance abuse, mental illness and gambling addictions.
Chapter 5 Benefits and challenges: Further insights from the online surveys and the interview data

This chapter focuses on responses from participants in regard to their perceptions of the strengths, benefits and challenges of the FRC Legal Assistance Partnerships Program. It makes use of both quantitative data and the qualitative comments provided by managers and staff from participating Family Relationship Centres (FRCs) and Legal Assistance Services (LAS) through the online Managers’ and FRC and legal services staff surveys and qualitative interviews with staff from both FRCs and legal services.

Overall, the qualitative feedback from participants was in line with the quantitative survey findings, with the majority reporting positive relationships within the partnerships and identifying many benefits in relation to the program in terms of meeting clients’ needs. A small number of participants indicated some concerns about how their partnerships were currently operating. In addition, a small number of participants also noted some areas of concern in relation to issues such as resourcing, managing conflicts of interest and working with vulnerable clients.

The chapter begins with an overview of the benefits identified by managers and staff across both legal services and FRCs. It builds on the findings from Chapter 4, including developments in inter-professional collaboration and improvement in the understandings between practitioners of their different roles, the ability of services to provide an holistic response and the development of collaborative approaches to meeting clients’ needs.

The second half of the chapter considers the challenges reported by participants and any issues around the implementation of the program that they identified at the time as still being in need of resolution.
5.1 What are the benefits of the Legal Partnerships Program?

Open-ended responses in the Managers’ and staff surveys considered the strengths and benefits of the program for legal service and FRC staff, FRC clients and the family law system more broadly. These issues were also discussed in detail in the qualitative interviews with legal service and FRC staff.

Two dominant and interrelated themes were evident in the open-ended responses from survey participants and qualitative study interviewees around the benefits of the program.

First, issues related to aspects of inter-professional practice were raised by a majority of managers who responded to this question, as well as a significant proportion of staff, with the overarching theme being the way in which the program contributed to improvements in cross-professional collaboration and understanding. The second most frequently raised issue flows from the first: better outcomes for clients.

A handful of responses also raised issues touching on various operational aspects. These three aspects, as well as perceptions of the benefits of the program for the family law system as a whole, are discussed in the sections below.

5.1.1 A movement towards inter-professional collaboration

This section considers the ways in which participants described the development of inter-professional collaboration during the implementation of the partnerships. It begins by considering quantitative data from the staff survey about the impact of the program on relationships between staff at legal services and FRCs, and then uses open-ended response and interview data from both managers and staff.

The staff survey asked participants to indicate the strength of their agreement with this proposition: “The Legal Partnerships Program will improve my capacity to work with legal practitioners/FRC practitioners”. Analysis of responses revealed that most staff agreed that the program would improve the capacity of FRC and legal practitioners to work together. This was most pronounced for Legal Service staff, where 92% agreed or strongly agreed that the program will improve their capacity to work with FRC practitioners, compared with 79% of FRC staff who agreed or strongly agreed with the reciprocal question: that the program will improve their capacity to work with legal practitioners (Table 5.1).

<table>
<thead>
<tr>
<th></th>
<th>FRC staff (%)</th>
<th>LAS staff (%)</th>
<th>All staff</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly agree</td>
<td>39.4</td>
<td>55.9</td>
<td>45.8</td>
</tr>
<tr>
<td>Agree</td>
<td>39.4</td>
<td>35.6</td>
<td>37.9</td>
</tr>
<tr>
<td>Neither agree nor disagree</td>
<td>10.7</td>
<td>5.1</td>
<td>8.5</td>
</tr>
<tr>
<td>Disagree</td>
<td>4.3</td>
<td>1.7</td>
<td>3.3</td>
</tr>
<tr>
<td>Strongly disagree</td>
<td>2.1</td>
<td></td>
<td>1.3</td>
</tr>
<tr>
<td>Can't say</td>
<td>4.3</td>
<td>1.7</td>
<td>3.3</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100.0</strong></td>
<td><strong>100.0</strong></td>
<td><strong>100.0</strong></td>
</tr>
<tr>
<td><strong>No. of respondents</strong></td>
<td><strong>94</strong></td>
<td><strong>59</strong></td>
<td><strong>153</strong></td>
</tr>
</tbody>
</table>

Note: Percentages may not total 100.0 due to rounding.
In terms of improving the professional skills of staff, results from the staff survey (Table 5.2) reveal that a majority of professionals (75%) believe that the program will assist with improving the skills and professional development of FRC staff. The level of overall agreement with this statement was similar for both FRC staff (75%) and Legal Service staff (76%), although a higher proportion of Legal Service staff strongly agreed when answering this question (46% compared to 33% of FRC staff).

**Table 5.2  Staff response: The Legal Partnerships Program will improve the skills or professional development of FRC Staff**

<table>
<thead>
<tr>
<th></th>
<th>FRC staff (%)</th>
<th>LAS staff (%)</th>
<th>All staff (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly agree</td>
<td>33.0</td>
<td>45.8</td>
<td>37.9</td>
</tr>
<tr>
<td>Agree</td>
<td>41.5</td>
<td>30.5</td>
<td>37.3</td>
</tr>
<tr>
<td>Neither agree nor disagree</td>
<td>13.8</td>
<td>15.3</td>
<td>14.4</td>
</tr>
<tr>
<td>Disagree</td>
<td>7.5</td>
<td>1.7</td>
<td>5.2</td>
</tr>
<tr>
<td>Strongly disagree</td>
<td>1.1</td>
<td></td>
<td>0.7</td>
</tr>
<tr>
<td>Can’t say</td>
<td>3.2</td>
<td>6.8</td>
<td>4.6</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100.0</strong></td>
<td><strong>100.0</strong></td>
<td><strong>100.0</strong></td>
</tr>
<tr>
<td><strong>No. of respondents</strong></td>
<td><strong>94</strong></td>
<td><strong>59</strong></td>
<td><strong>153</strong></td>
</tr>
</tbody>
</table>

Note: Percentages may not total 100.0 due to rounding.

Qualitative responses about the development of inter-professional collaboration were discussed according to three broad threads. Responses in the first thread referred to the way the program has led to lawyers from LAS and FRC professionals gaining a deeper understanding of each other’s roles and relationships. The second group of responses took a more client-focused perspective by suggesting that the multidisciplinary approach supported more holistic service delivery. The third thread referred to the program facilitating complementary practice in the context of assisting clients to find the best way to address their parenting disputes. These three threads are discussed in more detail below.
The ability of Family Relationship Centres to work with other services: A comparison with results from the AIFS Evaluation of the 2006 Family Law Reforms

Respondents to the Legal Partnerships Program evaluation were asked to rate their FRC or their partner FRC regarding abilities to work with other services. This question was also asked of FRC staff in the AIFS Evaluation of the 2006 Family Law Reforms. The results are presented in Table 5.3. In the previous AIFS evaluation, the majority of FRC staff provided positive ratings of the abilities of their FRC to work with other family, health, community and legal services.

Table 5.3 Respondent’s positive assessment of their own FRC/partner FRC abilities to work with other services

<table>
<thead>
<tr>
<th>Family Law Evaluation</th>
<th>Legal Partnerships Evaluation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>FRC (2009) (%)</td>
</tr>
<tr>
<td>Family violence services</td>
<td>90.7</td>
</tr>
<tr>
<td>Mental health services</td>
<td>73.5</td>
</tr>
<tr>
<td>Drug or alcohol services</td>
<td>72.7</td>
</tr>
<tr>
<td>Gambling services</td>
<td>^</td>
</tr>
<tr>
<td>State Government child protection agencies</td>
<td>79.7</td>
</tr>
<tr>
<td>Private family lawyers</td>
<td>65.2</td>
</tr>
<tr>
<td>Legal Aid</td>
<td>78.4</td>
</tr>
<tr>
<td>Community Legal Centres</td>
<td>^</td>
</tr>
<tr>
<td>Family Law Courts</td>
<td>^</td>
</tr>
<tr>
<td>Other legal services</td>
<td>73.0</td>
</tr>
<tr>
<td><strong>Total no. of respondents</strong></td>
<td><strong>248</strong></td>
</tr>
</tbody>
</table>

Notes: ^ Indicates new questions that were not asked in the FRSP staff survey Wave 2 of the Family Law Evaluation. The response categories were: “excellent”, “good”, “average”, “poor”, “very poor”, “can’t say/don’t know” and “not applicable—don’t work with these services”. “Good” and “excellent” are reported together to indicate positive assessment. Percentages exclude “not applicable” responses and missing data. With the exception of * the exclusion for all items is less than 7%. *Total proportion “not applicable—don’t work with these services” was between 8.5% and 11.7%. ^ Proportion of respondents who indicated “can’t say/don’t know” was between 25% and 49%. ^^ Proportion of respondents who indicated “can’t say/don’t know” was greater than 50%.

On average, across all the professionals responding to the Legal Partnerships Program evaluation, most ratings were “excellent” or “good” when professionals were sufficiently confident about commenting on their own or partner FRC’s ability to work with other services. However, caution should be taken in comparing Legal Services staff ratings and FRC staff ratings in this question because there were a substantial proportion of Legal Services respondents who indicated “can’t say/don’t know”, with 25% to 49% unable to rate two items and more than 50% unable to rate seven of the ten items. This means that while it may appear that Legal Service professionals rated their partner FRC less favourably in their work with these services than FRC professionals, this effect was due to the fact that more than half of LAS respondents were not certain that the FRC worked with the service concerned. After accounting for this pattern, there remained a small number of more Legal Service professionals (11%) compared with FRC professionals who did not
give a positive rating of the ability of Family Relationship Centres to work with Community Legal Centres.

When comparing FRC staff responses in the current evaluation with those in the previous AIFS Family Law Evaluation, the proportion of positive ratings remained relatively high and steady for working with family violence services, state government child protection agencies, private family lawyers and Legal Aid. There was some improvement (approximately 9%) in the ability of FRCs to work with mental health services and drug or alcohol services. The exception was a 13% reduction in ratings for working positively with other legal services.

On the whole, the findings indicate that professionals perceive FRCs to be working well with other types of services. Although Legal Service staff were less likely to rate their FRC partner organisation as working positively with other services, this was because of uncertainty about whether or not the FRC actually worked with specific services. This finding possibly reflects the relatively new nature of these partnerships.

Roles and relationships

This group of responses referred to the ways in which the program had provided FRC and legal professionals with a window into each other’s professional world, leading to deeper understandings of the knowledge and practice base of the other profession. Implicit, and sometimes explicit, in many responses was an acknowledgement of a pre-existing lack of insight into the methods and approaches of the other discipline.

The legal relationships program has been instrumental in breaking down barriers and potential misunderstanding/mistrust between the social scientists and the lawyers so that each now has a broader understanding of the other’s role in family law disputes. As a lawyer, I am now more aware of the services offered to clients by our FRC. In turn, our local FRC has the benefit of our service providing them with training in family law and procedures. The greatest benefit thus far … is the acknowledgement by the partners that the family dispute resolution practitioners and lawyers can work cooperatively together and do not have to be competitors. (Managers’ Survey—LAS respondent)

Reflecting the results described in Table 5.1, this better understanding was already being seen to translate into more positive working relationships.

Close working relationships facilitate a greater understanding of the services each provide and result in each being able to support the work of the other. (Managers’ Survey—FRC respondent)

Staff have a better understanding of the Family Law system and are more comfortable to work with lawyers. I think the lawyers also have a better understanding of Family Dispute Resolution. (Managers’ Survey—FRC respondent)

It has also been helpful for FRC staff to be able to speak to the solicitor at the CLC when we need legal information. We could do this prior to this program but feel more comfortable doing it now due to the enhanced relationship we have with the CLC. (Staff Survey—FRC respondent)

Further, there was also a sense that these new understandings could lead to greater respect for the abilities of colleagues in other disciplines and break down some of the stereotypes of the perceived “weaknesses” of the different professions.

The best thing about the project is the breaking down of barriers between the legal profession and the FRC profession, and the idea that with more legal information and support FRC clients can get a better result. It also changes long-held beliefs, such as lawyers should never attend a mediation as it will become confrontational or the belief by some lawyers that clients of domestic violence relationships would
never be appropriately dealt with in a mediation given the one on one approach taken by the process. (Staff Survey—LAS respondent)

**Increasing the system’s ability to provide a holistic response**

Participants also reported that the greater understanding between the professionals, brought about by their participation in the program, was contributing to a more integrated system of service provision, with professionals being able to identify more easily appropriate dispute resolution pathways for particular clients and provide referrals to a wider range of services (see also chapter 4, section 4.2.3). The participants who responded in this way saw the program as contributing to the evolution of a smoother pathway for clients, ameliorating the complexity of a system with multiple entry points and pathways. This is discussed further in Section 5.1.2 Better outcomes for clients.

A stronger connection between the non-legal and legal parts of the family law service and a greater knowledge of other services available to clients. (Managers’ Survey—LAS respondent)

Better assist clients to transition between the legal system and FDR without feeling like they are two very separate processes. (Managers’ Survey—FRC respondent)

**Complementary practice**

Issues concerning practice were at the core of the responses in regard to complementary practice. These responses consistently referred to the way that legal advice could support and facilitate FDR practice, and, conversely, the way that FDR practice assisted in meeting client needs, especially through the application of child-focused professional knowledge and non-adversarial dispute-resolution techniques. The value of legal advice as a ‘reality check’ for FDR clients and the availability of a non-litigious dispute resolution option were seen to be significant advantages.

There are a number of benefits: FRC staff are able to secure the right legal information. Lawyers are able to promote FRC services with confidence. FRC staff are provided with training to recognise urgent matters. Lawyers are able to refer clients, thus freeing them up for more urgent matters. (Managers’ Survey—LAS respondent)

There is a system of reciprocal learning. The CLC lawyers are able to learn further skills from the FRC staff about the social science sitting behind children’s matters and the FRC staff are able to learn about how to better draft parenting plans so that they are workable for the parties into the future. (Managers’ Survey—LAS respondent)

As a consequence of the closer working relationships, staff are better informed when assisting clients. Clients receive a ‘reality check’ and, because we co-present our information sessions, we provide a ‘united front’ to clients so there is not the perception of lawyers against ‘mediators’ that has sometimes prevailed in the past. (Managers’ Survey—FRC respondent)

Collaboration between the different areas so that we are partners not competitors for clients. (Staff Survey—FRC respondent)

**5.1.2 Better outcomes for clients**

In comments on the main benefits of the program for clients, many responses raised issues similar to those outlined above. In particular, a sizeable group of responses saw the program as leading to a more holistic and integrated service for clients. Many responses also referred to the benefits for
clients of access to legal advice. In broad terms, access to legal advice and information more generally about family law processes were seen in the first instance to place clients in a better position to reach informed decision about their options, either in FDR processes or outside of them. This comment from a legal services manager encapsulates this theme:

clients have access to legal services at commencement … and have clearer understanding of their options and the processes involved. (LAS Manager)

Another recurrent theme was that access to legal advice was said by many participants to mean clients were better equipped to enter FDR processes and were more likely to reach sustainable agreements. In relation to this latter point, roughly commensurate numbers of responses referred to legal advice in two different ways. The first was the ‘reality check’ function whereby expectations were moderated.

Legal advice prior to mediation assists them in preparing for the mediation in that they do not attend mediation with unrealistic expectations, and they now know what the law actually is and not what friends, relatives and acquaintances say it is. (Managers’ Survey—LAS respondent)

Clients access legal services quickly and myths about family law and courts are dealt with realistically. Legal advice assists clients in making valid decisions around family matters. (Managers’ Survey—FRC respondent)

Generally there is moderation of expectation before commencing FDR. Clients are generally not making ambit or unrealistic claims. The information sessions assist clients to understand that it is generally not in the best interests of everyone to proceed directly to court. (Managers’ Survey—FRC respondent)

The second group of comments had an ‘empowerment’ focus, whereby legal advice was seen to enable clients to play a self (or child-focused) advocacy role, as was also reported in chapter 4. In some comments, each of these themes was present. These observations illustrate the variations.

Better outcomes when mediators are confident vulnerable parents have been legally advised and also where parents with entrenched views have been legally advised. (Managers’ Survey—LAS respondent)

Giving the power back to the clients to be able to work together in the best interests of the children while being fully informed of their, their ex-partners and their children’s rights. (Managers’ Survey—LAS respondent)

Understanding their options, rights and responsibilities. Getting best outcomes. (Managers’ Survey—FRC respondent)

Greater focus on the needs of children. Greater understanding of the outcome if the matter was to go to court. Able to provide informed choices for the client. (Managers’ Survey—FRC respondent)

An additional explicit focus in a further set of comments endorsed the program’s capacity to address and meet the needs of vulnerable clients. In some instances, this vulnerability was linked to a history of family violence. A specific issue referred to in some comments was the application of shared family violence screening tools, while other comments referred more generally to being able to assist clients affected by family violence and/or other complex issues with legal assistance that would empower them.

Mediation progresses smoothly and far more effectively when all parties are advised of their legal rights and responsibilities. Potential problems are identified, such as domestic violence, power imbalance, mental health issues, urgent situations. Clients
are better able to determine whether or not they wish to progress their matter through an alternative dispute resolution process. Consequently a safe, fair and reasonable resolution is achieved. (Managers’ Survey—LAS respondent)

Better referral practices for vulnerable clients. Legally assisted FDR has enabled some cases that would have had a certificate issued being offered legally assisted FDR. (Managers’ Survey—FRC respondent)

It provides advocacy for vulnerable clients in a safe environment. (Managers’ Survey—FRC respondent)

5.1.3 Main benefits for family law system as a whole

Two main themes were evident in responses considering what benefits the program offered the family law system as whole. The responses in both of these sub-groups saw the program as improving the efficiency and effectiveness of the system. The issue emphasised in the larger sub-group concerned the capacity of the program to reduce adversarial approaches and prevent matters from reaching court. The responses suggest that a range of issues feeds into participants’ perceptions of the factors that will produce this outcome. They include the wider use of FDR processes because of lawyer support, and the application of a multidisciplinary approach being more effective in producing mediated outcomes.

The system’s cultural shift from adversarial approach—legal advice for all, early, with a focus on children. (Managers’ Survey—FRC respondent)

People are encouraged to resolve their matters without going to court. People have a better understanding of what the court process entails and how it fits with alternative dispute resolution. The partnership assists clients to better identify the best process for resolving their family problems; be that ADR or recognition of the fact that their matter is one which needs to be taken to court. (Managers’ Survey—LAS respondent)

If parties are aware of their rights and can come together and reach a compromise of their own, rather than have conditions imposed on them, this is more likely to promote better respect and communication between the parties, which will in turn provide for a more long-term arrangement which is beneficial for parents and children and frees up court resources. (Managers’ Survey—LAS respondent)

The provision of services, such as the preparation of parenting plans, was also seen as being able to assist with the success of parenting plans beyond the FDR process.

Better informed clients generally make the FDR process more effective and can assist in keeping cases out of court. Greater willingness for FDR practitioners to refer on, e.g. for turning Parenting Plans into Consent Orders, without worrying that the lawyer will sabotage the agreement. (Staff Survey—FRC respondent)

A closely related set of responses in the second sub-group expressed similar views, emphasising that providing clients with better legal advice and information would reduce burdens on the system.

The opportunity to identify and sort through issues of how FRCs and lawyers can work together within the partnership will provide valuable information for how this can take place in the sector more broadly. (Managers’ Survey—FRC respondent)

It keeps people out of the court system. Ensures that only the most appropriate cases proceed to court. (Managers’ Survey—FRC respondent)
More clients achieve parenting plans by way of negotiation, while the really serious cases end up in court. Hence reduction of number of cases filed in Family Law Courts, cost savings for clients avoiding court, and clients learn to apply new communication and negotiation skills, and have a greater understanding of their children’s developmental needs—age specific. (Managers’ Survey—FRC respondent)

While the provision of complementary legal and FDR services was seen to have benefits generally in supporting dispute resolution outside of the court system, some comments also specifically referred to clients being better prepared for court should the matter proceed there. In some cases this was specifically around self-represented litigants.

By assisting clients to resolve family law disputes outside the court system. Providing them with information that will assist them should their matter proceed to court. Therefore when clients present at court they are better prepared and informed. (Staff Survey—FRC respondent)

Hopefully more people will be better informed of their rights and this will in turn ease burdens on the system, which can stem from uninformed self-represented litigants. (Managers’ Survey—LAS respondent)

### 5.1.4 Other operational issues seen to be of benefit

A further set of responses, collectively the smallest in number, referred to issues arising from the program that were seen to increase the efficiency of the family law system. The biggest group of these responses referred to various benefits arising from the availability of legal advice. As the following observations indicate, these include clients being better informed about their legal position and therefore better equipped to engage in mediation processes. Similarly, speedy access to legal advice was seen to allow the momentum of FDR processes to be maintained. Some comments indicated that sustainable resolutions were more likely to be reached in this way, saving court time. A couple of comments indicated that the program meant fewer inappropriate matters would proceed to FDR, and a couple of responses also referred to the advantages of the application of a common screening tool.

If people know their basic legal rights and myths are dispelled, it should be easier for them to make informed choices in deciding parenting arrangements. (Managers’ Survey—LAS respondent)

Identification of legal problems early, so that legal problems don’t derail the mediation process. (Managers’ Survey—LAS respondent)

Clients access legal services quickly and myths about family law and courts are dealt with realistically. Legal advice assists clients in making valid decisions around family matters. (Managers’ Survey—FRC respondent)

### 5.2 What are the main challenges and unresolved issues facing the Legal Partnerships Program?

While the findings from both the quantitative and qualitative data suggested that participants generally viewed the program very positively, some challenges were identified along with issues that still needed to be resolved to ensure the success of the program overall. Both challenges and unresolved issues are discussed together in this section.

Responses about challenges and unresolved issues tended to be in relation to continuing to improve relationships between the services, resourcing issues in terms of funding and types of
services offered, dealing with lawyers’ conflicts of interest, and working more effectively with vulnerable clients—particularly in relation to family violence issues.

5.2.1 Challenges in working together and understanding each other

Interdisciplinary practice was identified as a key benefit of the program, but responses to questions asking participants for their views on challenges indicate that this aspect of the program also involves overcoming certain difficulties. A smaller number of participants overall commented on challenges, but interdisciplinary challenges were the most frequently raised issue in this group.

In some cases this was seen as something that was more about getting the ways that services worked together “right”.

The challenges are managing communication so that all parties are on the same page and are understanding of each other’s role, and are also respectful of each other’s role. I think we have to work as a very close team to be successful. (Staff Survey—LAS respondent)

However, comments also identified ‘cultural’ issues arising from different disciplinary training and practices to cross-professional suspicion.

Solicitors and mediators come from two different disciplines. This has made it somewhat difficult to see eye to eye at times, but by strengthening relationships and gaining a better understanding of what we each do, our barriers break down and we are able to work together. Better results for the clients in the long run. (Managers’ Survey—LAS respondent)

Some FRC staff may feel that lawyers disrupt the mediation process. Lawyers may feel frustrated that without lawyer assisted mediation the best outcomes for children and parents are not being achieved. (Managers’ Survey—LAS respondent)

Overcoming the tensions between the FRCs and legal staff, largely created as a result of previous government policy. (Managers’ Survey—LAS respondent)

In addition to generalised comments about cultural differences, a small number of comments from legal service managers and staff concerned lawyers’ conflicts of interest. As noted in chapter 2, a small number of lawyers reported that the FRC professionals they worked with did not fully appreciate the fact that lawyers’ ethical obligations mean that they (as individuals or as part of a service) are prevented from acting for one side if they are acting for or have ever acted for the other side in a dispute. A quote reported in Chapter 2 illustrates this point also:

Our FRC did not fully understand what a conflict of interest was in relation to our service and this was/is a constant hurdle. (Managers’ Survey—LAS respondent)

Identification of potential and actual conflicts of interest, and provision of alternative legal advice where actual conflict exists. (Managers’ Survey—LAS respondent)

Interestingly, lawyers’ conflict of interest difficulties were also raised by FRC staff and managers in regard to challenges and unresolved issues. However, these were usually framed about lack of provision of alternatives when both parties required legal advice.

The issue of one party having access to legal representation in an FRC mediation while the other doesn’t. (Managers’ Survey—FRC respondent)

Not having access to a great service because of conflict of interest. (Managers’ Survey—FRC respondent)
This issue of availability of additional lawyers where a conflict of interest exists was also acknowledged by some legal service respondents:

[The] means by which services can be provided in the case of conflict of interest is yet to be identified. If a cost effective option cannot be identified, the project won’t be able to effectively provide legal advice to all users. (Managers’ Survey—LAS respondent)

The legal conflict of interests question appears to have an educational and management component, and a structural and resources component. The solution to the first problem probably involves the development of protocols to assist FRC staff to make appropriate referrals to lawyers. The solution to the second problem may be more complex, especially in rural and remote areas, as it is ultimately about the availability of sufficient numbers of lawyers. This issue is considered further in the final chapter.

Some FRC participants also noted that the lawyers providing services to their FRC were not very experienced in family law.

Ensuring that community-based lawyers are adequately experienced in Family Law, and adequately familiar with FDR, to enable lawyer assisted FDR to be successful. (Managers’ Survey—FRC respondent)

To the extent that this represents more than an isolated observation, it may be a transitional issue. There were suggestions from legal aid lawyers, for example, that family law matters have not traditionally been part of the mainstream business of community legal centres. This is likely to change if CLCs remain partnered with FRCs.

5.2.2 Resourcing issues

Many of the comments from staff and managers about challenges and unresolved issues were around the issue of having adequate resources to provide the services that clients need. Three main themes emerged in regard to resourcing. First, services were not currently being funded to meet demand so that clients were missing out. Second, the funding provided to CLCs did not meet the true cost of service delivery, and no funding was available to meet administrative and other costs incurred by FRCs. And third, a lack of resources meant that in some partnerships moving onto additional services, such as lawyer assisted FDR, was difficult.

Funding to provide more of existing services

As discussed in earlier chapters, the Legal Partnerships Program has been seen to have been generally well received by clients as well as staff. The success of the program, however, has led to high levels of demand within some centres for individual legal advice sessions. Participants in both FRCs and CLCs noted this as a barrier to the success of the project.

More funding to make the lawyer more available. (Managers’ Survey—FRC respondent)

Requires more funding, more days in a week. I think it would be important to increase the number of opportunities so clients could access this type of service while they are being supported in the alternative dispute resolution model. (Managers’ Survey—FRC respondent)

Huge demand for legal services means that CLC can only assist a portion of the clients that need assistance, that is capacity constraints. More funding would help enormously. (Staff Survey—LAS respondent)
Potential challenges: meeting demand for individual advice from lawyers and meeting ongoing needs of clients on limited funding. (Managers’ Survey—LAS respondent)

In addition to this, there was a sense that the ‘real costs’ were not always being covered by the funding. This included both the resources needed by CLCs to deliver the program as well as the administrative costs incurred by FRCs, who did not receive any funding as part of the program.

Funding—the CLCs do so much with so little: funding does not cover the costs! (Managers’ Survey—FRC respondent)

More funding for administrative duties. This currently falls on the FRC that don’t receive any additional funding. The funding for the CLC is very small as well, restricting the service they can provide. (Managers’ Survey—FRC respondent)

Resourcing issues were also commented on in terms of restricting the types of services that could be made available.

Challenges are increasing the range of services that could be made available at this site given funding restraints. (Staff Survey—FRC respondent)

The challenges are not having enough resources to enable a more comprehensive service to be offered to clients who come through the FRC. Also, because only a certain amount of funding is allocated for this service, it is a bit limiting in being able to provide ongoing assistance to clients that have to be referred back to the legal centre. (Staff Survey—LAS respondent)

Not surprisingly, resource issues were particularly to the fore with regard to lawyer assisted FDR. Participants noted that the time required to both bring all parties together and also involve two lawyers in mediation was considerable, and it impacted on the resources to provide other services such as legal advice to other clients.

With the current level of lawyer availability, new waiting lists have arisen to see counsel and thus extending the time clients are in the FRC process. Legally assisted FDR is increasing, and thus decreasing available hours for individual client advice sessions. (Staff Survey—FRC respondent)

The expenses in having lawyers in the FDR and on site when demand is not there, rather than potentially more efficiency by advice from the lawyer’s office. (Managers’ Survey—LAS respondent)

5.2.3 Working with vulnerable clients

On the one hand, comments with respect to vulnerable clients generally and clients who have experienced family violence in particular, reflected a hope that the joining up of services might lead to better outcomes for parents and children. On the other hand, both sides expressed concerns that colleagues from the other profession might be insufficiently sensitive to the needs of these family members. The following statements illustrate both the hope and the contrasting concerns.

Main benefit is early intervention, particularly in matters where there are safety concerns for a party and/or the children. Screening for domestic violence or child safety concerns is much easier said than done, and the project offers an excellent opportunity to improve the identification of matters where FDR may not be appropriate and, more importantly, to ensure victims of violence or abuse are being connected with appropriate legal and non-legal services. (Staff Survey—LAS respondent)
An ongoing concern is the view often taken by the family law system that a person who uses violence is a “bad partner but good parent”, and fails to recognise the attack on child and non-violent parent–child relationship that occurs with domestic violence. A challenge for the FRC (who have this understanding) in working with our legal partner will be to ensure we are not mediating cases of violence (because we now can) without giving the other victims of violence (children) a voice. Legally assisted FDR in these cases should have child inclusive practice used as much as possible, because controlling coercive behaviours do not stop with separation and are not aimed only at the other parent. (Staff Survey—FRC respondent)

The challenge is to make sure that vulnerable people aren’t forced into mandatory mediation when it’s inappropriate due to violence and abuse—the challenge being to identify those cases early and not define violence and abuse too narrowly. (Managers’ Survey—LAS respondent)

The best way forward for family violence and other vulnerable clients frequently requires a sophisticated judgment call. Is FDR appropriate, for example, and if so under what circumstances? Can a solution be found that both preserves relationships between parents and children, and protects all family members? Does one party need to be formally protected and the other rehabilitated before such a solution can be contemplated?

Because such questions have important legal, psychological and social components, they are ideally best answered by bringing together the professional resources of both legal and family relationship practitioners. More will be said of this issue in the concluding chapter.

5.3 Summary

A substantial majority of staff reported positive relationships within the partnerships and suggested considerable benefits in relation to the program in terms of meeting clients’ needs. A small number of participants, however, expressed concerns about how their partnerships were currently operating. In addition, a small number of participants noted concerns in relation to issues such as resourcing, managing conflicts of interest and working with vulnerable clients.

More than 80% of staff agreed or strongly agreed that the Legal Partnerships Program would improve their capacity to work with legal practitioners or FRC practitioners. Legal staff were more likely to strongly agree than were their FRC counterparts. Very few staff disagreed with this proposition.

About three-quarters of practitioners believed that the program would assist with improving the skills and professional development of FRC staff. While the broad agreement level was similar for both FRC staff and Legal Services staff, a higher proportion of Legal Services staff strongly agreed with the proposition.

There was evidence to suggest that lawyers and FRC professionals believed that the program permitted them to gain a deeper understanding of each other’s roles and relationships, and to break down some of the past barriers and potential misunderstandings or mistrust between family relationship practitioners and lawyers.

The partnership’s multidisciplinary approach was generally felt to support a more client-focused perspective and a more holistic service delivery, whereby clients could move between the legal system and family relationship services and FDR without feeling like they were two very separate processes.

There was broad agreement that, especially through providing a “reality check”, legal advice could support and empower clients and facilitate FDR’s core aim of meeting client needs through
the application of child-focused professional knowledge and non-adversarial dispute-resolution techniques.

Practitioners spoke of the benefits, in terms of efficiency and effectiveness, that the program offered the family law system as whole. They emphasised the capacity of the program to reduce adversarial approaches and prevent matters from reaching court. A key means of achieving these outcomes was thought to be via both the wider use of and greater success rate associated with FDR processes because of lawyer support. It was felt that legal information and advice could dispel myths. It was also felt by some that legal information and advice might reduce the number of inappropriate cases proceeding to FDR.

The most frequent challenge noted was that of working in an interdisciplinary manner when it was commonly acknowledged that, culturally, the disciplines themselves had very different starting points. A practical manifestation of the cultural difference related to understanding the particular issues that arise for lawyers around dealing with conflict of interests. In the short term there appear to have been misunderstandings and frustrations on both sides. In the longer term protocols probably need to be developed to assist FRC staff to make appropriate referrals to lawyers. It was noted that the legal conflict of interests issue also has a structural element linked in the final analysis to the question of resources.

Resources were generally seen as an important challenge. Practitioners noted that a considerable amount of work being undertaken was technically not funded. A perceived absence of resources was also seen as ultimately limiting the effectiveness of the partnership program and a reason why, in some cases, initiatives such as lawyer assisted mediation was not possible at this stage.

Finally, the partnerships were seen to present both an opportunity and a challenge with respect to working with family violence and other vulnerable family situations.

On the one hand, there was the hope that the joining up of services might lead to better resources and outcomes for parents and children. On the other hand, both legal and family relationship practitioners expressed concerns that colleagues from the other profession might be insufficiently sensitive to the needs of these family members. This again reflects, in part, differing cultural starting points and indicates the challenge of drawing upon the best of both traditions in the service of these families.
Chapter 6 Client experiences of FRCs and their legal partners

A sample of 33 clients who had participated in the FRC Legal Assistance Partnerships Program was interviewed by telephone for an average of 19 minutes. The interview protocol is reproduced as Appendix A. Essentially clients were asked about the circumstances that took them to the Family Relationships Centre (FRC) and what happened during their contact with the FRC, including any contact with partnership lawyers (or other lawyers) and participation in mediation (lawyer assisted or otherwise). This methodology was chosen over a more structured interview schedule for a number of reasons. First, it was anticipated (and indeed found to be the case), that clients would not necessarily be clear about the formal roles of individuals they encountered at the FRC. Second, it was anticipated (and again found to be the case), that some clients might struggle to recall the exact sequence of services they received. Third, this methodology has greater capacity to reveal any unintended consequences of the program.

Generally speaking we found the core narratives provided by clients to be clear and to provide good early data on how the partnership program is currently being experienced by these clients. Because of the non-randomised nature of the client sampling, we make no claims that these experiences are representative of the experiences of all clients of the partnership program. Rather, the value of analysing the perceptions of a relatively small sample of clients comes from the initial sense it provides with regard to:

- the range of issues brought to the program;
- the extent to which the issues described appeared to benefit from combining the resources of relationship services (especially family dispute resolution) and legal services; and
- (as noted) any unanticipated or unintended consequences of the program.

21 While the methodology permitted us to assist clients in becoming clearer about their experiences, we were simultaneously conscious of keeping questions as open-ended as possible, of not making a priori assumptions about their experiences, and of not subjecting interviewees to unnecessary stress. There were a few occasions when we considered that further questioning may have been over-intrusive or possibly distressing. As client wellbeing is always the ethical priority, such questions were not pursued in these circumstances. This meant that from time to time, the meaning of the client’s response was unclear. Data in this category were not used in this chapter.
These data provide a means of reflecting on the Legal Partnerships Program through the perspectives of clients. In considering these data, it must be borne in mind that the interviews disclose the subjective experiences and perceptions of the participant.

The chapter begins with an overview of the client sample and a summary of the issues the participants were dealing with in the program, together with a general analysis of the degree of satisfaction the participants reported. This is followed by a series of more in-depth analyses of clients’ experiences under the following headings:

- Positive, negative and mixed client experiences;
- The nature and purpose of the legal interventions;
- The link between legal interventions and outcomes; and
- Systemic issues: level of engagement between partnership lawyers and FRC staff.

The final section of the chapter contains some brief concluding comments.

### 6.1 Overview

As noted in Chapter 1, 33 clients were interviewed, with 22 women and 11 men agreeing to share their experiences for the evaluation (recruitment methods are described in-depth in Chapter 1). The participants were dealing with a range of parenting issues arising from relationship breakdown. The sample was fairly evenly divided into two groups: parents who were dealing with issues arising out of relatively recent separations and parents who were dealing with longer term, post-separation parenting issues, including agreements that they felt needed adjustment or weren’t working. A smaller group of three parents had not been in established relationships with the child’s other parent.

In the former group were 16 participants who were either dealing with unresolved parenting issues or who were seeking to formalise agreements that were in place. A variety of issues were relevant to these clients. While the circumstances for several were relatively unproblematic in that they simply wanted to reach a workable agreement with their ex-partner where there were no substantial differences in their positions, other participants had more complex issues to deal with. These included circumstances in which the parentage of a child needed to be established, issues arising out of a separation under one roof and two situations where one parent lived overseas. A common issue arising in these scenarios was the need to ‘get things sorted’ in order to clarify rights and obligations, in addition to working out arrangements. For example, James was the main carer for his children following separation, with his former partner seeing the children “anytime she likes” but on an irregular schedule. He wanted an arrangement in place that would clarify the parents’ positions:

> I don’t want to be in a situation where when she comes to get the kids and she’s got the shits or something and she’s not going to bring them back.

The second group of 14 participants had issues arising from a longer post-separation horizon involving difficulties with parenting issues. Most parents in this group had concerns about the way parenting arrangements, previously formalised by agreement or court order, were working out. Concerns about the other parent’s care and difficulties over communication were among the main issues for these parents. Anna, for example, had split up with her three-year-old son’s father when she was pregnant with him. She was concerned about the child’s time with his father after a disagreement between them:

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22 Pseudonyms are used throughout. Other potentially identifying material, such as ages and locations, have also been removed.
I felt that it affected my ex’s care for [child] while he was under his care.

Anna initiated contact with an FRC and the matter was dealt with through lawyer assisted mediation.

Other adjustments being sought by parents in this group included renegotiating shared care (“50–50”) arrangements or seeking or opposing the child(ren) spending more time with the other parent. A couple of participants described cases involving very entrenched conflict, and one woman and one man described situations in which the parent was not complying with previously obtained orders.

The participants in the sample were at a variety of points in their progression through the process. The majority reported that they had attended group information sessions at FRCs (24 participants) and had received legal advice on a one to one on basis (29 participants). Fifteen had completed mediation, and five parents in this group had participated in lawyer assisted mediation.

In relation to legal advice, the participants reported receiving a range of services. Most reported receiving advice on their legal position in relating to parenting issues, and a few also spoke of discussing other separation related issues, including financial matters, with their lawyers. A number reported receiving assistance with drafting documents, including consent orders and parenting plans. A few said they had received assistance with court proceedings, with lawyers advising them on drafting court documents, including affidavits. Some also received support prior to mediation with the process being explained to them, along with the opportunity to discuss, from a legal perspective, whether their position was reasonable.

Overall, almost all participants spoke in positive terms of their interactions with the lawyers with only a couple of exceptions. The extent to which the participants considered the legal advice helped them varied but, as elaborated upon below, an important issue raised by many participants was the sense of receiving advice that clarified their position and assisted them in feeling more supported and empowered. In a few instances, the participants considered the interaction with the lawyer helpful but too limited. The one client who clearly indicated his contact was not helpful said this was because the lawyer’s advice took matters no further than information he already had:

So for me it was just a waste of time and there was nothing that the free advice that they were giving was what you could get off the internet and what I got from Legal Aid.

The difficulty for this client seemed to be that his income put him in a bracket that made him ineligible for further publicly funded legal assistance but he was unable to afford private assistance.

The following sections explore the issues raised in the client interviews in more depth.

6.2 Positive, negative and mixed client experiences in the Legal Partnerships Program

The experiences described by many participants involved positive, negative and neutral elements. While a group of ten participants was almost wholly positive about their experiences, most others described experiences in a more complex and varied way. In ten cases, clients reported a positive experience of their contact with the FRC and the experience with the partnership lawyer. A further nine clients gave a positive account of their experiences with the FRC but this could not explicitly be connected to the partnership program.\(^{23}\) Mixed experiences, either ambivalent or

\(^{23}\) This does not mean that such a link did not exist—only that it was not mentioned by the client.
with negative elements, with a connection to the partnership program were described by two clients. A further three clients had not proceeded far enough into the process to provide an overall assessment. Ambivalent or largely negative accounts of their experience were provided by a further six clients, but these were associated with the process as a whole rather than being formally related to the Legal Partnerships Program. Overall, positive experiences tended to be linked with a feeling of being supported by the FRC staff, the lawyers or both. FRC processes were often praised for bringing the interests and needs of the children into focus. Legal advice assisted in bringing clarity or a feeling of support to a client concerning the range of possible options.

Clients who had less complex problems that were not so difficult to resolve were more likely to describe their experience positively, while clients with long-running, seemingly intractable disputes were most likely to be unhappy. In some cases, the level of satisfaction expressed by the client seemed linked to outcome: those parents whose dispute was not resolved in the way they hoped for were more inclined to express negative sentiments than clients who were satisfied with the outcome. Of the clients interviewed, 19 had achieved whole or partial resolution of their issues. For 11 of these clients the resolution could be clearly linked to participation in the Legal Partnerships Program, with no link evident for the other eight. A range of issues arising from client experiences in the legal partnership program gave rise to positive or negative comment. The following discussion begins by examining positive experiences followed by mixed and negative ones.

An example of the first category is Carol, who felt reassured by FRC staff that she would be safe if family dispute resolution (FDR) proceeded and who was appreciative of the efforts of the staff to make inquiries in this direction:

Yeah. Just knowing that I was going to feel safe if he did actually come and do mediation, but it was all explained to me.

At the same time, Carol was appreciative of the information and advice she had received from the FRC’s legal partner:

Yes, I need to be knowledgeable about what I’m going into this time because I got in trouble the first time. I just stopped contact from my son to his dad and I got in trouble for that so I have to be more knowledgeable this time.

Robyn said she had been ineligible for legal aid. She had taken out a voluntary restraint order (VRO) and believed that her private lawyer had wrongly advised her that she needed to agree to a 50–50 parenting arrangement:

My private lawyer was just terrible and really led me down the garden path for a long time, and totally didn’t help me at all.

This arrangement had been in place for a considerable time. Having eventually found her way to an FRC however, for Robyn, it:

was like the turning point and now things are starting to work out … [whereas before] … it was like no-one cared at all … They were supportive towards me but they were also not totally focused on me or him; they were like, “We’ve got to do what’s in the best interests of the children kind of thing”. They weren’t all about helping me and getting the kids away from him and stuff; they were like, “He has rights as well” which I think was good.

The FRC had also referred Robyn to a partnership lawyer whose advice she felt to be “more realistic”, in contrast to her previous experience of a private lawyer who she said had advised her to accept a 50–50 arrangement despite a history of violence. Robyn reported that the partnership
lawyer was supporting her desire to modify the 50–50 arrangement. She was hoping the matter could be resolved at mediation. As a result of the legal advice, she felt she was more aware of the grounds upon which she could continue to pursue a solution that she felt would be more in her children’s interests.

Not unexpectedly, family violence was an issue of significance. In this sample thirteen clients spoke of family violence with six women reporting physical violence, one woman reporting the existence of a protection order against her child’s father’s current partner and one man who acknowledged that allegations of violence had been made in the case. Four female clients also referred to emotional abuse. A further male client reported that his ex-partner felt intimidated by him. Nine of these clients reported positive experiences of the Legal Partnerships Program overall. Two women reported a negative experience; and two clients, one female and one male, were ambivalent.

Jack, whose need for assistance with negotiating parenting arrangements was resolved expeditiously, was very grateful for the service he received at the FRC:

I’d just like to note that I was really grateful there was a service of that sort. [I thought] all this paper work and it’s meant to be courts and lawyers and it’s going to be very unpleasant. But they immediately put the focus on the wellbeing of the kid ... They were very professional. It was really useful. It gave us a bit of closure and I’m really happy that such a service exists.

Perhaps somewhat paradoxically, the key message from the partnership lawyer Jack saw (which he nonetheless found useful) was to place the focus on continuing to work matters out between them and not to get bogged down in detailed legal agreements. The advice he recalled was:

Rather than try to come up with some really complex piece of paper that outlines every scenario possible, you can just agree on the principles if that’s working.

Where clients described less positive experiences these were linked with a variety of issues, including experiencing the multi-step FRC process as cumbersome and time consuming, arriving at outcomes not consistent with their expectations, and parenting issues that had a long history and involved an ex-partner who refused to participate in the process or who was described as intransigent.

For example, the experiences of two clients who reported a negative experience of contact with the FRC and disappointment with the legal services provided in the program were mainly linked to delays in obtaining the service. In each of these cases, the clients’ accounts indicated the process had not panned out as they had been led to expect.

Thus Hanna was frustrated by the delays she experienced at the FRC, especially in view of the age of her young child who was in a 50–50 arrangement with her former partner. Hanna felt patronised by the child consultant she saw at the FRC:

When I went [to the FRC] my [young child] had a couple of bruises on her that I actually explained to them I was quite worried about … and so they offered for me to see a child psychologist and they offered for me to see a Legal Aid person. And I took up both of those offers and when I walked in the child psychologist said, “Oh … this week-on, week-off situation that you’ve got; I must say it’s not very appropriate for a child of your daughter’s age”. And I’m like, “Well, dah, that is why I’m here”. Like I’d arranged to have that situation in hand and I couldn’t do anything

24 Hanna had already notified her State child protection authorities.
about it and they couldn’t do anything about it any faster. So the whole process was kind of frustrating …

In addition, Hanna’s experience with legal advice was mixed. She acted on the advice given by the partnership lawyer but was then frustrated when the preparation she had done for mediation on that advice was put aside on the day. She said she had been advised by her lawyer to undertake careful preparation, including formulating a calendar for her proposed time arrangements (she was a shiftworker). However, this was her memory of the response she received at the session:

Actually, we’d put that away because that’s just going to frustrate him and then he won’t negotiate at all. So I wouldn’t show him any of that. So they made me pack it up into a pile and turn it over and I didn’t even get to show or mention it, because they told me not to mention it.

Hanna’s experience suggests a lack of alignment between the lawyer’s understanding of how FDR was to be conducted and how it was actually conducted. This may be an example of one of the “teething problems” in the partnership program that are likely to be resolved as the partnerships progress.

Hanna also expressed a view that was consistent with comments made by two other female participants: that there was a bias in the way the mediation was conducted toward maximising paternal involvement. Reina, for example, noted she felt this meant that the needs of the children in her particular case were not given sufficient attention in the mediation. Anna’s focus was more directly on her former partner:

To be quite honest, I felt in the mediation that one of the mediators was a bit biased towards the other party. My lawyer even commented on that as well.

Despite these observations, both Reina and Anna described their experiences in positive terms overall, noting they had produced outcomes they could live with.

Oliver also reported experiencing disappointment with mediation, which in his case was lawyer assisted. Delay was also a major concern for him, after being referred to an FRC by a private lawyer. Oliver felt that the six months it took him to finally get to FDR (he had in the meantime attended a child-focused session and an individual intake session), greatly disadvantaged him and his children:

Yeah, so my perception is my reality but I strongly believe that it just wasted six months and it wasted me an opportunity to get the matter heard.

Oliver was initially impressed when the FRC offered him lawyer assisted FDR but reported extreme disappointment with the process and the outcome. His description of the “mediation” suggests that both lawyers actively entered into negotiations on behalf of their clients:

Yeah, we got an opportunity to speak individually with the lawyers and there was—all the lawyers did was when it came to, “There doesn’t look like there’s any shift here” was say, “Oh gee, you know what if that—if you continue on that it could take 18 months before you get to Family Court”. So all the solicitor [aided] mediation did was inform that if you maintain the equilibrium at the moment it will take 18 months to get to court and by then the balance of the status quo of the situation will be the Family Court won’t disrupt what’s going on. So all they did is pretty much inform the children’s mum to sit on your hands, do nothing, and you’ll be right love. So I actually rang up the mediation services and spoke to the office manager there.

Reflecting on the lawyer assisted mediation, Oliver said he believed he was:

… sold a product that wasn’t the product that the ad said it was.
Oliver believed he could have had his matter heard more quickly in court than it was dealt with in mediation, and also believed the outcome would have been more favourable to him.

Jane’s experience provides an example of a long running dispute that had led her to feel very negatively about the family law system as a whole. She said she had spent ten years in courts in dispute with her former partner over parenting and financial issues. A major concern for her was what she perceived to be an inadequate response on the part of the system to her concerns about her ex-husband’s abusive behaviour towards the children. She said of her history:

   The way the court system is set up is it went to 13 hearings, which was an excessive amount. It cost nearly the price of a house … On my part there’s aggression towards lawyers now because I think that they’re all the worst people in the world and out for their own benefit—which is sad because one would think that being in a legal system it would be to uphold the justice for people … The longer that you are in that legal circle the more damming it is to your health, your mental health, your children’s mental health and the relationships between all parties.

Jane indicated positive contact with a lawyer in the Legal Partnerships Program but noted that legal action was ineffective in the context of her ex-partner’s behaviour. She appeared to have multiple legal matters on foot at the time of interview. Jane was positively disposed towards the FRC, which in turn appeared to be focused mainly on supporting the children. Although the FRC had facilitated psychological and social work referrals for the children, which Jane appreciated, her overall assessment probably reflected too long a period of entrenched conflict:

   … but the Family Relationship Centre they can’t make people nice.

Jane’s frustration with the process overall was shared by several other participants whose problems had a long history. Nigel, for example, described the FRC process as ‘a waste of time’, in the face of what he described as intransigent behaviour on the part of his ex-partner. Nigel said he could see no alternative but to go back to court, but was frustrated because he was ineligible for legal aid but could not afford to pay a lawyer.

The following text box further describes a range of indicators of service delivery and quality and compares these data to those reported in the *AIFS Evaluation of the 2006 Family Law Reforms*. 
Quality of service operation and delivery in Family Relationship Centres: A comparison with results from the AIFS Evaluation of the 2006 Family Law Reforms

Both the AIFS Evaluation of the 2006 Family Law Reforms and the current evaluation asked FRC service professionals to indicate their agreement with a range of statements about the quality of service operation and delivery in Family Relationship Centres.

In 2006, there was a high level of positive agreement about the quality of service operation and delivery in Family Relationship Centres according to FRC staff, see Table 6.1.

Table 6.1 FRC staff: Agreement (agree or strongly agree) with statements about service operation and delivery

<table>
<thead>
<tr>
<th>Statement</th>
<th>Family Law Evaluation</th>
<th>Legal Partnerships Evaluation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>FRC (2009)(%)</td>
<td>FRC staff (%)</td>
</tr>
<tr>
<td>This service helps clients in conflict to significantly reduce or overcome their problems</td>
<td>92.3</td>
<td>97.9</td>
</tr>
<tr>
<td>This service is child focused</td>
<td>97.9</td>
<td>100.0</td>
</tr>
<tr>
<td>This service works well with other organisations and agencies</td>
<td>96.0</td>
<td>100.0</td>
</tr>
<tr>
<td>The intake process at this service is effective in identifying the needs of clients</td>
<td>98.0</td>
<td>98.9</td>
</tr>
<tr>
<td>The staff at this service have the skills required to meet clients’ needs</td>
<td>97.5</td>
<td>100.0</td>
</tr>
<tr>
<td>This service assists clients to improve their parenting skills</td>
<td>89.2</td>
<td>91.5</td>
</tr>
<tr>
<td>Total no. of respondents</td>
<td>248</td>
<td>94</td>
</tr>
</tbody>
</table>

Notes: The response categories were: “strongly agree”, “agree”, “disagree”, “strongly disagree”, “can’t say/don’t know” and “not applicable”. “Strongly agree” and “agree” categories are reported here together. Percentages exclude “not applicable” responses and missing information for individual items. The exclusion for most items is less than 3%.

The very high frequency of positive agreement found originally in the AIFS Evaluation of the 2006 Family Law Reforms has slightly strengthened in the current evaluation to the extent that all participants agreed that Family Relationship Centre services are child focused, work well with other organisations and agencies, and that staff have the skills to meet the needs of clients.

The extent that the service assists clients to improve their parenting skills attracted less frequent positive agreement compared with other statements in the current program evaluation. This statement also had comparatively lower agreement in the previous evaluation. This suggests that although most FRC professionals were confident that FRC services can assist clients to improve their parenting skills, there is some reasonable tentativeness about the extent to which this can be achieved.

The greatest improvement across ratings of service operation and delivery occurred in relation to helping clients in conflict to significantly reduce or overcome their problems. Almost 6% more FRC staff in the LPE agreed their service achieved this compared to those surveyed for the Family Law Evaluation.

Overall, this comparison indicates that the quality of service operation and delivery in Family Relationship Services has
6.3 The perceived nature, purpose and progression of the legal interventions

Although there were possible exceptions such as the experiences of Hanna and Oliver, for most clients interventions by partnership lawyers seemed to provide advice that complemented the child-focused information they had received at the FRC information sessions. Interventions by partnership lawyers also frequently complemented information at the one to one sessions that clients had with FRC staff prior to the commencement of FDR. Three clients needed advice of a legally technical nature—two in relation to the possibility of children being removed from the jurisdiction and one in relation to a paternity issue. In addition, one client used her session with a partnership lawyer not to seek advice on the needs of the children (about which she was clear), but to obtain advice about her financial options. In one case, at the behest of both parents, the FRC referred the parenting agreement drafted following FDR to a single partnership lawyer. The purpose of the referral, made with the consent of both parties, was to convert the agreement into a draft consent order.

Basiclly what the lawyer drew up was a formalisation of the collaborative parenting plan. There weren’t any surprises there.

Another client found lawyer assisted FDR very helpful but was also very keen to have the agreement converted into consent orders. The partnership lawyers in this case assisted in the drafting of these orders.

Most clients who accepted a referral to a partnership lawyer, or referred themselves after attending a group information session, spoke in one way or another of their lawyer’s support for their efforts to achieve what, from their own points of view, were better or more realistic parenting arrangements. Although legal advice was generally seen as useful, it was also generally seen as reinforcing what clients already understood or knew. What frequently seemed more important was the value many clients attached to speaking to somebody who was knowledgeable about the range of legal possibilities, but moreover, somebody who was their particular advocate.

Robyn, for example, felt supported by the legal advice she had received with respect to her desire to change the 50–50 arrangements, which in her view were not working for the children. It was clear from Robyn’s statement noted above that she was not wishing to exclude the father. Even though she had taken out a voluntary restraint order (VRO), her own position was that both he and the children had “rights” to an ongoing parental relationship.25 She was willing to attempt to resolve the matter using FDR and was also aware that she was entitled to a section 60I certificate if this process did not succeed. What seemed especially important for Robyn however, was that the partnership lawyer was willing to assist her in taking the next step beyond FDR if that were needed.

At the time that Noah first had contact with a partnership lawyer, he reported that he had not been “permitted” by his former partner to see or speak with his children for more than two months:

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25 Although family law in Australia emphasises the rights of the child to have a relationship with parents, rather than rights of parents to have a relationship with the child, a number of clients in this sample spoke of parental rights. Some spoke of their own rights; some spoke of those of their partner; some spoke of the rights of the child; and some, like Emma, spoke of all three. Even legal information sessions can be interpreted in this way. Thus Anna noted that, “First [the legal information session] covered the legal aspects, what legally, as parents, our rights are and what the child's own rights are.”
The second that I asked [former partner] to have [the children] overnight, I got a text message back saying, “Get stuffed” … I went to a little presentation after I’d done the [child-focused course at the FRC]. That was with [name of lawyer] from the Legal Centre. We all talked about where we were in our separations and everything. I explained, for me, I said look, I haven’t spoken to [my children] in over two months. [The lawyer] said, “Well, that’s wrong”. At the end of everything I got a card.

Noah was speaking of an information session (rather than an individual advice session), so the lawyer was presumably speaking in general terms. Nonetheless, Noah seemed reassured by the response and it appeared to encourage him to continue to pursue his desire to have time with his children. He followed up on the referral card he was given at the information session but was frustrated at being referred by this legal service to another service quite some distance away.26

Noah was eventually given free legal advice at that service that proved to be consistent with the more general information he had received at the FRC. He was told however, that any further legal advice or action would have to be provided by a private lawyer and he was given a list of names. At the time of the interview therefore, Noah had had contact with four lawyers and had paid several thousand dollars to the lawyer in private practice. He remained very appreciative of the staff at the FRC describing them as “wonderful”. But he had not yet achieved his goal of reconnecting with his children and believed his former partner was using both the FRC and legal processes to stall for time. He also carried an ongoing sense of unequal justice with respect to the legal services he had received:

She’s got her own lawyer, which is from the government. I’m not a rich man in any sense or any way, shape or form. I’m now looking for a second job to pay for it all.

After being referred to an FRC by a private lawyer, Emma had individual advice from a partnership lawyer that she noted was consistent with advice she had received from her private lawyer. She too was appreciative of the service she received at the FRC despite her frustration with the final outcome:

I think for the fact that you need to do it before you can even entertain the idea of going to court, well that’s one thing, but it’s a shame it didn’t resolve everything for us.

From Emma’s point of view, the sticking point in her case was her former partner’s insistence that they move from a broad-based shared-care arrangement to a formally defined 50–50 regime. For Emma the three mediations conducted at the FRC proved helpful, but in the end left this key issue unresolved.

The legal advice Emma received included advice that spelled out the difference between shared parental responsibility and shared care. This appeared to be helpful in supporting her personal assessment of the difficulties of a 50–50 arrangement in her case. What is, of course, unclear in Emma’s narrative is the nature of the legal advice received by the father and the extent to which the lawyers together may have been able to support the FDR process around the “50–50 question”. At the time of the interview, it appeared that the issue of “50–50 care” was destined for the courts.

Nancy described a stalemate situation in which she and the children’s father were living separate lives but under the one roof. Her husband had consulted a lawyer who had referred him to an

26 The most likely explanation for this is that the service Noah was initially referred to had experienced a conflict of interests. There is nothing in the transcript however to suggest that Noah was assisted to understand why he was being referred elsewhere.
FRC. According to Nancy, a key reason that the children’s father was unwilling to leave the house was his fear of losing contact with his children. From Nancy’s perspective however, her husband was unable to care responsibly for the children for significant periods of time due to a range of personal difficulties that she described in some detail.

Nancy was hoping to engage the father in mediation around issues of “residency” and future parenting. She had a sophisticated understanding of the potential advantages, as well as the potential difficulties, associated with attempting to resolve these issues via mediation. She had discussed these matters at some length with FRC staff.

Nancy was also engaged with a partnership lawyer who, among other things, was assisting her with advice around the legal aspects of exclusive occupancy. It is not clear if Nancy’s husband had also been offered access to a legal partnership lawyer. It was also not clear if the legal advice that was being given to one or both clients was aimed in the first instance at facilitating discussions during FDR or aimed primarily at assisting with applications in the event that mediation failed to resolve the dispute.

### 6.4 The partnership program and its perceived impact on outcomes

In 11 cases, the partnership program was clearly linked by clients to the resolution or stabilisation of the dispute. In eight cases, the legal services offered did not appear to impact on the outcome or the impact of the legal intervention on the outcome was unclear. In a further 14 cases, the process was still in train or the outcome was unclear.

Luke is an example of a client in the first category. With the assistance of FDR, he had been able to negotiate parenting times with one of his children but not the other. The key issue with respect to the other child was one of contested paternity. Luke was personally convinced that he was the father and had taken some steps to prove this. He was aware that there were issues about how to go about legally establishing paternity. He was also anxious to avoid litigation if possible.

A partnership lawyer had given Luke advice regarding his legal position with respect to the second child. Luke clearly found this to be helpful. It was also clear from Luke’s account of events that the family dispute resolution (FDR) practitioner (with permission from both clients) had communicated directly with both lawyers. At the time of interview, the dispute about the second child had not been resolved. But Luke expressed considerable confidence in the FDR practitioner and in the process in general, and was confident that the situation could now be successfully mediated.

Kay believed her children needed to see more of their father than was currently occurring and, from her point of view, this was the focus of the FDR. Kay also took up the offer to see a

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27 According to this client, her husband “[had] been told by a private lawyer that he can’t just take the matter to court now and he needs to get a section 60I certificate”. This and similar statements of clients’ direct experience of referrals from lawyers suggest that some (perhaps many) private lawyers distance themselves from FRC processes and re-engage with their clients only if or when a certificate is issued. This raises an interesting issue for FRCs. Should they encourage the client to remain engaged with his or her lawyer during FDR and related processes? Should they make a partnership lawyer available for advice or some other individualised service? And how, and at what stage, should they explore such options with the client?

28 This may have been prompted by a realisation on the part of the FDR practitioner that contesting paternity is a factual but also a highly emotional issue, and that any resolution almost certainly needed to attend to both these aspects of the dispute. In addition, it is likely in a case such as this that the success of the FDR process will depend not simply on the capacity of the parents themselves, but on the willingness of the professionals involved to work in a cooperative way towards a common goal of resolving both the factual and the emotional issues.
partnership lawyer to discuss her financial options. Although she had not yet acted on the advice she had received, she found it helped her to think through her future options.

Isabel was concerned about the possibility that her former partner might take the children out of Australia and out of the Family Court’s jurisdiction. For a variety of reasons, the FRC decided that FDR was not a viable option. They referred Isabel to a partnership lawyer who, according to Isabel, admitted that she was not an expert in overseas cases, but nonetheless supported her in making an appropriate application to the Family Court.

Isabel said she could not have afforded a private lawyer but that she was “kept on the right track” through a number of meetings and communications with the partnership lawyer. With the lawyer’s help, she was able to make her own application to the Family Court and obtain interim orders that stabilised the situation.

Ella too, was anxious that her children might be taken overseas. Her story beautifully illustrates how the combination of separation linked to family violence, and the feeling of sole responsibility for very young children, can place a parent in an extremely vulnerable position. Ella was grateful for the support she received at the FRC, including doing the course they offered her on women and choices.

Ella linked her poor recall of the services she attended and the sequence in which she attended them to her struggle to cope at the time. Clearly the FRC was an important lifeline, as was the help she received from the partnership lawyer. The lawyer appears to have recognised that the support Ella required at the time needed to be proactive. Among other things, she contacted the relevant consulate on her behalf. During this period a medical crisis also occurred, and it was clear from Ella’s story that the lawyer used her knowledge of legal processes to assure her that matters would not unravel while she was attending to this crisis.

Several other services assisted Ella at this time and it is impossible to say which of these was especially critical. It is clear however, that the FRC played an important role and that the services provided by the FRC were considerably enhanced by having access to a legal partner.

Ethan, who was on a low income, found that his former partner was not willing to engage with the FRC and instead had employed a private lawyer. At this point, the FRC referred Ethan to a partnership lawyer who assisted him in making an application to have time with his young son:

So they suggested this lawyer, which turned out to be great, you know. If it wasn’t for her it would have been very hard for me.

The application was read by a judicial officer and resulted in Ethan being granted gradually increasing time with his son:

No matter how many lawyers my partner hires, you know, how much she pays. I know I’ve got the rights and you help me so, you opened my eyes, and yeah, so definitely very useful and I think—I’m grateful to Family Relationship Centre because they initiated first, you know, they gave it to me.

Mary was offered advice from a partnership lawyer but declined. Mary’s dominant concern was that of family violence. Her experience of the FRC was, again, a very positive one:

I felt a bit embarrassed about going in there because of the situation I was in there for. Because you never think it’s going to happen, but the violence aspect has gotten

29 Of some additional interest in this case is that Isabel reported having sought legal advice from another generalist agency some time before. She found that this contributed to the delays she experienced and described it as a “waste of time”. This does perhaps point to the specialised nature of family law, an issue recognised in the drafting of the original Family Law Act.
that—because the kids witnessed it, and I was more desperate to try and sort it out for them. They were very friendly. They didn’t make me feel at all humiliated or didn’t look down upon me because I’d gotten help or because of the situation I was in.

Mary was also clear in her mind about the controlling nature of the violence she had experienced. When her former partner failed to engage with the FRC until after the deadlines had passed, she insisted that a section 60 I certificate be issued. In her view, delay followed by engagement followed by further procrastination was standard behaviour from her former partner. For this reason, Mary appeared to be focused on a resolution of the dispute via a court process. She decided to use a private lawyer to achieve this. Despite her very positive experience of the support she received at the FRC, she was concerned about the quality of legal advice she might receive in the community sector.

Because they never gave me any indication whether the person I’d be sitting down with was qualified to work through that information with me, in terms of the legal side. Whether they would actually know what they were talking about.30

6.5 Systemic issues: Perceived engagement between partnership lawyers and FRC staff

The referral was sent to the lawyer, but I didn’t hear anything from the lawyer until I started chasing it up ... The worst thing is when there’s a breakdown in communication, you don’t actually know why anybody’s not talking to you. (Mia)

In many disputes over children the difference between a satisfactory and timely outcome, and a protracted conflict-ridden process, is good and timely case management. Among other things, good case management requires a responsible ethically-informed flow of information between those parts of the system that are dealing with different aspects of the dispute.31

There are multiple legal, professional and ethical issues that arise with respect to whether, and if so how and for what purpose information about clients might be shared between partnership lawyers and FRC practitioners or other FRC practitioners. Client narratives suggested that in their cases FRC and legal professionals mainly worked in parallel with each other. That is, most FDR practitioners and other FRC practitioners appeared to have no direct knowledge of what legal advice had been given to clients by partnership lawyers. And most partnership lawyers appeared to have no direct knowledge of the nature of negotiations taking place during FDR or of the nature of other discussions taking place between clients and FRC practitioners.

A clear exception to this is Luke’s case described above in which, with permission from the clients, the FDR practitioner had had direct case-related discussions with both partnership lawyers. Another client, Jenny, noted that her case manager had, after speaking with her on a one to one basis, spoken to a partnership lawyer and recommended that she (the lawyer) consider attending a lawyer assisted mediation. This recommendation appears to have been made after the FRC staff member had made an assessment of the dynamics between Jenny and her former partner. A quote by Jenny reported in Chapter 4 illustrates this point also:

30 Given that FDR did not occur, Mary was focused on getting legal support for her court application. Her decision to employ a lawyer to assist her in this process was no doubt a rational one. Her comment however raises the question of how the legal assistance is presented by FRC staff to a client.

31 Gawande (2002) has researched this issue in a number of settings including hospitals. One of Gawande’s concerns is the “siloing” of information within or between organisations and individuals, and the poor outcomes that this typically delivers. When there is a failure to understand how all the elements fit together, Gawande suggests that, “Medicine’s only distinction is that lives are lost in those slim margins”.

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I think it’s (lawyer assisted mediation) probably a good idea. I’m not sure why at this point. I’m just sort of thinking because of how his decisions are based on control, so I think with lawyers there I’m pretty sure they’ve been through all of this. I just think it’s probably better—a better solution for me.

In addition to this case, as previously noted, there were four other cases in which partnership lawyers were present at FDR. In John’s case, the issue in dispute related to the conditions under which his former partner would feel comfortable with John spending time with their child. John spoke positively of the key messages that he and the child’s mother were given in separate FRC information sessions:

That no matter what’s going on with me and [former partner] it should all be about [child] and we shouldn’t—if we do have a problem it shouldn’t be discussed in front of [child], it should be with me and her, have a word on our own.

A lawyer was present at the information session. John’s memory was that she did not add to the information but let participants know that she was available to speak to them individually. Although John did not avail himself of this opportunity, the FRC appears to have taken the initiative by calling him before the scheduled mediation to offer him the possibility of having a lawyer present.

John did not feel there was a need for this, but when he learned that his former partner had requested that a lawyer be present to assist her, he agreed to do the same. He travelled to another venue to see the lawyer prior to the mediation. His main memory of the advice received was that:

Yeah, she told me what I should do and what I shouldn’t do, and not to agree to everything if I wasn’t 100 per cent for it, you know, and … if she said she wanted me to have [child] for two days a week but I wanted him for three, then I should go for it.

John does not recall the lawyers actively participating in the mediation, but their knowledge of the case and their presence seems to have had an impact:

They were just there to make sure everything went alright really, yeah. They didn’t say much. [The FDR practitioner] just printed [the agreement] all out and sent it through, sent it to the lawyers and I went over and signed it … Yeah, we both got what we wanted to. I just wanted to spend more time with my [child] and she just wanted to clear up, she didn’t want me [engaging in specified behaviour] when I was looking after [my child] or before I was looking after [child].

At the time of the interview, the agreement was still in place and John did not anticipate further difficulties.

Joan felt supported by the FRC staff and the mediation process. The issue being discussed involved the circumstances in which a father might be introduced to a very young child. This and the fact that there were technical legal issues in this particular case resulted in Joan being appreciative of the fact that the mediation process was lawyer assisted. Speaking about the role of her own solicitor in the mediation, Joan observed:

Oh well, she was good at listening to what I wanted, because sometimes they think that what I wanted was ridiculous, not ridiculous, but you know like it’s not silly … She was there to say, well that’s not silly because, you know, she gives you reasons and advice. So yeah, having their support was good.

Anna described having a very helpful hour with her partnership lawyer prior to an FDR session. At least some of this time was spent in helping Anna anticipate what was likely to happen at FDR:
I didn’t know how [FDR] would work and they didn’t explain it. So I sought that information off the lawyer and jotted down what the concerning topics were to me, just to make sure they were all valid.

Anna also provided an enlightening description of the experience of having a lawyer present during FDR, even though the lawyers remained silent throughout:

That was helpful if we got flustered or anything, and I needed a break. I would just say, am I going about this the right way? How should I put this certain topic and not offend anybody? … If we needed to speak to our lawyers, each of us had the opportunity to turn around and say we wanted a break and we could talk to our lawyer then.

Ava described ongoing tensions between herself and her former partner that have continued for approximately three years. She admitted to having previously “walked out” of a mediation session at the same FRC, though it appears that a version of the arrangement discussed at this session had been in place for some time. This time the FRC had offered legally supported mediation. The session(s) ended in an agreement that had been drafted as a consent order.

Ava was ambivalent about finalising the draft order, which she said was at the lawyer’s office awaiting her signature. The arrangement itself was a conventional one, with major care of young children remaining with her. Ava’s concern was with the rigidity of the arrangement. Despite what appears to have been the best efforts of the mediators to address communication problems, the outcome was an agreement with little or no built-in flexibility.

Ava felt that the presence of the lawyers made no difference:

… because they’re not allowed to say much.

Their presence may have nonetheless lessened the chances of the mediation ending in disarray, as the previous mediation that Ava described appears to have done. The core difficulty Ava identified in this case was one of inter parental communication. Neither the FRC services nor the legal interventions appear to have impacted positively on this problem. On the other hand, an agreement was drafted which, while far from ideal from Ava’s point of view, may have introduced a level of stability into the situation.

### 6.6 Summary

In summary, the data based on client perspectives illustrates several important themes in relation to the operation of the partnership program. An important finding is that the majority of these clients reported positive experiences of the partnership program, notwithstanding the emotionally difficult circumstances they were dealing with in the process. Most clients reported positive experiences of lawyers and of the program overall, with clear links between positive experiences and the partnership program evident in ten cases.

The client narratives indicate that legal assistance fulfilled three interrelated needs. At a more technical level, it assisted with informing parents of their responsibilities and obligations, and formalising agreements embodying these where necessary. Importantly, the advice and assistance gave most parents a realistic view of where they stood from a legal perspective, complementing child-focused processes in FRCs. This is clearly of importance for parents navigating post-separation terrain where ignorance of these issues may initiate or consolidate conflict and difficulty. The ability to access this type of information and assistance through an FRC, as part of a package of post-separation services, was clearly important for many of the clients interviewed. The fact that the service was cost free was also of significance for many clients, with some
experiencing frustration that the available support was limited or feeling disadvantaged when an ex-partner could obtain legal aid but they couldn’t.

The second, less concrete function of legal advice and assistance was found in the advocacy and support that some clients reported experiencing through contact with their lawyer. This was also clearly a source of empowerment, particularly for women who reported experiencing family violence or men who reported being unable to secure time with their children. In such cases advice about their legal position, in combination with contact with a professional who supported their position, was of considerable assistance for these parents.

Finally, the legal advice and assistance helped parents to understand their dispute resolution options and which pathways were best suited to them. Where FDR or lawyer assisted FDR were used, lawyers clearly played a role inside or outside the process in providing advice and support. As discussed further below, however it is clear that this is not uncomplicated; further work needs to occur to encourage understanding and collaboration between lawyers and FDR practitioners about how better to knit together legal advice and support with FDR processes. Where court was the appropriate pathway, lawyers were able on occasion to assist clients to represent themselves, although some clients also experienced disappointment that funded support was not available in this context.

The client data also highlights challenges that take more than programs such as the Legal Partnerships Program to address. The seemingly intractable conflicts experienced by Jane, Nigel and Noah would appear to require specialised and intensive interventions beyond the immediate scope of the partnership program.

Finally we note that lawyer assisted mediation seems to be still in an experimental stage. It raises issues that in many ways parallel the strengths and difficulties associated with the wider question of how lawyers and family relationship practitioners can actively work together for the betterment of the child and, if possible, all family members. From the subjective perspectives of those clients who experienced it, the usefulness of lawyer assisted mediation varied from mildly negative to extremely useful. Given that this is a relatively expensive resource, issues that might be considered into the future include:

- Under what circumstances would the support that some clients felt by having a lawyer advise them be genuinely enhanced by lawyer assisted mediation?
- Is there also a place for lawyer availability for consultations (via telephone, through Skype etc) rather than lawyer presence during mediations?
- Under what circumstances (if any) is it legitimate to contemplate having one lawyer only to assist in a mediation?\(^ {\text{32}} \)
- What role should lawyers play in mediation? This includes questions such as: Should discussions with clients always be on a one to one basis during breaks in the mediation? Is there a place for a lawyer to request an FDR practitioner to clarify an issue during the mediation process? What if a client asked a lawyer to speak on his or her behalf during mediation?

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\(^ {\text{32}} \) For example, there are cases in which one client is significantly disadvantaged because of language or cultural difficulties, certain forms of mental illness etc. In such a case, and with the agreement of the other party, the presence of a lawyer to support that individual could facilitate the process and ensure that “justice was done and seen to be done”.
Chapter 7 Summary and conclusions

This evaluation has examined the implementation of the FRC Legal Assistance Partnerships Program using data from multiple studies drawing on the perspectives of professionals and clients. The Legal Partnerships Program is intended to contribute to a more integrated service delivery approach for parents and other relevant family members who are dealing with issues related to separation. The intention is to bring together the providers of FRC and legal services. In this way, parents and other relevant family members have an opportunity to access relationship and dispute resolution services as well as legal assistance, all as part of the same program.

The conclusions from this Report need to be appreciated within the context of the relatively brief time period covered by the evaluation. The program formally began in December 2009, though the partnerships themselves did not all commence at this time. The open-ended interviews used to scope the study were conducted during July 2010. The Managers’ Survey operated from roughly mid August to mid September and the staff survey from roughly mid September to late October.

Qualitative interviews of staff took place between late September and early December. Client interviews commenced in October and also went through until early December. None of the data therefore covers more than a year of partnership experience. Most of the data cover less time than this.

To be successful, a partnership program such as this must understand and meet the considerable challenges inherent in encouraging collaboration between social science and legal professionals. As noted in the introductory chapter, recognition of the need for such collaboration has been gathering pace in recent years.

The findings of the present evaluation are that the professionals involved in the Legal Partnerships Program are strongly committed to inter-disciplinary collaboration. Large majorities of both CLC and legal aid lawyers and FRC professionals expressed confidence that the program is improving “on-the-ground” and systemic responses in key areas associated with promoting the best interests of children. The fact that lawyers are even more positive about the program than FRC professionals may reflect at least two important realities. First, rather than seeing lawyers as potential adversaries (of each other and of family relationship practitioners), the Legal Partnerships Program formally brings them into the FRC process. Second, as some respondents pointed out, community-based lawyers, who represent the legal side of the program, have an especially strong investment in early intervention, and—whenever this is the responsible thing to do—in early settlement.
Much of the client data in this evaluation are strongly supportive of the value of having access to legal services. In the cases that had not become too entrenched, most clients felt reassured and supported by having contact with “their” lawyer. This support, combined with having an independently derived understanding of the parameters of a possible settlement, clearly contributed to a more efficient and more satisfactory process for these clients. And although we have no direct data from this study to this effect, there is little doubt that by reducing levels of unnecessary conflict, such processes would also be of benefit to the children.

In most of the highly problematic or more entrenched cases, independent non-adversarial legal assistance did not appear to result in immediate resolutions. But it seems highly likely that in many of these cases, access to such assistance supported clients in becoming clearer and more confident about the nature of their claims and about the options at their disposal.

In terms of collaboration, most partnerships have embraced the concept with enthusiasm, though a small number have not. Among the “enthusiasts”, it is clear that some of the partnerships are further advanced in developing their relationships than others. Some had a pre-existing history of cooperation that had evolved out of family law pathways networks or similar initiatives. There was evidence in these settings of a culture of mutual respect and trust, and of processes that supported—formally or informally—regular communication at the client and organisational level.

Histories such as this appear to have provided a sound base for the implementation of the program. Professionals in moderately well-functioning partnerships were clearly taking positive steps towards clarifying boundaries between roles and responsibilities, and generally committing themselves to the principles of the program.

Where difficulties occurred, they tended to be characterised by less trustful and less respectful inter-professional relationships that were in turn associated with a lack of clarity about roles. Encouragingly, we found that positive responses in a range of areas were stronger in partnerships that had been operating for longer periods. This suggests a pattern whereby historically based anxieties tend to settle, and confidence levels tend to increase as partnerships progress. At the same time, there appeared to be two or possibly three partnerships that were not functioning well at all. In these cases, even at levels as basic as providing referrals, cooperation had not yet eventuated.

### 7.1 Partnerships and effectiveness of services

The evaluation revealed that the partnerships exist in a variety of forms and that initially there were a variety of approaches to the legal services offered. Overall, legal services provided as part of the program were generally rated by managers and staff involved in the program as being effective in assisting clients to progress their case.

The constellation of services offered and the effectiveness of each legal service varied, but two core services were the individual advice sessions (including advice on family violence issues) and the group information sessions. While there was near consensus among professionals about the value and importance of providing individual legal advice (consistent with client accounts), views on providing general legal information in group settings were more mixed. Some partnerships indicated that the group approach was an important service with strong uptake. Others had had less successful experiences with groups and a few had abandoned this intervention altogether.

A considerable number of issues were evident regarding the timing, length, method of delivery and preferred location of legal information sessions. Views differed regarding the extent to which these group sessions were seen to distract from or complement the child-focused information (group) sessions routinely provided at FRCs. Some appeared to dovetail with the child-focused sessions both in terms content and method of delivery, but not all of them worked this way.
The issues that arise with respect to legal information sessions reflect, in part, larger issues of effective service delivery in FRCs. For example, child-focused information sessions are designed to “set the scene” for child-focused FDR (see, for example, McIntosh & Moloney, 2006). They have the advantages of being more efficient (the information does not need to be imparted to individual former couples) and stimulating group reinforcement of the key messages (individual parents can hear other parents of both genders grappling with similar issues).

At the same time, child-focused information sessions represent yet another “task” (normally following individual intake sessions) to be completed; in most cases before FDR formally commences. Though appreciated by most clients who commented on them, in the eyes of at least two clients in the current sample, these sessions contributed to delays in arriving at an outcome. For these clients, delay itself was seen as the key problem. For such clients, therefore, the further step of legal information sessions, regardless of how good or relevant they are in a more objective sense, may be seen mainly in terms of causing further delay in reaching a resolution.

It is probably important that these and other service delivery dilemmas be discussed nationally but resolved at the partnership level. Ironically, the very enthusiasm for the program demonstrated by many of the practitioners has resourcing implications. Deciding which combination of services is most likely to deliver the core objectives most efficiently for the maximum number of clients was beyond the scope of this evaluation. These decisions will no doubt be the subject of informed judgment by the partnership professionals themselves within their particular locations. As time goes on, increased awareness of clients’ legal needs and the linking of outcomes with particular combinations of legal and relationship-oriented interventions, will increasingly inform practice. From a resource perspective, however, it is unlikely that a full range of legal services will be able to be delivered in any particular location. Dilemmas such as whether, and if so how much, lawyer assisted mediation (a relatively resource intensive intervention) should be provided, and whether financial advice in child-related matters should be offered, are likely to remain for some time.

At this stage, there is considerable variation in attitudes and approaches to lawyer assisted FDR. A few partnerships embraced it enthusiastically from the beginning. Some have it on the agenda but have not yet commenced, while a few remain sceptical. Finally, in two or three locations, the primary problem is embracing the partnership itself. Not surprisingly, positive experiences of lawyer assisted FDR were linked to well-functioning partnerships where relationships were established and based on trust, and where there was an agreed-upon (even if evolving) practice model for implementation. Where partnerships were more cautious, a range of resource and operational issues was raised. Some, for example, questioned whether the resource-intensive nature of the process would prove too great a drain away from other areas of legal service.

Operationally, concerns about lawyer assisted FDR included reference to situations in which one party was legally represented, while the other, whether through choice or availability problems, could not be represented.

Some philosophical concerns and differences were also evident. At the extreme end, there was at least one example of an FRC at which the FDR practitioners could not see a legitimate place for lawyers within the FDR process. More broadly, concerns were expressed about losing the child

33 It should be noted that a limited number of services employ specialist financial counsellors to assist separated families with children (see Fehlberg, Smyth, & Fraser, 2010). This may ultimately be a less resource-intensive solution to a perceived need to offer this service.

34 In one of these partnerships, it was pointed out that an important catalyst for embracing lawyer assisted FRD at the outset arose out of the decision to conduct the initial partnership training together. In this way, it was suggested that the concerns, fears and opportunities elicited by the concept of lawyer assisted FDR were able to be articulated and responded to from the outset.
focus, especially if lawyers became actively engaged in the FDR. On the other hand, some clients were puzzled and even a little bemused, when their lawyers attended FDR but said nothing during the process.

The resource issue regarding lawyer assisted FDR may be best addressed at the policy level. On the other hand, the operational and philosophical issues that have arisen so far are more indicative of the evolving nature of the partnership initiative. Importantly, there appears to be much mutual good will between the professions—clearly a necessary ingredient for productive ongoing discussions aimed at progressing these issues. Indeed, given the earlier directives to FRCs to keep lawyers at bay, the mutual good will and the progress to date must be regarded as extremely encouraging.

Finally, it would appear that mutual education opportunities have become an important Legal Partnerships Program spin-off that will also almost certainly benefit clients. In a number of FRCs, for example, partnership lawyers reported being able to explain and demystify some of the legal language and the legal and court processes to family relationship practitioners. Clearly the aim here is not to encourage FRC staff to become pseudo lawyers. Rather, it aims to assist FRC staff to become increasingly comfortable with the language used by their legal colleagues. Legal assistance to clients in drafting parenting plans or consent orders is also likely to assist FDR practitioners in gaining a more nuanced appreciation of socio-legal drafting skills. Initiatives such as these are likely to have significant flow-on effects for clients because they are less likely to find themselves in two separate worlds, grappling to understand what can be substantial differences in language and cultural assumptions.

On the other side of the coin, FRC staff generally, and FDR practitioners in particular, reported being able to assist lawyers to understand better the psycho-social thinking and research that both underpins and at times challenges the legislative reforms. Lawyers have also had opportunities to appreciate the communication and quasi-therapeutic skills required to mediate with family members whose conflict with each other is often primarily driven not by “logic” or legal principles, but by high emotional content.

Conflict of interest issues were mostly dealt with satisfactorily in the program; however, in areas where there were limited legal services available, or large distances between services, the availability of a legal service to provide advice in situations of conflict was a concern. Some partnerships reported that it was difficult to secure legal advice for each party and that some clients were disadvantaged, either because no other lawyer was available or because they had to travel significant distances to see a lawyer.

### 7.2 Core objectives

Overall, there was a very positive assessment from the viewpoint of managers and staff of the program achieving its core objectives.

#### 7.2.1 Improving the focus on the best interests of children

When asked to reflect on their experiences at this stage of the program, the vast majority of LAS staff and managers (over 85%) agreed that the program would improve the focus on the best interests of children. While a majority of FRC staff and managers also agreed with this proposition, they were less likely to agree compared to the response patterns of LAS staff and managers.

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35 One client, for example, described a lawyer assisted “FDR” that appeared to culminate in the two lawyers bargaining with each other on behalf of their clients. The client in this case felt he effectively had no choice but to accept the recommendation of his lawyer; but he felt that the focus on the children had been lost in the process.
Several clients expressed appreciation for the child-focused information that was delivered at the FRC.\textsuperscript{36} This appeared to work particularly well in the few instances in which it was complemented by what was seen as supportive legal advice. Mention was made of the skill of the mediator in putting the child’s interests first and of the capacity of the mediators to balance the needs of both parents and children. Clients were less happy when they believed that the focus on the child’s best interests had no impact on their former partners.

7.2.2 Improving power imbalances between parents in mediation

More than three-quarters of lawyers and approximately two-thirds of family relationship practitioners believed that the Legal Partnerships Program improved their ability to address power imbalances between parties in negotiations or mediations.

The experience of clients also provided evidence of the program’s ability to meet this objective. A number of clients, at least two of whom felt that their former partners were exercising control over them, referred to the greater confidence they experienced as a result of the support they received from the partnership lawyer.

7.2.3 Assisting clients to engage in less adversarial dispute resolution processes

As with the other core objectives, there was a high level of agreement that the program would assist clients to engage in less adversarial dispute resolution processes, with around three-quarters or more of FRC and LAS staff and managers agreeing with this proposition.

This was the core objective most consistently endorsed across the four groups, with an 11% differential in agreement rates between the observed FRC managers, FRC staff, LAS managers and LAS staff.

Interviews with legal service and FRC staff also provided evidence that the program is assisting with less adversarial approaches. While, there were references to cultural differences between lawyers and FRC staff, concerns that the program might create opportunities to proceed in an adversarial manner were almost entirely absent.

Not surprisingly, clients did not use terms like “adversarial” or “non-adversarial” when interviewed about their experiences of the program. There were suggestions by some, however, that the dispute resolution process had changed the way in which they reacted to their former partners. One parent had learned, for example, to “back away” rather than confront.

7.3 Other key objectives

The ability of the program to achieve other objectives were also examined in the evaluation, including improving clients’ understanding of the law, assisting clients to make better agreements, integrating client services better, and resolving disputes more effectively. There were high levels of agreement from managers and staff that the program would assist in meeting these objectives.

7.3.1 Improve clients’ understanding of the law

The proposition that the program would assist clients better to understand the law relating to parenting arrangements was overwhelmingly endorsed, with over 90% of FRC and LAS

\textsuperscript{36} Due to the relatively small number of clients interviewed (31) and the non-random nature of the sample, caution must be exercised in drawing conclusions from the client data.
managers and staff agreeing with this statement, based on their experiences at the time of the survey.

7.3.2 Assist clients to make better agreements relating to parenting arrangements

Three-quarters or more of FRC staff and legal services staff and managers agreed that the program would assist clients to make better agreements relating to parenting arrangements; however, a little under two-thirds of FRC managers agreed with this proposition. As with the data relating to core objectives in the previous section, there was some variation between professional groups, with legal service staff somewhat more enthusiastic than their FRC counterparts about the ability of the program to achieve this objective.

7.3.3 Better integrating services for clients

A very high level of agreement was reported on the ability of the program to lead to a better integration of services for clients. Over 80% of staff and managers in legal service organisations and FRCs agreed with this statement.

7.3.4 Assist clients to resolve their disputes more effectively

Responses to the question of resolving disputes more effectively proved to be almost a mirror image of responses to the question of making better agreements relating to parenting arrangements, with over three-quarters of FRC staff, LAS staff and LAS managers agreeing this would be the case. It would appear that respondents may have seen the question tapping into beliefs about a set of constructs very similar to better agreements relating to parenting arrangements.

7.4 Development of parenting arrangements in cases involving violence, mental health and addiction issues

Along with exploring the ability of the program to meet core objectives, staff were also asked the extent to which they agreed that the program would enhance the development of parenting arrangements that respond appropriately to cases involving physical violence, emotional abuse, mental illness and addiction issues.

FRC staff were considerably more cautious overall in their assessment of the capacity of the program to improve the lot of family members exhibiting dysfunctional behaviours. Nonetheless, more than half the FRC staff could see possibilities with respect to improving the situation for families in which there is physical violence, and a little under half provided a similar response for cases involving emotional abuse. This may suggest that there is a sense that family violence and emotional abuse cases are more likely to respond positively to cross-professional cooperation than addiction and mental illness problems, which frequently have a more entrenched quality in their presentation.

7.5 Benefits and challenges

A substantial majority of staff reported positive relationships within the partnerships and suggested considerable benefits in relation to the program in terms of meeting clients’ needs. A small number of participants, however, expressed concerns about how their partnerships were currently operating. In addition, a small number of participants noted concerns in relation to issues such as resourcing, managing conflicts of interest and working with vulnerable clients.
7.5.1 The benefits of inter-professional collaboration

One of the main benefits identified by professionals participating in the evaluation was the way in which the program contributed to improvements in cross-professional collaboration and understanding.

More than 80% of staff agreed or strongly agreed that the Legal Partnerships Program would improve their capacity to work with legal/FRC practitioners. Legal services staff were more likely to strongly agree than were their FRC counterparts. Very few staff disagreed with this proposition.

About three-quarters of practitioners believed that the program would assist with improving the skills and professional development of FRC staff. While the broad agreement level was similar for both FRC and legal services staff, a higher proportion of legal services staff strongly agreed with the proposition.

There was evidence to suggest that lawyers and FRC professionals believed that the program permitted them to gain a deeper understanding of each other’s roles and relationships and to break down some of the past barriers and potential misunderstandings or mistrust between family relationship practitioners and lawyers.

The Legal Partnerships Program’s multidisciplinary approach was generally felt to support a more client-focused perspective and more holistic service delivery, whereby clients could move between the legal system and family relationship services/FDR without feeling like they were two very separate processes.

There was broad agreement, especially through providing what some described as a “reality check”, that legal advice could support and empower clients and facilitate FDR’s core aim of meeting client needs through the application of child-focused professional knowledge and non-adversarial dispute resolution techniques.

7.5.2 The benefits to the family law system as a whole

Practitioners spoke of the efficiency and effectiveness benefits that the program offered the family law system as whole. They emphasised the capacity of the program to reduce the use of an adversarial approach and prevent matters from reaching court. A key means of achieving these outcomes was thought to be due to both the wider use of and greater success rate associated with FDR processes because of lawyer support. It was felt that legal information and advice could dispel myths and, some felt, might reduce the number of inappropriate cases proceeding to FDR.

7.5.3 The challenges of inter-professional collaboration

While, interdisciplinary practice was identified as a key benefit of the program, responses from participants indicate that this aspect of the program also involves overcoming certain difficulties.

The most common challenge noted was that of working in an interdisciplinary manner, even when it is widely acknowledged that culturally the disciplines have very different histories and starting points. One practical manifestation of such cultural differences related to understanding the particular issues that arise for lawyers around dealing with conflicts of interest. In the short term, there appeared to have been misunderstandings and frustrations on both sides. In the longer term, protocols probably need to be developed to assist FRC staff to make appropriate referrals to lawyers. It was noted that the legal conflict of interest issue also has a structural element linked in the final analysis to the question of resources.
7.5.4 Resourcing

Resources were generally seen as another important challenge. Practitioners noted that a considerable amount of work that was being undertaken was technically not funded. A perceived absence of resources was also seen as ultimately limiting the effectiveness of the Legal Partnerships Program, and a reason in some cases why initiatives such as lawyer assisted mediation was not possible at this stage.

7.5.5 Assisting vulnerable clients

Finally, the Legal Partnerships Program was seen to present both an opportunity and a challenge with respect to working with family violence and other vulnerable family situations.

On the one hand, there was the hope that the joining up of services might lead to better resources and outcomes for parents and children. On the other hand, both legal and family relationship practitioners expressed concerns that colleagues from the other profession might be insufficiently sensitive to the needs of these family members. This again reflects, in part, differing cultural starting points and points to the challenge of drawing upon the best of both traditions in the service of these families.

7.6 The experience of clients

The client interviews also contributed several important insights to the evaluation findings, confirming and supplementing conclusions drawn on the basis of data from professionals. It is significant that with just a couple of exceptions, most clients reported positive experiences of lawyers and the Legal Partnerships Program overall, with evidence that in at least 10 of the 31 cases, this could be connected to the operation of the program.

The client narratives indicated that legal assistance fulfilled three inter-related needs. At a more technical level, it assisted with informing parents of their responsibilities and obligations, and formalising agreements that embodied these where necessary. Significantly, the advice and assistance gave most parents a realistic view of where they stood from a legal perspective, and this appeared to complement the child-focused intake, information and FDR processes in FRCs. This is clearly of importance for parents navigating the post-separation terrain, where ignorance of these issues may initiate or consolidate conflict and difficulty.

The ability to access this type of information and assistance through an FRC, as part of a package of post-separation services, was clearly important for many of the clients interviewed. The fact that the service was cost free was also of significance for many clients, although some clients experienced frustration that the available support was limited, or felt disadvantaged when an ex-partner could obtain legal aid but they couldn’t.

The second, less concrete, function of legal advice and assistance was found in the advocacy and support that a number of clients reported experiencing through contact with their lawyer. This was also clearly a source of empowerment, particularly for women who reported experiencing family violence or men who reported being unable to negotiate time with their children. In such cases, advice about their legal position, in combination with contact with a professional who supported their position, was of considerable assistance for these parents.

Third, the legal advice and assistance services helped parents to better understand their dispute resolution options and which pathways might best suit them. Where FDR or lawyer assisted FDR occurred, lawyers clearly played a role inside or outside the process in providing advice and support. As discussed further below, there are a number of complexities associated with the joining up of FDR processes with legal advice, legal support or legal representation.
Where going to court was the appropriate pathway for resolving a dispute or potential dispute over children, lawyers were able on occasion to assist clients to represent themselves. Although some clients experienced disappointment that funded support was not available in this context, they found the service they did receive very helpful.

At the same time, the client data also highlight challenges that would need more than the Legal Partnerships Program services in order to be address adequately. The seemingly intractable conflicts experienced by Jane, Nigel and Noah, for example, would seem to require more specialised and intensive interventions. Although for these clients, early triage would seem especially important, arriving at an adequate solution again raises the question of having access to adequate resources.

Finally, there was some frustration with the limited nature of legal advice in three main areas. First, some clients said they felt disadvantaged when the other party was eligible for legal aid and they were not. Second, some clients had received advice about property and financial matters, but others said this advice was lacking. Third, there was frustration that court representation was not available, although there were also cases in which partnership lawyers had assisted clients in representing themselves by providing help with document preparation.

### 7.6.1 Client perspectives of lawyer assisted mediation

As previously noted, lawyer assisted mediation in the Legal Partnerships Program remains largely in an experimental stage. It raises issues that in many ways parallel the strengths and difficulties associated with the wider question of how lawyers and family relationship practitioners can actively work together for the betterment of the child and, wherever possible, all family members. Indications are that from the subjective perspectives of the clients interviewed, when lawyer assisted mediation occurred, its usefulness varied from mildly negative to extremely useful. Given that this is a relatively expensive resource, issues that might be considered into the future include:

- Under what circumstances would the support that some clients felt by having a lawyer advise them be genuinely enhanced by lawyer assisted mediation?
- If a lawyer is not present at FDR, how can the legal advice received by the client be usefully brought into the FDR process?
- How can different advice from lawyers for both parties be reconciled during FDR?
- Is there also a place for lawyer availability for consultations (e.g., via telephone, Skype or online) rather than lawyer presence during mediations?
- Under what circumstances (if any) is it legitimate to contemplate having one lawyer only to assist in an FDR?37
- What role should lawyers play in FDR? This includes questions such as:
  - Should discussions with clients always be on a one-to-one basis during formal breaks in the process?
  - Is there a place for a lawyer to request, through the FDR practitioner, that an issue be clarified before the FDR process formally continues?
  - What if a client asked a lawyer to speak on his or her behalf during mediation?

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37 For example, there may be cases in which one client is significantly disadvantaged because of language or cultural difficulties, certain forms of mental illness, etc. In such a case, and with the agreement of the other party, the presence of a lawyer to support that individual could facilitate the process and ensure that “justice was done and was seen to be done”.

7.7 Final remarks

This evaluation has pointed to some problems emerging out of the Legal Partnerships Program. Most of these problems are of an evolutionary nature; that is, they are likely to be resolved through a combination of time, patience, good will and informed discussion. Some of the problems are resource-based. Some progress can be made in this area by thinking and acting strategically with regard to the resources available. But ultimately, it must be acknowledged that the resources to support the program are quite limited.

The evaluation has also revealed very high levels of enthusiasm for the program from both lawyers and FRC staff. In the face of budgetary constraints, more than 30 years of debates and misunderstandings (mixed with a range of cooperative initiatives over the years), and formal directives that FRCs keep a certain distance from lawyers, the levels of enthusiasm and cooperation could be considered to be remarkable.

As noted, the program is in its early stages. This means that there is always a possibility that the evaluation may be reflecting something of a honeymoon period; although it is a honeymoon not without already obvious challenges. Many of these challenges must be met and “worked through” on a case-by-case basis, hopefully supported by increasing clarity about roles and increasing agreements about protocols. In addition, new challenges will no doubt arise. And here and there, personality differences, exacerbated by the cultural gap between law and the social sciences, may from time to time cause services to particular clients or in particular locations additional challenges to work through.

The many difficulties associated with dealing with disputes over children have been well documented. Through the AIFS Evaluation of the 2006 Family Law Reforms, and through other research, we have also learned that a considerable proportion of separating families who make use of services have major problems. Some, indeed, exhibit quite dysfunctional and even criminal behaviours.

This evaluation reveals at its core that there is a foundation upon which future cooperative efforts can be built. What was heartening in the many interviews and the survey material that informed this study, was that the dynamics of suspicion or blame were practically non-existent. Rather, as an evaluation team, we had the sense of working with people who were enthusiastic about their work but who, just as importantly, were continuing to give much thought to the key question of how to bring about positive change for separating family members, by combining the quite different skills they bring to their professions.
References


## Abbreviations

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<th>Abbreviation</th>
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<tr>
<td>AGD</td>
<td>Attorney-General’s Department</td>
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<td>AIFS</td>
<td>Australian Institute of Family Studies</td>
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<td>CLC</td>
<td>Community Legal Centres</td>
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<td>FV</td>
<td>family violence</td>
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<td>FDR</td>
<td>family dispute resolution</td>
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<td>FRC</td>
<td>Family Relationships Centre</td>
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<td>LAS</td>
<td>Legal Assistance Services</td>
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<td>LPE</td>
<td>Legal Partnerships Evaluation</td>
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<td>VRO</td>
<td>voluntary restraint order</td>
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