

# Relationships Australia

NATIONAL OFFICE

RECEIVED  
15 JUL 2005

BY: *L.A.A.*

*NH*  
The Secretary  
House of Representatives  
Standing Committee on Legal and Constitutional Affairs  
Parliament House  
CANBERRA ACT 2600

Submission No. <i>37</i>
Date Received .....

Dear Ms Towner

**Response to Parliamentary Standing Committee on Legal and Constitutional Affairs on the exposure draft of the *Family Law Amendment (Shared Parental Responsibility) Bill 2005***

Thank you for your letter dated 27 June 2005 inviting *Relationships Australia* to comment on the draft legislation of the *Family Law Amendment (Shared Parental Responsibility) Bill 2005*. We are delighted to take up this opportunity to respond to your invitation.

By way of general background *Relationships Australia* provides family support services to over 90,000 Australians per year, almost half of whom are men, many of whom are seeking help to resolve relationship breakdown and parenting issues. *Relationships Australia* works with government, the not-for profit sector and the community to provide services to Australians nationwide.

We fully support the Government for being committed to improving outcomes for families and ensuring that the focus is on the best interest of the child/ren involved in family disputes and breakdown as well as recognising the importance of providing assistance in building and strengthening relationships.

*Relationships Australia* commends the Government for demonstrating its commitment to the reform of the Family Law System by funding the establishment of the family Relationships Centres and the expansion of services within the family support sector including Children's Contact Services, the Contact Orders Program, Men's Line Australia, Men and Family Relationships Services, and Relationships Education under the Family Relationships Services Program (FRSP).

*The enhancement of relationships and family life in their various forms, through counselling, mediation, education, professional training and the foundation of social policy*

---

Relationships Australia Inc. • ARBN 063 560 332  
15 Napier Close, Deakin ACT 2600 • PO Box 313, Curtin ACT 2605  
Ph: (02) 6285 4466 • Fax: (02) 6285 4722  
email: [natoffice@relationships.com.au](mailto:natoffice@relationships.com.au) website: [www.relationships.com.au](http://www.relationships.com.au)

The 2004-2005 Federal Budget announcements to provide \$397.2 million over four years for the Family Law System has been welcomed by *Relationships Australia*. *Relationships Australia* is committed to working with the Government in the roll out of the Family Relationships Centres given their potential to affect the lives of so many Australians.

These fit with *Relationships Australia's* vision of working collaboratively with the Government, Family Court, Federal Magistrates Court, Legal Aid, the legal profession and community agencies to build positive and respectful relationships through enhancing the lives of men, women and children in the community.

More specifically on the proposed changes we draw your attention to the following issues.

### **Shared Parental Responsibility**

*Relationships Australia* fully supports the approach taken on shared parenting. *Relationships Australia* believes that it is shared parental responsibility and continuing involvement that makes the difference for children of separated parents.

We note that the committee will not re-open discussions on policy issues such as the equal custody issue which *Relationships Australia* has consistently not supported and made submissions on at the time of the Parliamentary Inquiry into Child Custody arrangements.<sup>1</sup>

However, we support the concept of shared parenting as a starting point for all parents. Our long experience in this field informs us that even in intact families parental responsibilities are not usually equally shared and these patterns do not easily change following separation and divorce. Therefore for parenting arrangements to be workable for all involved the arrangements will vary from family to family.

### **Children's Issues**

*Relationships Australia* fully endorses the principle that the well-being and interests of the child/ren must remain paramount in its service provision both now and in the development and implementation of work in the Family Relationship Centres.

*Relationships Australia* strongly supports the fundamental principle that a meaningful relationship with both parents is important in a child's life. The wealth of research literature in the field and our 57 years experience in the field clearly shows that children benefit most from the active participation of both parents in their lives following separation.

---

<sup>1</sup> Relationships Australia Submission to the House of Representatives Inquiry into Child Custody Arrangements in the Event of Family Separation '*Helping Parents to Put Children First*' 11 August 2003.  
*The enhancement of relationships and family life in their various forms, through counselling, mediation, education, professional training and the foundation of social policy*

*Relationships Australia* supports children's views being sought without giving children the burden of being involved in parental decision making. In the light of seminal research conducted in partnership between *Relationships Australia*, Dr Jennifer McIntosh and La Trobe University it is becoming evident that child inclusive practice has very great value and not as high a cost as has been predicted in the past. One key finding noted by Dr McIntosh has been that both fathers and mothers are far more likely to feel their arrangements for the children are acceptable after child inclusive practice.

*Relationships Australia* therefore welcomes the government's intention stated in Recommendation 13 of its response to the *Every Picture Tells a Story*, to continue to fund both practice and research in child inclusive practice in the community sector.

### **Parenting Plans**

*Relationships Australia* supports the proposed amendments around parenting plans. We note parenting plans will not be registered in their own right but the Court will have regard to what parents have agreed in the most recent parenting plan in making or varying parenting orders.

We believe this will mean the Family Relationship Centres and the Family Relationships Services Program services will have a pivotal role in assisting parents and care givers to make parenting plans that are helpful, ensure the best interest of children, protect them from violence or psychological harm and are inclusive of the children's views.

Parenting plans need to have some flexibility, cater to Culturally and Linguistically Diverse and Indigenous people including grandparents and be able to be updated regularly as the needs of children change over time

### **Public Awareness Campaign**

We suggest that the proposed community education and awareness campaign aims to educate the wider community about the benefits of children having quality relationships with both parents and extended family such as grandparents following parental separation. The aim would be to shift community expectations of parenting after separation, this also includes workplaces.

Therefore, care needs to be taken to ensure that the understanding of 'shared parental responsibility' is clear and the campaign explains fully the main terminology. This is particularly important in the light of the Government's aim to reduce the amount of litigation. Rhoades, Graycar and Harrison noted in their 2000 report on the Family Law Reforms the 'shared parenting' created a lot of confusion and disappointment and actually resulted in more litigation.<sup>2</sup>

<sup>2</sup> Rhoades, Helen; Graycar, Reg; Harrison, Margaret *Family Law Reform Act: The First Three Years*, University of Sydney and Family Court of Australia, 2000.

*The enhancement of relationships and family life in their various forms, through counselling, mediation, education, professional training and the foundation of social policy*

The public awareness campaign could include written materials on separation, parenting plans and ideas on parenting apart written by experts in the field and freely available from Family Relationship Centres and through the Family Relationships Services Program. The public must also be informed of the legal status of parenting plans so that their expectations match reality.

### **Workforce Issues**

Mediators with *Relationships Australia* currently provide information, coaching and written materials that assist men and women to make decisions about children in a role that is similar to that of the 'adviser' in the proposed amendments. Mediators also develop options with parents to look at the consequences of their decisions in relation to parenting orders or consent orders.

*Relationships Australia* would like the Committee to note that the label/title 'adviser' in the proposed amendments is of concern to the sector. Under the proposed requirements family counsellors, family dispute practitioners, family and child specialists and legal practitioners can be called advisers and the role includes provision of information and advice. The obligations of an adviser as set out in the amendments have an emphasis on the term 'advice'.

We would like to point out that the role of an adviser as set out in the amendments can be competently conducted without advice giving and rather by providing information or education/ coaching, and option gathering that will inform parents or other care givers of their obligations under the *Family Law Act* and of the consequences of their decisions around children. All of the requirements of

an adviser such as to inform the parties of the effect of a parenting plan in terminating a parenting order to the extent of inconsistency with the parenting plan could be satisfied by substituting a title such as 'consultant'.

We point this out because the label of 'adviser' has major ramifications for the sector mainly due to the fact that indemnity cover for providing any advice in the sector is prohibitive and it would preclude most mediators and counsellors from working in that capacity.

### **Approved organisations**

We would like to highlight the importance of organisations being approved to provide FRSP services. The success of FRSP providers in the past has been, at least in part, because they have been required to be approved under fifteen approval standards.

However, we do point out that it is valuable to have a choice of service providers in the future Family Relationship Centres and we emphasise the importance that all funded organisations meet the quality standards.

*The enhancement of relationships and family life in their various forms, through counselling, mediation, education, professional training and the foundation of social policy*

## Family Relationships Centres

*Relationships Australia* commends the Government for demonstrating its commitment through the allocation of \$189 million to the establishment of 65 Family Relationships Centres. We are particularly pleased that the Attorney General described them as 'a visible entry point into the family law system, which will provide some mediation services and refer families to other appropriate services'<sup>3</sup> and '...a place where all families can go to get help with their relationship difficulties.'<sup>4</sup>

*Relationships Australia* believes the emphasis in the proposed amendments on ensuring that reconciliation is addressed is encouraging. A major part of our work is in the preventative and early intervention area and these changes are welcomed. We believe the role of the Family Relationships Centres should encompass both an early intervention and prevention and post separation focus.

The proposed amendments will make it possible to put into action Recommendation 13 of *Every Picture Tells a Story*. We are delighted that the Government's in its response<sup>5</sup> strongly supports the appropriate use of child

inclusive mediation processes and will continue to support the FRSP in provision of innovative child focused practice. We believe the Family Relationship Centres can effectively provide such services if creative ways of doing so can be accommodated.

*Relationships Australia* would like to ensure the following issues are addressed:

- The FRCs should have practitioners with high levels of qualifications, skills and training in order to deal with the complex presenting issues of domestic violence, mental illness and high levels of conflict.
- The free three hours offered to clients in the Family Relationship Centres should have some option for increase in cases of need.
- The allocation of the hours to child inclusive services should be an option that is available to clients where it is found to be appropriate.
- FRCs should offer services to assist people in their property settlements.
- FRCs should be friendly for both men and women.
- FRCs should be equitable and accessible.

## Rural and Remote

*Relationships Australia* encourages the access to Family Relationships Centres services in rural and remote localities where there are no or limited services available. This could include the provision of visiting services to remote centres and the use of existing Family Relationship Service Programs badged as Family Relationship Centres as another gateway to service delivery.

<sup>3</sup> Attorney-General, The Hon Philip Ruddock, Media Release, 10 May 2005.

<sup>4</sup> Ibid.

<sup>5</sup> Australian Government, A new family law system Government Response to *Every picture tells a story*, June 2005, page 12.

*The enhancement of relationships and family life in their various forms, through counselling, mediation, education, professional training and the foundation of social policy*

### **Compliance and Reporting**

There is some concern that organisations such as ours may be seen to be in a role of power and authority, when for example we run Children's Contact Services and Contact Orders Programs. This may cause consternation in some sectors and it is important that the community sector is perceived as 'safe' and welcoming by all those who come for assistance with their relationships.

The requirement for reporting should be minimal so that people are not fearful of the content of reports and to ensure client confidentiality. The reporting could be reduced to merely reporting attendance or failure to attend without providing any reasons.

The above reporting is in addition to the current mandatory requirements. We fully support the current mandatory requirements for reporting which include disclosure to protect a child, or to prevent or lessen a threat to the life or health of a person or the threat to damage property.

### **Confidentiality**

We note that the protections remain the same under the proposed amendments as they were previously. However, it is important for the Government to note the South Australian Supreme Court Decision<sup>6</sup> during which counselling files were successfully subpoenaed. *Relationships Australia* encourages the Committee to consider the current protections within the proposed changes to the *Act*.

### **Joint Registry**

*Relationships Australia* supports the establishment of a joint registry for the Family Court and the Federal Magistrates Court because we believe this will assist men, women and families, by making it easier for them to navigate the system.

### **Grandparents**

The role of grandparents and extended family is strengthened and *Relationships Australia* encourages this recognition of the valuable role of grandparents.

### **Aboriginal and Torres Strait Islander Children**

We applaud the amendments in the Schedule which provide for a greater emphasis on the specific needs of Aboriginal and Torres Strait Islander children. The emphasis on kinship obligations and child-rearing practices, enjoyment of culture and connection to lifestyle and traditions are very positive is recognising the importance of these values in those communities.

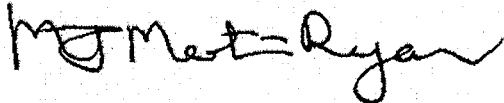
---

<sup>6</sup> R v P.M.L. No. SCCRM-01-31 (2001) SASC 79 (20 March 2001).

*The enhancement of relationships and family life in their various forms, through counselling, mediation, education, professional training and the foundation of social policy*

If you have any questions about the submission or require additional information, please don't hesitate to contact me on (02) 6285 4466 or via email [mmertin-ryan@relationships.com.au](mailto:mmertin-ryan@relationships.com.au).

Yours sincerely



Mary Mertin-Ryan  
National Director  
Relationships Australia Inc.

15 July 2005

*The enhancement of relationships and family life in their various forms, through counselling, mediation, education, professional training and the foundation of social policy*

---

Relationships Australia Inc. • ARBN 063 560 332  
15 Napier Close, Deakin ACT 2600 • PO Box 313, Curtin ACT 2605  
Ph: (02) 6285 4466 • Fax: (02) 6285 4722  
email: [natoffice@relationships.com.au](mailto:natoffice@relationships.com.au) website: [www.relationships.com.au](http://www.relationships.com.au)