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# *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***

**Document Date: 11 August 2003**

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## Executive Summary

Relationships Australia provides family support services to nearly 90,000 Australians per year, many of whom are seeking help to resolve relationship breakdown and parenting issues. These services are provided through our counselling program, our mediation and primary dispute resolution services, our education programs and children's contact services, funded largely through the Family Relationship Services Program. There is high demand for these services across Australia; increased funding is needed to ensure adequate provision.

Family separation is a complex, emotional and difficult time for both parents and children. Parents often identify residency, as well as frequency of contact as important factors in their relationship with children post-separation. However, the research suggests that these are not the factors that have a significant impact on outcomes for children. The factors that are important for children include:

- ✦ Quality of relationship with each parent;
- ✦ Impact of inter-parent conflict; and
- ✦ Stability and security appropriate to their developmental stage.

It is the responsibility of public policy and legal systems to protect and prioritise the interests of children, as they are the most vulnerable. The Family Law Reform Act 1995 enhanced the principle of the 'best interest of the child' and introduced changes to move away from simplistic notions of custody and access. It is critical that we do not lose this intent by returning to a situation in which parental rights take precedence over children's interests.

We believe that the introduction of an equal time rebuttable presumption would be regressive rather than progressive. There is insufficient evidence that shared residential custody is beneficial to children and workable for the majority of parents. Achieving real change for families requires a much more sophisticated approach.

Relationships Australia urges the Inquiry to consider alternative solutions to the challenge of supporting shared parenting responsibility. We believe that a national strategy is needed with the following components:

- ✦ Strengthen the Use of Parenting Agreements;
- ✦ Individual, Family and Community Support;
- ✦ Professional Education;
- ✦ Capacity Building and Problem Solving;
- ✦ Involving Children in Developing Arrangements; and
- ✦ Better Mechanisms to Support Extended Family Relationships

While not directly commenting on the child support arrangements (as this is not within our specific expertise), we have suggested that a national strategy to support shared parenting might include reform around child support.

# I Introduction

## 1.1 ABOUT RELATIONSHIPS AUSTRALIA

Relationships Australia (RA) is a leading provider of professional services to support relationships. It is a not-for profit community based organisation. Relationships Australia is committed to enhancing the lives of communities, families and individuals.

Relationships Australia provides family support services to nearly 90,000 Australians per year<sup>1</sup>. Many of these clients seek our services to help resolve relationship breakdown issues. These services are provided through our counselling program, our mediation and primary dispute resolution services, our education programs and children's contact services.

Relationships Australia operates services from around 80 locations around Australia. Just over half of our funding (52%) across Australia comes from the Federal Government through the Family Relationships Services Program (FRSP). The majority of the FRSP services provided are funded and administered in accordance with either the Family Law Act 1975 or the Marriage Act 1963. The FRSP services provided under this Program include family and child counselling, family and child mediation, relationship education services, adolescent mediation and family therapy, children's contact services, and men and family relationships services.

## 1.2 DEMAND AND CLIENT OUTCOMES

The level of demand for Relationships Australia's services is increasing. A snapshot of waiting lists taken on 14 May 2003 showed that on that one day alone there were 1,812 people waiting for Relationships Australia programs and services across Australia. Due to client confidentiality, it is impossible to ascertain how many of those people on our waiting list eventually accessed RA or other services. However, even if half of those people on the RA waiting list were able to access services it would still leave approximately 10,000 people per year unable to access services.

Those people who can access Relationships Australia's services report that parenting and children's issues are of particular importance. A 2001 client outcomes evaluation showed that these issues are discussed with half of all clients attending counselling and with half of all clients attending mediation<sup>2</sup>. This evaluation also found that:

- ◆ Almost half of the mediation clients had sought assistance from a lawyer prior to attending Relationships Australia, and 14% had been to the Family Court already;

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<sup>1</sup> Relationships Australia Annual Report 2002

<sup>2</sup> Relationships Australia Client Outcomes Evaluation Report 2001

- ✦ Agreement was reached in 70% of mediations, and for 80% of clients these agreements were still holding at the time of interview, an average of 5 months later.
- ✦ Just over three-quarters of clients were satisfied with the mediation, with a similar number viewing the result as meeting or bettering their expectations.
- ✦ Several aspects of the mediation process were highlighted by clients as being particularly helpful. These included an environment which was secure, conducive to negotiation and which reduced conflict. Clients also perceived having a controlled process that clarified issues and provided professional advice as being positive.

### **1.3 THE FRSP REVIEW**

Assisting families through separation requires a high level of professionalism and expertise. It is appropriate that these services are delivered within a framework of quality assurance and accountability requirements. Services are required to employ staff with tertiary qualifications and relevant experience, provide highly developed staff training and meet organisational accountability requirements as part of funding agreements.

The cost of delivering services under the FRSP has significantly increased over the past 7 years. Funding has not kept pace with increases in professional salaries, insurance, property rental and other expenses incurred in delivering services. In real terms, the FRSP funding has been reduced over time, particularly in relation to its core service, family and relationship counselling. Not only has this meant that the level of service cannot meet demand, but that professional staff salaries are much lower than in other areas of the family relationships field. We are inevitably losing well-trained professionals to better paid positions and finding it more difficult to recruit the extremely well qualified staff required for this complex and difficult work because of the low salaries offered.

The entire FRSP is currently under review by the Federal Government. In Relationships Australia's submission in 2002 to this review<sup>3</sup>, we recommended:

- ✦ Incorporating a strong focus on outcomes for children; (Recommendation 3);
- ✦ Maintaining strong links with the family law system; (Recommendation 4);
- ✦ Immediate increases in investment in the FRSP to address unmet needs and gaps in service availability (Recommendation 6); and
- ✦ Researching the cost-benefit of FRSP services (Recommendation 7).

The Commonwealth Department of Family and Community Services is advancing the recommendation regarding the cost-benefit of services by considering a study of the social and economic costs and benefits of family conflict and separation. We believe that the outcomes of this study will show a huge social and economic cost in relation to family conflict and separation. Major increases in funding are required to provide more accessible and suitable non-adversarial

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<sup>3</sup> Relationships Australia (2002) Response to 'Future Funding of the Family Relationships Services Program' A Background Paper of the Family Relationships Forum, June 2002. (Attached)

services to those families experiencing separation to help offset the costs to families and communities.

#### **1.4 NEW APPROACHES**

Services supporting families around the time of separation and after separation need to be as integrated, connected and networked as possible. This is one of the clearest recommendations of the Family Law Pathways Advisory Group, and is particularly important in the case of highly conflictual separations involving children.

The higher the level of conflict and the more entrenched and adversarial the conflict is, the more crucial it is to have robust and effective relationships between the Family Court of Australia, the Federal Magistrates Service, family law practitioners, and organisations such as Relationships Australia.

Some excellent examples exist for the potential of such co-operative arrangements. Particularly impressive is the pilot of Contact Orders Programs. The Contact Orders Programs operate out of FRSP services and develop networks with lawyers, the Family Court and the Federal Magistrates Service, and other complementary services such as children's contact services. Each program works with separated families that have a history of high conflict, violence, mental instability, drug and alcohol abuse – as well as families where orders have been breached. They provide a tailored range of services including individual client screening and assessment, counselling and/or mediation for children and adults, and group education. The evaluation<sup>4</sup> clearly demonstrates the effectiveness of these services in helping families that have had multiple problems and often many court appearances. There are currently three programs in Australia – Hobart, Perth and Parramatta in NSW – with one more planned in Brisbane and one in Melbourne.

Contact Orders Programs should be better resourced and extended throughout Australia to make them as widely available as possible. They could be established as Diversion Programs so that family courts can use these services as an integrated part of court proceedings. This would further alert the family law practitioners to the value of these programs and the regard in which courts and communities hold them.

#### **1.5 SECTION SUMMARY**

There is clear evidence that the demand for Relationships Australia's services is strong and the outcomes are positive for those clients who are able to access services.

In order for services such as those offered by Relationships Australia to continue to deliver high quality, desirable alternatives to court proceedings, additional funding is required. A major injection of funding is required to increase the capacity of services so that more families have access to the range of primary dispute resolution services we have shown to be effective.

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<sup>4</sup> Hansen & Ainsworth (2002) *Evaluation of the Contact Orders Pilot Programs*.

## 2 What Really Matters to Children

### 2.1 QUALITY OVER QUANTITY

This Inquiry has been asked to review the factors that might be considered in determining the respective time a child might spend with each parent post separation - with particular attention to the notion of 'equal time' that presumes children would reside with each parent on a part-time basis.

In our experience, the question of the amount of time spent with each parent is not the critical issue for children. What is important for children is to have long-term quality relationships with both parents.

One of the most robust findings in the research literature is that children's emotional adjustment to parental separation is not associated with custodial arrangements<sup>5</sup>. Rather, factors that are associated with children's emotional adjustment include the extent to which parents remain involved and responsible.

In the past, there has been some confusion over research undertaken overseas, because of differences in terminology. In the United States, the terms 'shared custody' or 'joint custody' are used in reference to shared legal custody. This means that both parents have an ongoing role in supporting and caring for the child, which is recognised in law. It does not mean that the child necessarily lives with (or spends equal time with) both parents. The child may reside solely with one parent but the other parent can share custody. In Australia, the term 'custody' has been confused with living arrangements. We now use the term 'shared parental responsibility' to refer to an ongoing legal and practical involvement, while the term 'residence' is used to refer to living arrangements.

In some studies shared parental responsibility (or joint custody) arrangements are related to better adjustment for children than sole parent responsibility (or sole custody). However, this is not based on shared residential arrangements, in fact there has been no significant difference in the outcomes of shared responsibility with equal residency and shared responsibility without equal residency<sup>6</sup>. In other words, it is the shared parental responsibility and involvement that makes the difference for children, not where they reside.

As an example, a recent study found that the presence or absence of "overnight stays" in a shared parenting arrangement does not in and of itself indicate anything about the quality of the shared parenting arrangement<sup>7</sup>.

The evidence is not clear about the impact of joint residential arrangements for most children - it is sometimes beneficial and sometimes problematic. Other factors have been identified consistently as being related to more positive outcomes post-separation. Some of these factors are examined below.

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<sup>5</sup> Ellis (2000)

<sup>6</sup> Bauserman (2002) conducted a meta-analysis of 33 studies and confirmed the findings of an earlier review of 6 studies undertaken by Johnston (1995).

<sup>7</sup> Smyth & Parkinson (2003).

## 2.2 CHILD-PARENT RELATIONSHIP

Children do not need to spend equal time with each parent to have quality parental relationships. Research has consistently demonstrated, across various settings, that it is the quality of interaction between children and their non-custodial (non-residential) parents, rather than the quantity that is more important for both the child and their relationship with that parent<sup>8</sup>.

The characteristics of 'quality' relationships are those that meet the need of the child. These include strong bonds, regular contact, durability, open communication and resilience to overcome problems. The research into parent-child relationships after separation tells us that some important factors in building quality relationships include the extent to which parents undertake meaningful activities with children<sup>9</sup> and the nature of interaction between the parent and the child<sup>10</sup>.

## 2.3 INTER-PARENT CONFLICT

Thirty years of research on families in separation conflict indicates that the negative impact of separation on children is largely due to inter-parent conflict both before and after separation<sup>11</sup>. This is particularly true when the children are caught up in the conflict and/or they experience emotions such as stress, insecurity, agitation, fear for their own safety, and unresponsiveness from parents.

There is substantial evidence linking the degree of conflict and cooperation in the co-parental relationship to children's adjustment post-separation<sup>12</sup>. Unresolved, enduring parental conflict can violate children's core developmental needs and threaten their psychological growth<sup>13</sup>. Children in joint residential arrangements may be particularly vulnerable to conflicts of loyalty, which is exacerbated by enduring conflict<sup>14</sup>.

High conflict separated parents have a relatively poor prognosis for developing cooperative parenting arrangements without a great deal of therapeutic and legal intervention<sup>15</sup>.

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<sup>8</sup> In a review of research literature Johnston (1995) concluded that the actual physical custody and visitation arrangements were less important for children's well being than the quality of ensuing family relationships. Strauss et al (2001) surveyed adolescents from divorced families in Switzerland and found only a moderate correlation between the amount of time spent with a non-custodial father and how close the adolescent felt to him. Stewart (2003) supported the finding that it is the quality of the interactions rather than their quantity that is related to positive outcomes for children. See also Kelly (1993).

<sup>9</sup> Child adjustment and the quality of the father-child relationship are far better if fathers are involved in meaningful activities with their children (Amato & Gilbreth 1999).

<sup>10</sup> Stewart (2003) supported the finding that it is the quality of the interactions rather than their quantity that is related to positive outcomes for children

<sup>11</sup> Ellis (2000); McIntosh (2003) Booth & Amato (2001)

<sup>12</sup> See for example Kelly (1993)

<sup>13</sup> McIntosh (2003)

<sup>14</sup> Durst et al (1985)

<sup>15</sup> Johnston, 1995



It is difficult to predict how many or what type of family are likely to have high levels of ongoing conflict post-separation. Researchers have found that the level of pre-divorce conflict is not a good predictor of post-divorce conflict<sup>16</sup>. It has been estimated that in the US, up to 10% of all divorcing families remain in ongoing conflict, this conflict is evident in approximately one third of those who register a custody dispute in court, and is likely to remain for a 2-3 year period<sup>17</sup>.

The problems for children associated with conflict occur in a variety of custody and access arrangements. Children, particularly girls, whose parents are involved in protracted, highly contested custody disputes after separation, are more likely to be emotionally troubled and behaviourally disturbed even when they have frequent access to both parents<sup>18</sup>. There is no specific formula for better adjustment post-separation, and where there is ongoing conflict these children and their parents tend to do less well in joint physical custody than low conflict families.

Conflict between parents can result in a choice by some parents to disengage from children after separation, (even when they have been highly involved and attached to their children before separation). Obstruction of contact by an ex-partner can also lead to disengagement from children's lives. It has been estimated that this is a problem in 20-40% of cases<sup>19</sup>. It was also found that in some cases, agreements reached prior to court were destroyed in subsequent adversarial court proceedings. The pattern of fathers visiting at the beginning of divorce proceedings was the strongest predictor of access patterns 3 years later, indicating the importance of establishing early plans.

#### **2.4 PARENTAL ADJUSTMENT**

As we might expect, the emotional stability, warmth and consistency of parents post-separation is a strong factor in children's adjustment and wellbeing. The psychological adjustment of the parents, particularly the parent with primary care for the children, is a central factor in the adjustment of children.

Maternal depression and anxiety at the beginning of the divorce predicts children's emotional and social adjustment two years later - the mother's social adjustment and self-esteem are predictive of adjustment in boys, and her psychological symptoms predictive for girls<sup>20</sup>. Close involvement with non-resident fathers is also very important. Children have been found to benefit from regular, predictable access arrangements, and from stable social support systems that include school, peers and extended kin<sup>21</sup>.

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<sup>16</sup> Booth & Amato (2001)

<sup>17</sup> Johnston (1995)

<sup>18</sup> Kelly (1993)

<sup>19</sup> In a study of fathers who were either engaged (child seen at least once per month) or disengaged (no contact in last 3 months), Kruk (1992) found that the disengaged fathers were the ones who had reported the highest levels of involvement, influence and attachment to their children during the marriage. The most frequent reason given for disengagement (90%) was obstruction of paternal access by ex-spouse, and the mother's desire to break contact between the father and child. Interviews with both parents revealed that custodial mothers interfere with fathers' visits at a rate of 20-40%.

<sup>20</sup> Kelly (1993)

<sup>21</sup> Johnston (1995)

## 2.5 CHILD DEVELOPMENTAL STAGE

The nature of post-separation arrangements that may be appropriate for an infant and those appropriate for a ten year old child or adolescent are clearly very different.

Contemporary research tells us that custodial orders should recognise and respond to the age and developmental stage of children. As children grow, they develop an increasing ability to tolerate change and lengthier separations from their parents. The table below outlines implications for access arrangements post-separation. It has been developed from a recent review of contemporary literature<sup>22</sup>.

AGE	DEVELOPMENTAL NEEDS
<p>Infant (0-2)</p>	<p>In the first year of a child's life, children need constant opportunities for both parents to attend to them and in order to form strong attachment bonds. A limited number of people being involved in the child's care, constancy of presence and an unrushed environment are more important than who it is that provides this. Infants are unable to comprehend time much beyond today or tomorrow. Therefore, custody arrangements for children this age must involve more transitions rather than fewer, to ensure the child's security and comfort.</p> <p>It would be ideal for infants to interact with both parents every day or every other day. For this to work it is important that parents have confidence in each others skills and agree on key aspects of care such as feeding, crying response, stimulation, sleep routines etc.</p>
<p>Pre-school (2-5 yrs)</p>	<p>At this age it is preferable for children to have regular contact with each parent (even if these contacts are of shorter duration) rather than have an extended absence of either parent. Most children over 2 years of age can manage two consecutive nights with each parent without stress. Schedules, which involve separations of longer periods such as 5-7 nights, should be avoided.</p> <p>It is very important for children's stability to have similar feeding and sleep routines in each household. Parents should share information about bedtimes and rituals, night awakenings, food preferences, feeding schedules, effective practices for soothing, illnesses and change in routine as the child matures. Where this is not possible because of the level of conflict between parents, a third party should be employed to mediate and help facilitate co-parenting. Parents need also to take into account and cooperate around the needs of the child for increasing opportunities for social interaction with other children. It is important that transitions between carers be as least anxiety provoking as possible and should cause minimum disruption to the child's environment and circumstances.</p>
<p>Primary School Age (6-11 yrs)</p>	<p>In order to maximise their educational and social development primary school aged children (6-11 years) need both parents to be actively interested and involved in their lives. Children of this age have a better concept of time and are able to tolerate longer times away from a parent, although this is best when contact can be maintained with both parents (eg residing with one parent for a period and continuing to have telephone access to the other parent during this time). Most children of this age can manage 5-7 day separations from each parent as part of their regular schedules. They also have a continued need for security and dependability in parenting and predictability is vital to their sense of security. They like to know when and where they will be, because their thinking is still fairly concrete. The child's ability to plan ahead for too long and for too many events, (homework assignments, birthday parties, sport training etc) reduces their sense of security. At the same time, this needs to be simplified for the child and the arrangements need to fit the child's needs and capabilities rather than the convenience of the parents.</p>

<sup>22</sup> This table draws substantially on the article by Kelly & Lamb (2000) Using child development research to make appropriate custody and access decisions for young children. *Family and Conciliation Courts Review*, 38 (3), 297-311

	<p>With their increasing social and educational needs, parents need to be able to develop flexibility towards facilitating these activities while at the same time monitor these to ensure safety. At this age, children are highly likely because of their egocentricity, to take responsibility for ongoing conflict between parents, especially if the conflict relates in any way to the child and their contact with each parent. Where parents cannot manage their own reactivity the child often acts out their distress at this situation through their behaviour.</p>
Adolescent	<p>Current research stresses the importance of each parent being supported to maintain connection with their children at this age and to provide secure boundaries and structure in their teenager's lives. This assists in tracking and monitoring adolescent's activities and contributes to the reduction of the risks of depression, suicide, drug and alcohol abuse and other problems for the adolescent. When an adolescent has a secure and warm relationship with their parent, they are more likely to want to maintain contact and spend time with their parent. Parents who can tolerate their adolescent's exploration of their developing independence, while setting limits on this, are more likely to be able to provide this. In some instances, parents experience difficulties in facilitating compliance with parental agreements or orders as the increasing independence of their adolescents results in their not wanting to visit with parents, especially where there has been a history of poor relationships, neglect or abuse. At this stage, it is important that parents are flexibly able to facilitate the child's negotiating about their contact with each parent (and their own social arrangements).</p> <p>Adolescents' intellectual development and good academic outcomes are more likely where both parents are able to remain involved with their children's schooling and are able to cooperate in providing a calm and structured environment for study.</p>

It is important that as children grow older they have increasing participation in decisions regarding residency arrangements (see Section 4.6).

## 2.6 GENDER OF THE CHILD

The Prime Minister has suggested that one of the driving forces behind the need for this inquiry is the lack of male role models in the lives of boys who have limited contact with their fathers post-separation.

There is some evidence that the gender of the child is significant in considering primary residential placement. Some studies have found that boys as a group are happier and show lower rates of delinquency and school drop-out in father-custody homes, while girls as a group are happier and show lower rates of delinquency and school drop-out in mother-custody homes<sup>23</sup>. However, these findings are contested and very complex. Some authors have suggested that the result may be an artefact of demographic differences between mothers and fathers who are primary custodial parents, eg fathers who pursue and are awarded custody are generally more educated, more affluent, have more professional occupations and have been more involved with their children.

Recent Australian research<sup>24</sup> found that when single parent families are compared to two-parent families there are some positive outcomes for boys living with mothers and some negative outcomes for boys living with fathers. However, the factors that contribute to these outcomes are more complex than gender alone and single parent families cannot be considered to be a homogenous group.

<sup>23</sup> See Ellis (2000) for a review of relevant studies.

<sup>24</sup> Pike (2002) concluded that single parent families cannot be considered to be a homogenous group. This finding further complicates sole versus dual residency comparisons.

## **2.7 SECTION SUMMARY**

Parents often identify residency, as well as frequency of access, as important factors in their relationship with children post-separation. However, the research suggests that these are not the factors that have a significant impact on outcomes for children. The factors that are important for children include:

- ❖ Quality of relationship with each parent;
- ❖ Impact of inter-parent conflict; and
- ❖ Stability and security appropriate to their developmental stage.

### 3 Problems with an 'Equal Time' Presumption

Relationships Australia does not support the introduction of an equal time presumption.

When it is voluntary and workable, shared parenting involving equal residence with each parent can have many benefits, allowing children to maintain close relationships with both parents and maintaining dual parent monitoring during adolescence<sup>25</sup>. The problem is that these arrangements are very difficult to establish and maintain in practice, they do not always work and are not always in the best interest of the child. Research into post-separation arrangements does not support joint residential care as an appropriate 'standard' solution.

#### 3.1 INCONSISTENT WITH REFORM DIRECTIONS

Over the past decade there has been an increasing emphasis in family law on alternative dispute resolution mechanisms. At least half of all couples with children who separate do not approach the Family Courts. Instead these couples agree between themselves, or through mediation, counselling or other dispute resolution tools – how they will manage child custody arrangements. This allows for flexibility and individual solutions. It also encourages a collaborative, rather than adversarial approach. There is a risk that an equal time presumption will see an increased return to litigation.

It is estimated that only 5% of separating couples require a Family Court order regarding child custody. However, these cases are usually the cases where there are complex issues and/or high levels of parental conflict. It is these cases in which an equal time presumption is least likely to be useful or appropriate. In the words of Dr Tom Altobelli from the University of Wollongong:

*".. Whilst there are not necessarily more disputes concerning children in the Family Court today compared to 5 years ago, those disputes which do present today tend to be more complex as is evidenced by the greater number of orders sought, and more intense as is evidenced by the increase in the number of interim applications. Furthermore the very nature of many of the proceedings - enforcement of orders - tends to make this litigation both more complex and intense."*

In addition, the introduction of a rebuttable presumption of shared residential custody may increase the level of adversarial contest in family court matters. Rather than requiring parents to identify arrangements that are in the best interest of the child or children, parents are instead pushed into a position of either accepting the equal time presumption or making a case to rebut the presumption. This may encourage some parents to attack or undermine the relationship between the other parent and the child/ren.

It may be argued that although many couples do not pursue Family Court orders, the anticipated decision of the Family Court impacts on negotiations, therefore a rebuttable presumption of equal residency might influence mediated agreements

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<sup>25</sup> Kelly (1993)

by changing expectations. Yet the current Family Law Act (1995) already contains a presumption of shared parental responsibility: *'all parents, whether married or not, have shared parental responsibility unless the Court otherwise orders'*.

Despite this provision, some parents (primarily but not exclusively fathers) feel that the law or legal practices in some way restrict them from adequately exercising their current obligation of shared parental responsibility. This may be largely to do with the slow pace of change and the reliance on traditional rather than contemporary views of parenting. More emphasis is needed on education and reform to give the existing provisions greater application and recognition.

The 1995 reforms to the Family Law Act were significant and enhanced the principle that all decisions are based on *'the best interests of the child'*. The emphasis is on the needs of children and the responsibilities of parents, rather than parental rights.

It is important that these reforms replaced the terms 'custody' and 'access' with 'residence' and 'contact'. This was not simply a change in name or an exercise in political correctness. The change in terminology symbolises a significant shift away from perceptions of ownership and power between parents, toward an onus on parents to equally share the responsibility for the long term "care welfare and development" of their children. The 1995 reforms also clearly spell out the rights of children to be consulted about arrangements, and to have an ongoing relationship with parents, siblings and extended family.

Relationships Australia has found that the "best interests of the child" approach is a very useful crucible within which to accommodate all of these perspectives. Our services support and encourage child-focused practice, they help parents to understand the developmental, social and other needs of children and to develop shared care arrangements that advance the best interests of children.

Parents come to mutually agreed "shared care" arrangements on a daily basis across Australia. Depending on the needs and circumstances of particular families, some of these arrangements may involve shared residency arrangements, while some may not; the key issue is that parents can and do regularly make shared care arrangements in their children's best interests.

The introduction of an equal time presumption would undermine the imperative of keeping the child/ren's best interest paramount. As described by the Honourable Alistair Nicholson, Chief Justice of Family Court *"An equal time arrangement is all too often extremely disruptive to the children and not practical having regard to the work obligations of the parents and the needs of the children. It is also not a child-focussed solution but one that is focussed upon the needs of the parents"*.<sup>26</sup>

### **3.2 LACK OF EVIDENCE REGARDING BENEFITS**

If the 'best interest of the child' principle is to be maintained, then an equal time presumption is only plausible if there is strong evidence that in the majority of cases (with few exceptions) children will be better off if there is joint residential

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<sup>26</sup> Nicholson (2002)

custody. Such evidence is not currently available and research does not support the assumption.

The number of children living in court ordered joint residential custody is small. In the USA, where 95% of custody decisions are made out of court (similar to Australia), only 5% of cases have joint residential custody ordered<sup>27</sup>. This has resulted in a lack of empirical research on outcomes for children of living in joint or sole residential custody. This gap in the literature was noted 10 years ago<sup>28</sup>, however there remain few studies, especially in Australia. Of the research that is available, one of the most robust findings is that children's emotional adjustment to parental separation is not associated with custodial arrangements<sup>29</sup>.

### **3.3 JOINT RESIDENCY CAN BE UNSUITABLE AND/OR UNWORKABLE**

Not all families are able to cope with joint residency arrangements, particularly in the early period of adjustment post separation.

In the worst examples, some parents may use a joint residency presumption simply to prolong their relationship with an ex-partner or to avoid paying child support. In such circumstances, children become a pawn in conflict between parents and their own interests may be overlooked.

In other cases, practical constraints such as housing, transport and employment arrangements may mean that joint residential arrangements are not appropriate. For example, if one partner is living in temporary, shared or unsuitable housing children may not feel secure and welcome. Practical constraints will often be challenging for low-income families with several children, as the cost of operating two homes that can accommodate the children may be prohibitive.

Sharing the residential care of children requires a level of understanding and cooperation between the parents on an ongoing basis. This may not be something all separated parents are able to achieve. Even 2 years post-separation, only one third of divorced mothers report that they are able to communicate well or reasonably well about parenting issues with the child's father<sup>30</sup>.

Our mediators report that it is not uncommon for parents to begin mediation seeking equal residency arrangements, but to change their mind after reality testing. Factors such as after school care, shift work, work travel etc, have led to their change of original position. It seems to be an idealistic notion that can't work in many situations. It assumes the idea that there is enough money to run two homes adequate for two families, and that the personalities/temperaments of all the children and the parents will cope with the arrangements.

Research into families with ongoing conflict between the parents has found that frequent visiting arrangements and joint residential custody were likely to result in increased levels of verbal and physical aggression between the parents,

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<sup>27</sup> Gunnoe & Braver (2001)

<sup>28</sup> Kelly (1993)

<sup>29</sup> Ellis (2000)

<sup>30</sup> Bretherton et al (1997)

particularly during transition times, which was associated with poorer adjustment for children<sup>31</sup>.

US research has demonstrated that when joint residency is ordered by the court it is likely to be less satisfactory than when the parents have voluntarily agreed<sup>32</sup>. When there is a high level of marital conflict, children do less well in joint residential custody than those families with less conflict. For these children, there is no specific formula that will lead to better adjustment to separation.

Relationships Australia's experience assisting people come to shared care arrangements is that such arrangements work best when parents voluntarily agree to shared care, rather than when such care is court ordered. The factors contributing to the development of successful shared care arrangements are complex and easily jeopardised.

A recent Australian study<sup>33</sup> used focus groups with parents cooperating in shared residential arrangements. The findings of this study are consistent with the issues identified by our own counsellors and mediators. In order to make equal time arrangements work, certain preconditions are necessary. For example:

- ✦ Parents need to be able to communicate with each other about the children's physical, emotional, and educational needs.
  - Parents who have cooperated over parenting before separation, or shared parenting responsibilities before separation, are more likely to successfully co-parent after separation.
  - Parents must be able to be flexible and prepared to adapt their co-parenting arrangements to suit the changing needs of the children. To do this, parents need to demonstrate emotional maturity and effective communication and negotiation skills. *"Yeah, it's amicable. We just take our egos out of the equation and do what's best for the kids basically, all the time"*;
- ✦ Both parents need to be committed to the arrangement and have a belief that the arrangement is in the children's best interests to have equal time with the other parent. If this strong commitment is absent, then when inevitable difficulties arise, (emotionally, financially or logistically), the cooperation and flexibility required may quickly evaporate, placing children in a potential battle-ground<sup>34</sup>.
- ✦ Geographical proximity – ex-partners making these arrangements work, live an average of 10km apart - parents need to live in close proximity to ensure that the children maintain their friendship networks, extracurricular activities, and attend the same school.
- ✦ That there is a relative power balance between the parents, to avoid ongoing abuse or control or conversely the relationship is not characterised by power games between the parents.

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<sup>31</sup> Three of the six studies reviewed by Johnston (1995) examined families with high levels of conflict.

<sup>32</sup> Kelly (1993)

<sup>33</sup> Smyth, Caruana & Ferro (2003)

<sup>34</sup> Benjamin & Irving (1990).



- ⇒ That all the children involved (they do not come as a package) have personalities and resilience sufficient that they can cope with living in two homes. Often teenagers report that they simply want one residence, as it is too difficult to maintain friendships, study requirements and the energy necessary to constantly move.
- ⇒ Children may not have strong attachments and compatibility with both parents. Long absences from the other parent in these instances may promote separation anxiety, and resentment toward the parent who has not yet established the bond or relationship which will sustain a shared living arrangement.
- ⇒ Both parents need to have a strong attachment and role with the children prior to the separation. Immediately placing children into shared arrangements may have a negative impact on the children's emotional adjustment to the separation, and negatively impact on the relationship and development of trust in the parent who was less previously involved. It may be necessary to move slowly toward shared care in these instances, if this is the intention of parents.
- ⇒ Both parents need to have the capacity to provide care before and after school and when children are sick or on school holidays - this generally means that fathers as well as mothers need to have flexible working arrangements.
- ⇒ Both parents generally need to have financial independence.

It must be recognised that even when these conditions are established, they can change over time and joint parenting arrangements can become more difficult. Re-partnering is a known factor in reducing non-residential contact between parents and children<sup>35</sup>; it may also be a significant variable in the capacity of parents to maintain shared residential arrangements.

The cases (at 4.2 below) are drawn from real life examples, with names and other identifying details changed.

### **3.4 CHILDREN AT RISK NEED STRONGER PROTECTION**

Of particular concern is the potential impact of an equal time rebuttable presumption on children who are at risk due to family violence and/or abuse.

Family violence and high parental conflict is universally regarded as a contra-indicator for joint residence<sup>36</sup>. Family violence has many implications for the family law system both in terms of the identification of such violence, and the reaction or response to it. It is not always easy to identify family violence and abuse or to recognise that a child is at risk.

There is a danger that children will be inappropriately exposed to greater risk by having an equal time presumption applied.

Tensions have already been identified between the current Family Law Act provision that '*children have a right of contact on a regular basis with both parents*' and the need to ensure that parenting orders do not expose a person to

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<sup>35</sup> Parkinson & Smyth (2003)

<sup>36</sup> Buchanan et al (1991); Kelly (1993)

'an unacceptable risk of family violence'. There is some evidence that since the introduction of the right of contact in the reform act of 1995 there has been a tendency for this to override family violence concerns<sup>37</sup>. Relationships Australia is extremely concerned that a presumption of equal time may continue or worsen this problem.

A recent Australian study found that for women and children escaping domestic violence, separation did not ensure safety. 97.5% had experienced violence or abuse after separation, with many describing a well-documented increase in violence immediately post-separation<sup>38</sup>.

Many of the women felt that in Family Court hearings, insufficient attention was paid to the specific facts of their case, and to the history of violence in their relationship. Professionals agreed that there was a practice of arriving at standard orders (every second weekend and half of school holidays), and that even when family violence had been identified, cases rarely departed from this standard. This is in the current situation where there is no legal presumption of pertaining to residency arrangements. If an equal time presumption were to be written into law, how much more difficult may it become to deviate from this position? The professionals in this study agreed that the quality of advice received from lawyers is variable and that some women feel pressured by lawyers. In a situation where the onus is on the female victim to rebut an equal time presumption for the safety of both herself and her children, such variable quality and pressure from lawyers may have serious consequences.

Indeed, the fear of potentially exposing children to a higher risk of violence in joint residence arrangements post-separation may deter women from escaping violent or abusive relationships<sup>39</sup>.

### **3.5 SECTION SUMMARY**

Relationships Australia believes that the introduction of an equal time rebuttable presumption would be regressive rather than progressive. There is insufficient evidence that shared residential custody is beneficial to children and workable for the majority of parents. Achieving real change for families requires a much more sophisticated approach.

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<sup>37</sup> Rhoades et al (1999) reporting to the Family Court on the Family Law Reform Act 1995.

<sup>38</sup> Kay, Stubbs & Tolmie (2003) interviewed 40 women who had experienced violence from their ex-partner and were negotiating residence and contact arrangements. Also interviewed were 22 professionals involved in the process, including lawyers, counsellors, refuge workers, domestic violence court assistant scheme workers and supervised contact centre workers.

<sup>39</sup> Brinig & Buckley (1998) suggest that the risk that women might remain in abusive marriages is an issue requiring further research in any move to joint custody arrangements

## 4 How to Better Support Shared Parenting

Relationships Australia actively promotes the development of better approaches to support shared parenting. Shared parenting is more than a sharing of physical custody, rather it is sharing the responsibility of the child's upbringing - both parents are actively involved in major decisions and encouraged to have secure and close, long-term relationships with their children.

Helping separated parents to establish effective shared parenting arrangements requires a substantial shift in community attitudes and supports. Rather than perpetuate a win-lose adversarial contest, we need to establish a community expectation that both parents will have ongoing involvement with children and we must provide support that encourages parents to cooperate to put the needs of children first.

We believe that a broadly based national strategy is needed to facilitate this change. This approach is a far better solution to the current problems of disaffected parents, parenting disputes and broken relationships between parents and children. It is our view that this Inquiry is a valuable opportunity to consider alternatives and should not be restricted to determining only the merits of a rebuttable presumption.

### 4.1 DIFFICULTIES WITH SHARED PARENTING

It is difficult to determine the amount of shared parenting currently in effect in Australia. The majority of children live with their mother post separation and contact with fathers is sometimes limited and may deteriorate over time - a common experience in Western societies<sup>40</sup>.

Over one-third of Australian children whose parents have separated have no face-to-face contact with their non-resident father<sup>41</sup>. The issue of non-resident fathers having no or limited face to face contact with their children is one that we encounter regularly in the services provided by Relationships Australia.

Some recent research has suggested when children have contact with their non-resident parent, this usually includes some overnight stays<sup>42</sup> (73%), but it is not usually more than 30% of nights per year (6%). Overnight stays are not the only important measure. Children have a variety of forms of contact and of those children who have contact in some form, including phone, visits, email, with their non-residence fathers - 16% do so on more than 305 of days of the year.

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<sup>40</sup> The phenomenon of increased marriage breakdowns leading to children having less contact with their fathers is not unique to Australia. A 2003 longitudinal study of 1535 American high school children living with their biological mother (but not their biological father), found that 30% had had no contact with their father in the last year, and only 39% had contact at least monthly (Stewart 2003). Similarly, in Switzerland, 23% of 1380 apprenticeship students aged 15-22 years reported that they had had no contact with their biological father in the last month, and only 27% had 3 or more contacts during the month prior to the study (Strauss et al 2001).

<sup>41</sup> Household, Income and Labour Dynamics in Australia (HILDA)

<sup>42</sup> Parkinson & Smyth (2003)

Many fathers are concerned about their lack of contact with children. Nearly 40,000 men used our services in 2002-3, which represents nearly half our clients. It is certainly our experience that a large proportion of these men are concerned at their inability to see their children more often and are seeking extra support around parenting skills and in gaining or enhancing contact with their children. Australian research has also found that 40% of residence mothers would like more contact between children and their fathers<sup>43</sup>.

The importance of fathers having durable relationships and spending more quality time with their children is incontrovertible.

The Family Law Act as amended in 1995 supports the potential for shared parenting responsibility and shared time with each parent - including shared residency. There is a lack of awareness amongst parents that this is the case. As illustrated by the following comment, representing a common view: "*A lot of guys who have just separated don't realise that it's an option. They think 'standard care' is all there is out there*"<sup>44</sup> [Australian separated father who has an equal residency arrangement].

This highlights one of the problems with the application of the existing law with regard to shared residency. The pace of change is slow, the family law system is yet to fully embrace the range of options supported by the reformed legislation and it takes time to change the common experience of people in the community who have been through post-separation negotiations. Unfortunately the most common perception is still that 'standard care', such as every second weekend and half the school holidays, is all that is available to fathers. This may lead to the disengagement of fathers from the lives of their children.

More than a few fathers report improved relationships with children post separation. Very few of these fathers have shared or sole residence so it has more to do with a decision and effort made after separation. Many of these dads did not share parenting prior to separation but they battle for a place afterwards. They genuinely have the interests of their children in mind. It also has to do with how effectively they can manage any conflict and co parent. For a mother who has been arguing for years to share the parenting prior to separation to accept and allow commitment from him when it's "too late" to make the family work is frustrating. For some children there is also the confusing situation of improved communication/attachment with dad along with a deteriorating relationship between dad and mum.

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<sup>43</sup> Household, Income and Labour Dynamics in Australia (HILDA)

<sup>44</sup> Quote taken from Smyth, Caruana & Ferro (2003)

## 4.2 CASE EXAMPLES

A small sample of case examples are provided below to illustrate the complexity of negotiating shared parenting and the range of outcomes that can be achieved. These examples are drawn from real life circumstances with names and details changed to protect confidentiality.

**Case 1:** Carol (38 years) & Kent (42) have three children Karen (13) Michelle (11) and Sandra (5). They both emigrated from Asia 18 years ago; they have been married 15 years and separated for about 6 months.

The children are living with Carol at her sister's home while the family home is being renovated. Kent is renting a place nearby. Contact was initially regular, however overnight contact ceased following an "incident" where Kent "slapped" Karen. Karen is refusing to go with Kent. Carol says that Karen is frightened of Kent and none of the children want to go on contact visits. Kent acknowledges the "incident" and expresses remorse for his behaviour. He would like to make amends and reinstate regular contact with the three children. Neither Carol nor Kent knows what to do.

The family has accessed the following services: Family Court, legal & child representatives, mediation (10 sessions to date), child psychologist (5 sessions) and a school counsellor with various liaison contacts between these professionals. A number of issues have arisen:

- ✦ The children are aware of the conflict between their parents, and report that they are quite tired and stressed.
- ✦ The parents have each taken out intervention orders on each other, and are finding it difficult to see past their conflict to the needs of their children.
- ✦ Kent returned to Asia for a few months to give Carol and their children some space. However he soon returned after several e-mails and letters to the children were not answered. Kent requested to see the children as per court orders. Both children and Carol are reporting experiencing stress.
- ✦ Carol does not know what to do and asked Relationships Australia to contact Kent on her behalf. Kent agrees to attend further mediation with the aim of organising to see his children and refuses to discuss property issues until the contact arrangements are resolved.

This is an example of the high level of conflict and difficulty experienced in many relationship breakdown cases and of the detailed and resource intensive input required to help reach resolution. It has been 9 months since the family first became involved with Relationships Australia.

In this case, after much deliberation and negotiation, on site and by telephone, a contact arrangement with Michelle and Sandra was agreed upon. While Carol says that Karen remains firm in her refusal to see Kent, she has agreed to bring Karen in for further individual counselling to support the father-child relationship.

As a result of agreement around children's contact arrangements, both Carol and Kent have decided to negotiate a property and financial settlement with the mediators. Kent says that contact with Michelle and Sandra is going well.

**Case 2:** Bill and Mary were both Accountants in their late 30s with two children 6 and 8 years. Prior to mediation they had separately negotiated a property settlement. They presented both wishing to negotiate a shared parenting arrangement. Bill put forward the proposal that each parent would take one child who would reside permanently with that parent and there would be regular "family" get-togethers. Mary seemed to passively accept the proposal. We explored this arrangement spending considerable time looking at the effect on the children and the sibling relationship.

As part of the property settlement, Bill and Mary were residing in homes they owned in adjoining suburbs and close to the children's school. Following this exploration of this first option and the possible effect on the close relationship that the children shared and on the relationship between the parent's and the children, further options were generated aimed at achieving equal parenting responsibility and residency. Agreement was eventually reached whereby the children would spend alternate weeks with each parent and on the week where the parent did not have residency, that parent would be responsible for transport to and from school thereby retaining contact during this period.

**Case 3:** John and Louise, both work for the Army. When they decided to separate they left the children in the family home and rented a small flat. The parents swap weekly from home to flat so the children did not have to leave their home. This arrangement is only meant to be short term - 6 months or until one of the parents decided to "move and have other relationships".

### **4.3 STRENGTHEN THE USE OF PARENTING AGREEMENTS**

The Family Law Act as amended in 1995 makes provision for a wide range of parenting arrangements to be formalised in a Parenting Agreement. Parenting Agreements can include residency and contact arrangements, but they are broader than that. They can also cover decision-making, education, communication, activities, contact and relationships with other relatives (eg grandparents) etc.

The application of these agreements has been limited. Their use and potential has not been fully understood.

Many parents who are disaffected by the family law system have had a poor experience and are unaware of the option of having a detailed parenting agreement. Separation is a complex and difficult process, not a single event (as illustrated by Case Study 1 above). Many parents may feel frustrated, confused and disempowered, particularly about how to plan the details of joint parenting or when making significant financial contributions through child support, while feeling excluded from decision-making.

Relationships Australia believes that there is significant potential for expanding the use of Parenting Agreements. Parents could be encouraged or required to work through the process of developing agreements as part of separation counselling and mediation, divorce proceedings, and/or child support arrangements.

Multiple pathways are critical because the process of developing a Parenting Agreement is more likely to be successful and satisfactory if the timing is right – for example when both parents are ready to cooperate and before conflict has become entrenched (as illustrated by Case Studies 2 & 3).

It is also important that Parenting Agreements be developed at the earliest opportunity as studies show that patterns of father's contact at the beginning of divorce proceedings was the strongest predictor of contact patterns 3 years later.

#### **IN THE COMMUNITY**

Relationships Australia and other providers of services under the FRSP, have developed extensive skill and expertise in helping couples, children and families reach agreements that meet the needs of all family members and that can be drawn up as a Parenting Plan. These services are delivered under the umbrella of Primary Dispute Resolution and are supported by a raft of other services such as individual and couple counselling and surviving separation and parenting skills groups.

This raft of services differentiates community services from Court services and allows for appropriate services to be delivered as the need is identified. For example, some couples may need individual counselling before they are able to mediate an agreement together, others may need to hear what the children are experiencing, while others may need support programs after reaching an agreement to make their arrangements work and last. (Case Study 1 illustrates the need for a range of services for children as well as parents).

In some situations couples can come to their own agreements without professional help, particularly if they have access to written material and checklists. In 1994, Relationships Australia NSW published a Parenting Plan and Booklet Kit. Although no longer in print, this kit, together with more extensive check lists, still guides the work of Relationships Australia practitioners. An example of a Parenting Plan checklist is attached. We would welcome the opportunity to revise and republish this kit if funding were to become available. We believe that these kits would greatly assist families if they were readily available. They would help to raise community awareness about the range of issues that arise in relation to shared parental responsibility when families separate.

### **IN FAMILY COURTS**

Under the Family Law Act, a Decree Absolute cannot be granted unless the Court is satisfied that "proper arrangements in all the circumstances have been made for the care, welfare and development of those children" (S55A.(1)(b)(i)). Parents could be required to lodge a detailed Parenting Agreement at the time of applying for divorce. This gives added weight to the Family Law Act and strengthens the notion that there is a community expectation that separated parents will continue to share responsibility for children and take adequate steps to establish workable arrangements for shared parenting.

Such a requirement would also encourage legal practitioners and other family dispute resolution professionals to fully explore all possibilities in regard to shared parental responsibility within the context of the child's best interests. This, in turn, should shift community understanding and expectations of responsible shared parenting after separation.

### **IN THE CHILD SUPPORT AGENCY**

In addition, there is the potential for stronger links between child support payments and Parenting Agreements. Parenting Agreements could be required to be lodged when child support agreements are registered. There may be reduced resentment over payments if both parents are active participants in making decisions about children's lives and how some of the joint funds are used to directly support children. Rather than transferring cash payments between partners, child support might be used, in part in some cases, to directly pay some costs related to schooling, health/dental needs, sport/recreation.

### **FLEXIBILITY**

Parenting Agreements may be developed without professional assistance, with the support of a community or court mediator, or with the help of a family law practitioner. Research clearly indicates that arrangements reached by parents are more lasting and durable. They also have the potential to be more flexible than is sometimes possible with a Court order. Parenting Agreements can be registered with the Family Court when this is considered necessary by the couple and have built in agreements for regular or as-needed review. Circumstances will generally change over time so it is important that agreements are adequately flexible and/or can be changed without Court intervention.

#### **4.4 INDIVIDUAL, FAMILY AND COMMUNITY SUPPORT**

We need to acknowledge that establishing shared parental responsibility after separation is complicated and challenging. Parents and children will benefit if a range of effective supports can be provided to make this easier, while allowing maximum flexibility to suit individual circumstances.

Parents negotiating post-separation arrangements often have limited positive examples to draw on. They are not able to anticipate the range of issues that may arise and they are generally not provided with resources to assist them to focus on solutions rather than problems. Those who seek legal advice or professional intervention (eg counselling or mediation) may be provided with examples of 'standard arrangements' without realising that there is considerable flexibility and other options.

Relationships Australia urges the Inquiry to recommend that a national strategy be developed to improve support to parents post-separation. The aim would be to establish, in parents and the broader community, an expectation that there will be an ongoing relationship between children and both parents, regardless of living arrangements or the relationship between the parents. This needs to become a community 'norm'. Acknowledging that post separation arrangements can be very difficult for parents, we need to encourage them to focus on the long-term outlook and benefits for children in relation to having strong relationships with both parents over the life span. This might begin with enhancing the range of individual supports, such as:

- ✦ Encourage help seeking through community networks, parenting resource centres, schools etc.
- ✦ Improve access to professional services such as advice and counselling to develop parenting agreements and dispute resolution or mediation to overcome problems;
- ✦ Provide information and training to help parents to focus on the interests of children, understand developmental stages and to develop their own parenting skills - particularly for parents who have not previously provided primary care;
- ✦ Provide and promote services such as children's contact centres that provide a neutral environment for contact and changeover – reducing opportunities for conflict between parents and allowing them to move towards self-management.
- ✦ Develop self-help resources to provide examples of successful shared parenting across a broad diversity of circumstances and arrangements, such as kits and videos.
- ✦ Research might also be undertaken to identify what works and what doesn't in the development of effective Parenting Agreements to provide real-life examples that help parents to avoid making common mistakes.

In addition to individual supports, we need family and community supports and education. These may include:

- ✦ Community education to help extended family members respond to separated parents, encourage cooperation and maintain relationships.



- ❖ Encouraging employers to support parents – particularly fathers - to maintain relationships with their children and take on stronger roles post-separation, through flexible work practices.
- ❖ Improved understanding and more sophisticated processes in school and health systems that encourage both parents to remain involved and responsible for children.
- ❖ Public campaigns to 'normalise' and promote positive relationships between children and both parents post separation.

#### **4.5 PROFESSIONAL EDUCATION**

One of the best points of influence in changing the way that parents are supported to develop shared parenting arrangements is the professionals who provide advice and assistance to parents considering and experiencing separation. This would include legal practitioners, family counsellors, mediators, family support services, school counselors and general medical practitioners.

These professionals are critical to ensuring that parents receive quality advice in relation to post-separation parenting responsibilities and arrangements. Common principles to promote to professionals include:

- ❖ The best interests of children is the paramount consideration. The principle is enshrined in the Family Law Act 1995 and professionals need to help parents accept that they will get their needs/wants met only in so far as they dovetail with the needs of the children. Parents need to have a commitment to their responsibilities irrespective of "what might be in it for them".
- ❖ There are a diversity of arrangements that can be developed based on individual circumstances and needs.
- ❖ Quality relationships between parents and children are very important and to be supported as much as possible.
- ❖ The development of Parenting Agreements should include recognition of parent-child relationships prior to separation, including differences in primary care responsibilities and recognition of the developmental needs of the child and the capacity of a parent to develop parenting skills.
- ❖ Collaboration amongst agencies and professions towards the same goals – no sabotage of the possibility of parenting teamwork by adversarial tendencies.

#### **4.6 CAPACITY BUILDING AND PROBLEM SOLVING**

It is often practical considerations that present the greatest challenge to shared parenting arrangements<sup>45</sup>. Following separation, parents are likely to experience significant upheaval and emotional adjustment. At the same time they may need to develop their capacity to maintain their relationship with their children. Common issues and possible responses include:

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<sup>45</sup> For example: Parkinson & Smyth (2003) found that factors such as the income of the father and the number of bedrooms in the father's home can play as much a role in the likelihood of "overnight stays" arrangements as the relationship between the parents themselves.

- ❖ Some parents have not previously taken an active primary care role and may need assistance and time to develop appropriate skills;
- ❖ Parents may need to nurture relationships with their children. Children's contact centres as well as other therapeutic and mediation processes should involve ongoing 3 way feedback between parents and kids (and extended family). This may help keep families connected and informed and give the children a voice – help adults hear;
- ❖ Counselling and support may be provided - allowing space for the individuals to deal with their grief, emotions, other personal issues outside the family arena;
- ❖ It can take time and resources to establish suitable housing where children can stay with either parent - some parents, particularly those with low income or assets may require assistance to secure appropriate housing<sup>46</sup>.
- ❖ Work arrangements may need to be developed over time, mothers may be returning to work, fathers may need to negotiate flexible work arrangements or part-time work;
- ❖ Social support and networks are important to family wellbeing and may be disrupted by separation. Support, information and opportunities to meet other parents in similar circumstances may be beneficial.

Some circumstances will require extra flexibility and creativity, for example where parents decide to live some distance apart, have unusual work demands (eg extensive travel or shift work) or experience health or mental health problems that may impact on their individual parenting capacity.

Until shared parenting is better accepted and understood we need a 'whatever it takes' approach to finding solutions to problems that threaten parent-child relationships.

The process of problem solving can be important. In the words of one father: *"Looking back I can see how much my children and myself are better prepared for life. We have learned that if we try hard enough we can find workable solutions to the everyday problems we are confronted with and we have learned to love each other and others in much stronger and positive ways". (A father providing feedback after receiving assistance from Relationships Australia)*

Some common problems in shared parental responsibility following separation are harder to resolve, for example<sup>47</sup>:

- ❖ Unwillingness of contact parents to exercise responsibilities, leaving the parent with whom the child lives to do the bulk of the work
- ❖ Unwillingness of the 'hostile' resident parents to share the care of children of parent co-operatively;

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<sup>46</sup> The ACT Homelessness Needs Analysis identified a range of difficulties facing separated parents with low income (ACT Government, 2002). For example, separated parents can have difficulty securing public housing with sufficient bedrooms and a suitable location to allow for shared residency arrangements, public housing agencies often treat parents who do not have primary care of children as 'single adults' therefore eligible only for small housing.

<sup>47</sup> Rhoades et al (1999)

- Persistence of the proprietorial 'custody' and 'access' concepts in the community;
- Replication of pre-separation care giving roles in which it is usual for one parent (usually the mother) to be responsible for the bulk of the caring work;

Professional counselors, mediators and conciliators have an important role in working through these issues with parents to encourage shared responsibility.

#### **4.7 INVOLVING CHILDREN IN DEVELOPING ARRANGEMENTS**

Children need to be given a voice and a role in establishing post-separation arrangements. We need better mechanisms for asking them what they want, without putting the responsibility for decision making on them or placing them in loyalty conflict.

Hearing from children about their concerns involves being able to listen for and notice the multiple reactions that a child may have to their parents separating. For instance a child may be pleased that the fighting has stopped, but feel annoyed that they can not see one of their parents as often as they would like. Limiting a child to one reaction is a way of not responding to the complex and sometimes contradictory reactions and needs a child may have in post separation situations.

If there has been violence between the parents, it is likely that children will feel responsible for the situation. It is therefore vital that children have opportunities to not only have a voice about the post separation arrangements, but also have support to address the trauma that they are likely to have experienced during the violence between their parents. This requires caring adults to genuinely focus on the children's reactions and understandings of their situation. Parents who are caught in their relationship conflict may not be available to explore these issues with their children. Therefore workers involved in post separation situations need to either support the appropriate parent to focus on the children or provide that focus directly to specific children themselves.

Children may not be able to voice their reactions to family situations easily. Children may need to share their reactions through drawing, or playing with soft toys or through 'make believe' characters. It is these conversations and explorations with children that can allow children to focus on their individual situation and be able to consider the benefits and problems that different living arrangements have on them. Practitioners and family members who have skills in engaging respectfully with children's views of their situation are vitally important. Relationships Australia has keenly embraced child inclusive approaches in counselling and mediation. Such approaches can enable children to provide feedback to counselors and mediators, which is then relayed to their parents<sup>48</sup>. Relationships Australia's work in this area is highly regarded, and the Federal Attorney-General has recently funded a longitudinal study with Dr Jenn McIntosh and LaTrobe University. This study will be conducted within Relationships Australia to ascertain the benefits of such approaches to both parents and children in separating families.

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<sup>48</sup> Strategic Partners Pty. Ltd (1998) for the Family Relationships Branch of the Commonwealth Department of Family and Community Services,

The expertise of children in understanding their own family situation is often undervalued. We need to make it safe for children to express their preferences, and create a space in which children are enabled to come up with innovative and creative ways of approaching contact issues.

#### **4.8 BETTER MECHANISMS TO SUPPORT EXTENDED FAMILY RELATIONSHIPS**

In a compounding succession of losses when families breakdown, children often lose contact with grandparents and other extended family members. Extended families can be all too willing to draw the battle lines and take sides or they do not want to be seen to be interfering.

Relationships Australia believes that Parenting Plans and court orders should emphasise that children of separated parents have contact with others, including grandparents and/or other relatives when:

- ✦ There is a history of involvement with the child and there are strong relationship bonds;
- ✦ They are prepared to cooperate in a flexible manner with each parent and support the parents in maintaining shared responsibility for children;
- ✦ Arrangements for contact can be made without placing the child at risk - particularly if there has been a history of violence or abuse within the family.

This is already provided for in the Family Law Act S 68F (1) "the nature of the relationship of the child with each of the child's parents and with other persons". The provision may be under utilised due to a range of factors including:

- ✦ Lack of awareness regarding the provisions and/or advice from legal practitioners;
- ✦ Costs and other negative consequences of prolonging or complicating proceedings following separation;
- ✦ These relationships may not be considered and problems may not be anticipated in the early period following separation but this may change over time.

Programs to help grandparents come to terms with changing family structures and develop relationships would be of benefit.

#### **4.9 SECTION SUMMARY**

Relationships Australia urges the Inquiry to consider alternative solutions to the challenge of supporting shared parenting responsibility. We believe that a national strategy is needed with the following components:

- ✦ Strengthen the Use of Parenting Agreements;
- ✦ Individual, Family and Community Support;
- ✦ Professional Education;
- ✦ Capacity Building and Problem Solving;
- ✦ Involving Children in Developing Arrangements; and
- ✦ Better Mechanisms to Support Extended Family Relationships.

## 5 References

### 5.1 INQUIRY TERMS OF REFERENCE

The framework for the House of Representatives *Inquiry into Child Custody Arrangements in the Event of Family Separation* is:

"Having regard to the Government's recent response to the Report of the Family Law Pathways Advisory Group, the committee should inquire into, report on and make recommendations for action:

- a) given that the best interests of the child are the paramount consideration:
  - what other factors should be taken into account in deciding the respective time each parent should spend with their children post separation, in particular whether there should be a presumption that children will spend equal time with each parent and, if so, in what circumstances such a presumption could be rebutted; and
  - in what circumstances a court should order that children of separated parents have contact with other persons, including their grandparents.
- b) whether the existing child support formula works fairly for both parents in relation to the care of, and contact with, their children."

### 5.2 GLOSSARY OF TERMS

Term	Common Meaning
Shared Parental Responsibility	Both parents exercise their responsibility for parenting
Joint or Shared Custody (USA)	Both parents exercise their responsibility for parenting
Joint Residential Custody	Where children spend some time living with each parent (this may or may not be equal time)

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## 6 APPENDICES

1. Relationships Australia (2002) Response Paper - Future Funding of the Family Relationships Program, Relationships Australia, Canberra, November 2002.
2. Relationships Australia Canberra & Region Parenting Plan checklist
3. Relationships Australia Annual Report 2002
4. Relationships Australia Service Directory December 2002



# *Relationships Australia*

Response Paper

## **Future Funding Family Relationships Services Program**

November 2002

# Relationships Australia

Response to 'Future Funding of the Family Relationships Services Program' A Background Paper of the Family Relationships Forum, June 2002.

November, 2002

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## Executive Summary

The Family Relationship Services Program (FRSP) is jointly funded by the Commonwealth Department of Family and Community Services (FaCS) and the Attorney-General's Department (A-G's).

The FRSP is directed to "developing and sustaining safe, supportive and nurturing family relationships in Australian society". In so doing, the program seeks to "minimise the emotional, social and economic costs associated with disruption to family relationships". (Australian National Audit Office, 2000)

The Commonwealth is currently reviewing the future funding directions for the FRSP. A Background Paper has been produced by the Family Relationships Forum titled '*Future Directions in Funding for the Family Relationship Services Program*'.

Relationships Australia supports and agrees with many of the points raised in the Background Paper but has significant concerns regarding a number of the proposed directions. This document is a response to the Background Paper.

Currently the FRSP goals have a broadly based, whole of community focus. Proposed changes would re-target services on the basis of geographic areas *'which rank high on measures of social and economic disadvantage but are relatively under-serviced in terms of the FRSP'*. (Family Relationships Forum, June 2002)

Re-targeting of the program to social and economic disadvantage threatens the early intervention focus and ignores the value of a whole-of-community approach. This is not consistent with either the FRSP goals or the strategic directions of FaCS.

The re-targeting is a poor response to current gaps in services and high unmet need. It would result in the withdrawal of services from some communities in order to establish services elsewhere. There is no evidence that this would have a net overall gain.

The social benefits of supporting family relationships and addressing potential harm when conflict or problems arise are equally important across the entire community.

There is no justification for withdrawing services from communities where need is evident and there is already a positive community presence. The withdrawal of services can only be justified in cases where there is low utilisation or poor achievements in relation to outcomes. There is no evidence that FRSP services are under-utilised or poorly located. Existing Relationships Australia services are experiencing increased demand and operating with extensive waiting lists.

There is a lack of evidence to suggest that there is a relatively higher benefit in providing services to one community as opposed to another. Withdrawing services is likely to result in substantial unnecessary cost, a drain of knowledge and skills through staff losses (particularly in rural areas), disruption to services for existing clients, and potential community anger or action.

Future funding directions should be consistent with the FRSP program goals and maintain a commitment to universal and broadly based services. The best way to ensure that families have access to these services is to increase the overall supply to address current gaps.

Current gaps include geographically isolated areas, some socially and/or economically disadvantaged communities and particular target groups identified as experiencing barriers to access.

Relationships Australia argues strongly that the mechanisms to address current gaps should be:

- Increased investment in FRSP services;
- Innovative approaches to expanding geographic coverage; and
- The development and implementation of strategies to improve access to services for disadvantaged groups.

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## Executive Summary (cont.)

In providing FRSP services, attention must also be given to ensuring that services are achieving outcomes for families.

The Background Paper proposes an outcome based funding model for the FRSP, and Relationships Australia supports this in principle. However, the development of outcome based funding frameworks in the community services sector are notoriously difficult, and must be developed over time with adequate resources and consultation.

In addition the review provides an opportunity to strengthen the program in a number of ways, including:

- ❑ Incorporate a strong focus on outcomes for children;
- ❑ Maintain links with the family law system;
- ❑ Affirm the importance of client choice between providers and build this into funding mechanisms;
- ❑ Develop a framework for planning future services; and
- ❑ Agree an approach to change management and support through transitional stages.

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Relationships Australia is seeking clear objectives for the Family Relationships Services Program based on good evidence which is consolidated into integrated action with defined outcomes.

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## Background

The Family Relationship Services Program (FRSP) is jointly funded by the Commonwealth Department of Family and Community Services (FaCS) and the Attorney-General's Department (A-G's).

The FRSP provides funding to non-government organisations for the delivery of services including family relationships counselling, family and child mediation, family relationships education and training, men and family relationships services, children's contact services, and adolescent mediation and family therapy services. Much of this work occurs under the legislative framework of the *Family Law Act 1975*.

Relationships Australia receives over \$18.5 million in funding from the FRSP and provides approximately one third of the total services funded. Relationships Australia's services are provided across Australia at over 80 locations.

There are two other major provider groups, Catholic Welfare Australia and Family Services Australia. These three major providers together make up the Family Relationships Forum (FRF).

FaCS recently instigated a process of review in relation to the current funding arrangements for the FRSP. Following a period of consideration and discussion with FaCS the Family Relationships Forum has released a background paper titled *'Future Funding of the Family Relationships Services Program'* to provide a basis for further consultation and discussion. The Background Paper only partially represents the views of Relationships Australia.

This document is a response to the Background Paper and has been prepared by the National Office of Relationships Australia in consultation with State/Territory networks, experts in the field and other advisers, to identify areas of agreement and disagreement and to highlight areas that we believe require further deliberation.

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## Program Goals

It is fundamentally important that decisions regarding funding are based on an agreed understanding of the overall purpose and direction of the FRSP.

The proposed changes to the funding arrangements for the FRSP are not clearly linked to the purpose and direction of the Program. The review is a good opportunity to clarify Program goals, recognise achievements and set future objectives - before any further proposals are put forward or decisions made.

Of particular concern is the proposed funding changes to re-target services on the basis of geographic areas *'which rank high on measures of social and economic disadvantage but are relatively under-serviced in terms of the FRSP'*. (Family Relationships Forum, June 2002)

This proposed re-targeting would create a change in focus for the FRSP, replacing the current broad community focus with a more narrow focus on disadvantaged communities and individuals. This is not consistent with either the FRSP goals or the strategic directions of FaCS.

## Whole of Community Focus

The goals of the FRSP are broad with a whole-of-community focus on strengthening family relationships. For example:

- *"The purpose of the FRSP is to promote and maintain quality family relationships"* (ARTD Management and Research Consultants, 1996 cited in To Have and to Hold, 1998; 97)
- *"The Family Relationships Services Program (FRSP) is directed to developing and sustaining safe, supportive and nurturing family relationships in Australian society. In so doing, the Program seeks to minimise the emotional, social and economic costs associated with disruption to family relationships"* (National Audit Office, 2000).

The whole-of-community focus reflected in the FRSP goals is consistent with the broader

Commonwealth Government commitment to supporting stronger families. For example, the FRSP can demonstrate achievements against each of the following areas identified in the *FaCS Strategic Statement 2002* section entitled 'Families are Strong':

- ❑ children and young people get the best possible start in life;
- ❑ family relationships are healthy;
- ❑ families are resilient; and
- ❑ families nurture individuals and are connected to the community.

The goals of the FRSP are also consistent with the principles of health and well being for communities. Research and global policy statements such as the Ottawa Charter and Jakarta Declaration promote broad community based approaches to strengthening family and interpersonal relationships by providing skills development and support.

Relationships Australia supports the FACS Strategic Statement and the current Program goals which define the target group as families, without limiting this to specific segments of the community.

**Recommendation 1:** Future funding directions reinforce FRSP goals in developing and sustaining safe, supportive and nurturing family relationships in Australian society.

### Early Intervention Focus

The proposed re-targeting implies that communities that are socially and/or economically disadvantaged will reap a higher benefit from FRSP services than communities that are not disadvantaged. This is an assumption that is not well supported by research.

Contemporary research into the link between community social capital and service delivery has found that services provided in communities with some level of social connectedness and a coherent system of service delivery, are more able than other

services to reach their target clients (Rosenheck et al 2001; Hendryx et al, 2002).

In addition, degrees of social and economic disadvantage or stress in geographically defined communities are likely to change over time. The FRSP should be seen as a part of building and maintaining healthy communities rather than a time-limited response to community disadvantage.

It should be recognised that a substantial focus of the FRSP is encouraging people to access services to build healthy relationships and prepare for major life changes, such as having children, without waiting until problems develop. This approach is one of prevention and early intervention - it aims to strengthen the capacity of individuals and families rather than 'fix' or respond to problems.

The majority of clients accessing counselling services through the FRSP indicate that they want to improve or build relationships, make plans for the future or resolve property and finance issues. As many as 60-70% of those who utilise FRSP counselling services do so to enhance their relationships (RA Client Evaluation 2000, Glezer and Wolcott, AIFS, 1989). Clearly, functional relationships are a priority for most people and we know that functional relationships are a key determinant in building healthy communities.

The Glezer & Wolcott evaluation of marriage counselling in Australia (1989) states "It is essential that the community understand that assistance with marital and family stress is not equated with failure, or that only the disadvantaged and 'real' problem families need to seek assistance". There is a risk that targeting services to specific locations defined by disadvantage might perpetuate this belief. Glezer & Wolcott go on to demonstrate that the primary reasons for attending counselling as a couple were communication and arguments - aspects of relationships one would not expect to occur only among the 'disadvantaged'.

Strong and functional family relationships can also provide protection against other risks

such as poverty, homelessness, drug/alcohol problems, etc. Maintaining an 'open door' approach to access and encouraging a whole of community approach to the use of relationship services can prevent many people ever needing more intensive social supports.

**Recommendation 2:** The FRSP should maintain its prevention and early intervention focus in strengthening families and building social capital across the whole community.

## Outcomes for Children

The importance of a broad based approach is particularly salient when we consider the needs of children.

Research findings and demographic trends support an increased focus on the needs of children. Relevant findings include:

- ❑ The Client Outcome Evaluation conducted by Relationships Australia in 2000 indicated that just under 50% of clients accessing mediation services were seeking assistance with parenting or step parenting;
- ❑ The number of children involved in divorce has increased over the past 20 years – 53,400 children have parents who were divorced during 2001 (ABS, 2002).

Increasingly research is proving that children's experiences of family relationships impact on their own well being across the lifespan and also have significant impact on the well being of others and the broader community. Common factors include:

- ❑ Domestic violence (see for example: Jaffe, Hurley & Wilson, 1990; McIntosh, 2000).
- ❑ Changing family structures, which can result in psychological distress, disrupted relationships and loss of trust; and
- ❑ Ongoing parental conflict (rather than divorce itself) (Kuh et al, 2002).

Some of these consequences may include behavioural problems, poorer educational outcomes, increased risk taking, increased susceptibility to mental health and drug/alcohol problems, poorer health, depression and suicide,

early sexual activity and early home leaving (for a comprehensive summary of research see House of Representatives Stranding Committee on Legal and Constitutional Affairs, 1998).

McAllister et al (1995) in a review of research argues that while the impact of changing economic status resulting from family separation has some significance, it is not on its own the major or only causal factor. The authors *behaviour in their relationship with one another has a vital influence on children's current and future well being. Elements of particular salience for children include levels of conflict between parents; father absence; changing family structures and economic factors*".

While poor outcomes in areas such as socialisation, mental health and education may be higher amongst children from low socio-economic backgrounds, this suggests: "*It is increasingly clear that the parents' is not a direct or straightforward factor and a proportion of children from medium-high socio-economic backgrounds will also experience difficulties.*"

Failure to continue a broad-based approach may expose a large number of children - the statistically largest group: children from middle income backgrounds - to poor access to family support and relationship services.

Research into early childhood development also lends support to a broad-based approach across all social and economic groups in the community, rather than one narrowly targeting children 'at risk' or from disadvantaged families (Mustard et al, 1999).

There is a very strong emphasis in the FRSP on protecting the interests and well being of children. This is reflected in the *Good Practice Standards for Family Relationships Services* and should be clearly articulated in future funding directions.

**Recommendation 3:** A strong focus on children should be reflected in the future funding directions of the FRSP, including recognition that children in all social and economic groups in the community are positively or adversely affected by family relationships.

## Links with Family Courts and Legal Services

Under the provisions of the *Family Law Act 1975* ("the Act") the FRSP has strong links with the work of the Family Court of Australia and the Federal Magistrates Service. In Part III of the Act there are clearly stated objects that include the encouragement of "people to use primary dispute resolution mechanisms (such as counselling, mediation, arbitration) ..." and "to ensure that people have access to counselling... to improve relationships ... and to help them adjust to court orders ..."

The FRSP administers grants which are made under the provisions of Section 13H of the Act and the organisations funded comply with requirements in relation to approval, reporting, oaths or affirmations of secrecy and admissibility of evidence (s19, 19K and 19N). The Act specifically endorses the provision of "counselling if it may improve their relationship" (Section 16B), "counselling for marital breakdown" (16C), the provision of mediation and arbitration (s19BA & S19J), and "counselling for Part VII orders". The status of the FRSP under the Act is important and an acknowledgement of the role that counselling and mediation services play in the provision of cost effective alternatives to Family Court proceedings.

There is a very strong emphasis in practice on the needs of children and the long-term benefits of providing quality support to children through times when family structures are changed and/or there is parental conflict.

As a result the FRSP has a very strong connection to the family, community services and legal sectors including the Family Court of Australia and the Federal Magistrates Service. FRSP services often provide an important bridge between the family services and legal sectors. Families that require services within the Family Law framework may need interventions that include determination in the court systems and prevention and early intervention services through the FRSP.

In 2000, Queensland University conducted an independent national evaluation of Relationships Australia clients. 78% of those clients accessing mediation and 61% of those accessing counselling reported that the status of the service under the *Family Law Act* was an "important aspect" of the service they received (RA Client Outcome Evaluation, 2000).

This link between the community services and legal sectors assists both sectors in helping parents focus on the needs of their children and the long-term benefits of providing quality support to children through times when family structures are changed and/or there is parental conflict.

**Recommendation 4:** That the FRSP maintains its strong links with and status under the *Family Law Act 1975*.

## Community Links

The Background Paper proposes that the contract documentation be amended to increase the focus on community engagement by FRSP provider organisations. Relationships Australia supports the proposal as recognising and supporting the community consultative processes applied by provider organisations. However, the definition of 'community' should not be restricted to a geographic area. Some services may work with a 'community of interest' such as a cultural, age or gender based community rather than a geographic community.

It is also important to acknowledge that the relationship between service providers and the community is interactive, rather than purely reactive. Providers may demonstrate leadership by introducing services that initially have low recognition in the community, but have many potential benefits if appropriate use is encouraged. An example of this is family mediation as an alternative to court procedures.

The Background Paper does not explicitly outline the importance of community based work such as community development,



community education, networking and awareness raising that is an important component of the services provided by FRSP funded organisations.

Community linkages are also referred to in this section of the Background Paper. Relationships Australia proposes the articulation of linkages which are most critical to the Program, including linkages with legal services and systems.

**Recommendation 5:** Clarification of the Program objectives in relation to community capacity building and the articulation of linkages with other family support programs.

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## Addressing Current Gaps

Relationships Australia recognises that there are gaps in the availability of FRSP services across Australia. In particular, many geographically isolated areas are poorly serviced. We support universally available services, and also recognise the importance of developing different approaches to target particular groups in the community, i.e. people in rural and regional communities, people from culturally and linguistically diverse backgrounds and people from low socio-economic backgrounds.

There is, however, no justification for withdrawing services from communities where need does exist, together with a positive community presence, in order to re-distribute funding to under-serviced areas. There is a lack of evidence to suggest that there is a relatively higher benefit in providing services to one community as opposed to another. A commitment to sharing resources across all communities and community groups would be more appropriate. Appropriate targeting of services both within and across service systems relies on an acknowledgment of multiple needs that require a range of strategies. These are not in competition but are interactive and require appropriate balance.

Relationships Australia argues strongly that the mechanisms to address current gaps should be:

- Increased investment in FRSP services;
- Innovative approaches to expanding geographic coverage;
- A commitment to universal access for all communities and community groups; and
- The development and implementation of strategies to improve access to services for disadvantaged groups.

## Commitment to Growth

The most important future direction for the FRSP is guaranteed funding growth to provide more services, increase access to services and achieve better service outcomes. The Background Paper refers briefly to future funding increases but gives no commitment to these increases or any indication of their size or timing.

There has been no real expansion to counselling services (the largest component of the FRSP) since 1996. During this time service delivery costs have increased significantly as a result of wage increases (SACS award), higher operating costs (increased insurance premiums), and increases in compliance costs (eg introduction of the GST). The FRSP's own funding approval requirements (FAMQIS) have placed more emphasis on workplace health and safety. In real terms the level of service provision has either been reduced or held steady by supplementation from provider organisations.

There is substantial support for the FRSP. Various research and review papers in recent years have recommended increases to the funding of the FRSP. Examples include:

- In 1998 the House of Representatives Standing Committee on Legal and Constitutional Affairs recommended an *'immediate increase to the funding provided*

for the Family Relationships Counselling Sub-Program'.

- In 2001, the Family Law Pathways Advisory Group recommended increased resources for community based organisations to cope with a predicted increase in demand for non-adversarial options and community based dispute resolution services, and recommends the expansion of counselling services.

Based on the reports currently available, there is clear support for an increased investment in the FRSP.

**Recommendation 6:** Immediate increases in investment in the FRSP to address unmet need and gaps in service availability.

The Background Paper fails to provide a strategic approach to investment in the FRSP. The relative cost benefit of FRSP services in comparison to alternatives has not been explored and is not built into future funding directions.

The \$48 million which the Commonwealth government invests in the FRSP per annum should be considered in the context of the costs of family breakdown. Direct costs to the Commonwealth have been estimated at over \$3 billion per annum (Standing Committee on Legal and Constitutional Affairs, 1998). Direct costs include social security payments, Family Court costs, legal aid, the child support scheme and taxation rebates.

Family breakdown can also have significant indirect costs to individuals, families and communities including reduced social and economic participation, reduced socio-economic well being, higher rates of mental health problems and higher male suicide rates.

Additionally, there is a range of expenditure by State/Territory and Local Governments as well as non-government organisations.

The value of investing in services that may prevent family breakdown or reduce its negative impact and provide non-adversarial

alternatives to negotiating financial and parental agreements post separation should be quantified and compared to existing expenditure.

**Recommendation 7:** A firm commitment to research into the cost-benefit of FRSP services over the long term to drive further investment.

### Long-term Solutions

The Background Paper proposes a re-distribution of funding but does not make it clear whether funding will be redistributed within States or across Australia. It is also not clear whether this proposal relates to all of the service types funded under the FRSP.

If the funding were to be redistributed across Australia based merely on population figures (as proposed in estimates of re-allocated funding provided by FaCS), it would cause significant hardship in the smaller States and Territories which could lose substantial amounts of funding - ACT, NT, TAS - and considerable reductions, although relatively smaller amounts, in SA and WA.

This appears to be a drastic and unnecessary approach to addressing inequities across Australia. An alternative approach is to re-balance funding over the long term by using increases in the overall funding pool to top up States/Territories that should be receiving a higher proportion of the funding available. An increase of just 10% would be enough to achieve the re-balancing without reducing the funding provided to any area. This approach would prevent major upheavals in service delivery, potential community anxiety and

anger as well as wasted funds as services are closed or reduced in the near future only to be re-opened or expanded when increases are forthcoming.

**Recommendation 8:** Adopt a longer term approach to expanding and equalising funding across States and Territories to avoid major disruption to existing funding and services.

## Current Service Distribution

The re-targeting proposed in the Background Paper implies that the only way to address under-servicing in some areas is to take funding away from existing services to provide new services in other areas.

Relationships Australia believes that there is no value or justice in withdrawing services from one community to deliver them in another community. Re-locating services is not a solution to the problem of inadequate levels of provision. Withdrawing services is likely to result in substantial unnecessary cost, a drain of knowledge and skill through staff losses (particularly in rural areas), disruption to services for existing clients, and potential community anger or action.

The withdrawal of services can only be justified in cases where there is low utilisation or poor achievements in relation to outcomes. There is no evidence that FRSP services are under-utilised or poorly located. Existing Relationships Australia services are currently experiencing increased demand and operating with extensive waiting lists.

A nationwide Relationships Australia snapshot survey on one day in September 2002 counted the number of inquiries and the number of clients on waiting lists. Nationally, almost 2,000 people made inquiries on this day. In NSW 529 people made inquiries and 701 people were on waiting lists; in Victoria 442 made inquiries on the day and 400 were on waiting lists; in Queensland 544 made inquiries on the day and 321 were on waiting lists. This indicates that in the most densely populated areas of Australia there is a demonstrated and growing demand for services that cannot be met.

In addition the longevity of services is important. For people experiencing separation the professional status and reputation of the organisation is significant (95% of clients accessing mediation services valued this aspect in the RA Client Outcome Evaluation conducted in 2000). It can take many years to establish the reputation of a

service and build community trust. To remove well-established services will jeopardise the success of services.

It is also important to recognise that there are few if any alternatives to FRSP services. The status of approved organisations under the *Family Law Act* is of critical importance to clients accessing our services and something which up to 80% of clients experiencing separation highly value (RA Client Outcome Evaluation, 2000). Potential clients are unlikely to access private services for counselling and/or mediation, particularly if services are not approved organisations under the *Family Law Act* or closely aligned with the family law system.

Ideally, no area would be under-serviced by the FRSP and all communities across Australia would have services available. However, while at present there is insufficient funding available to provide universal access, strategies for addressing under-servicing in some geographic areas could include:

- ❑ A commitment to achieving adequate levels of service provision across all areas in the long term and allocating new or growth funding to areas currently poorly serviced;
- ❑ A review of the catchment areas of existing services, including expansion where necessary to currently under-serviced areas with possible reductions but not withdrawals in services available to existing communities;
- ❑ Increased development and implementation of outreach models such as mobile services that mirror the mobile Family Court of Australia circuits in country areas;
- ❑ Transport subsidies to allow travel from areas where it may not be viable to provide services locally due to a very small population; and
- ❑ Delivering more services on-line, by phone, through video link or by distributed video kits (such as developed for the Distance Education project and the

pilot projects in marriage education, which are provided via video presentation with telephone support).

There are considerable workforce issues to be addressed in country areas. The difficulty of recruiting and maintaining highly qualified professionals is significant. In some areas, outreach and mobile service models may be more viable than locally based services.

**Recommendation 9:** Address current gaps in services through innovative approaches without withdrawing services where there is high utilisation and a positive community presence.

### Addressing Barriers to Access

It is implied in the Background Paper that the FRSP is not adequately servicing people who are economically disadvantaged. There is no evidence to support this implication and our own research suggests otherwise. From a "snapshot" of RA clients in September 2002 it is evident that at least 35% of clients across Australia earned less than \$25,000 per annum with higher percentages in some states including Queensland (49%), Victoria (52%) and the Northern Territory (54%). Our experience is that the FRSP funded services provided by Relationships Australia are accessible to people living on low income.

Access for people with limited financial resources is supported by the sliding scale of individual contribution to service costs. FRSP clients contribute to the cost of the service according to their financial means. This ensures that government funds are equitably distributed based on relative capacity to pay, without restricting access to people who are economically disadvantaged.

In addition to the sliding scale of fees, client contributions are minimised or waived in cases where a client is unable to pay. The level of family income is not always indicative of the ability to access services. In some cases one partner (often a woman) may have restricted access to family resources and may

only be able to access services if contribution fees can be kept to a minimum or waived.

Relationships Australia believes that the system of client contributions protects scarce resources while maintaining a commitment to universal access. As reported in Relationships Australia's 2002 Annual Report, 21% of income across Australia comes from client contributions. This allows for the provision of free and low cost services.

The Background Paper proposal to re-target the program more directly to communities, families and individuals who are disadvantaged or at risk will have a significant impact on client contributions, reducing the overall resources available to the Program. This appears to be in contradiction to general directions in Government Reform where the active promotion of client contributions is encouraged and the value of having a mixed client base is acknowledged (see for example SCRCSSP, 1998).

Some research also suggests that factors such as awareness of services is more significant in addressing barriers to access than low income or perceived cost. For example, Simons et al (1994) in *Pathways to Marriage* identified the barriers to participation in relationship education programs as intrinsic rather than extrinsic. Participation was not positively nor negatively related to education level or occupation type and perceived affordability or cost of participation was not a significant factor. Simons et al (1994) also argue that lack of awareness of services appears to be very significant and that placing services without very strong and sustained awareness campaigns would be futile.

Recent studies into the accessibility of services have identified the need to expand family and relationship services (including non adversarial separation support) to the following high needs groups (see report of the Family Law Pathways Advisory Group, 2001):

- Children in separating families (including adolescents);

- ❑ People from culturally and linguistically diverse groups;
- ❑ Individuals and couples with mental illnesses and intellectual disabilities;
- ❑ Indigenous Australians;
- ❑ Men, specifically services that help them to effectively co-parent their children after separation;
- ❑ Families experiencing family violence; and
- ❑ Families in rural and remote Australia.

These high needs groups would not always be identified by community measures of social and economic stress. An exclusive focus on socio-economic or geographical factors as measures of disadvantage obscures the impact of cultural and social justice issues in relation to disadvantage. For example, it is well documented through the ABS and other studies, that Indigenous people experience disadvantage in the areas of health, education, employment, housing, essential services and in the criminal justice system. Similarly, families from culturally and linguistically diverse communities also face specific relationship and access issues. Services for these groups are often most effectively delivered through specialised staff (ideally from similar backgrounds) who work across geographic areas. Approaches to improving service availability to these groups would instead require attention to:

- ❑ Service models and community demographics;
- ❑ Further development of culturally sensitive services;
- ❑ Professional support and training for working with clients with specific needs; and
- ❑ Greater attention to pathways and accessibility for people experiencing disadvantage which may include working more closely with services targeting social and economic disadvantage.

In the past the FRSP has undertaken several pilot initiatives to increase access by culturally

and linguistically diverse and Indigenous groups. This has led to the implementation of a range of initiatives to facilitate improved service access by these groups. The Background Paper does not focus on the needs of these disadvantaged groups and it is suggested that consideration is given to further improving services for these groups.

**Recommendation 10:** Future funding directions identify strategies and priorities for access to FRSP services for people and communities that may currently experience barriers or require more tailored responses.

### Client Choice

When examining client focus, the Background Paper does not address the broader issue of client choice with regard to provider organisation.

Relationships Australia believes that it is important that people are provided with the choice to access services that are not affiliated with a religious organisation. When surveyed in the Relationships Australia Client Evaluation Survey in 2000, approximately 60% of Relationships Australia's clients indicated that the secular nature of Relationships Australia was important in their decision to access services. This is not surprising given that the latest ABS statistics on marriage indicate that over 53% of people in 2001 chose to be married by a civil celebrant (ABS, 2002).

Another significant characteristic of the provider organisation may be the image it has with regard to the range of services provided and the target group. Some people may feel more comfortable attending a service that is specifically concerned with relationship counselling or separation matters rather than one that provides a range of community or welfare orientated services. Others may feel more comfortable with a provider with which they are familiar or where they may have access to a range of support.

Client focus needs to be a FRSP goal as well as the responsibility of individual organisations.

Structuring the Program to provide choice requires attention to the distribution of secular and non-secular services as well as the juxtaposition of FRSP services with other services and how pathways encourage awareness of services and assist people to make informed choices.

There is an expectation in the Background Paper that service provider organisations will collaborate to improve access to services. We acknowledge that there are some inherent benefits in cooperation. However, this expectation has some limitations and should not jeopardise healthy diversity among provider organisations and the capacity of the Program to offer choices to clients. It must be acknowledged that there are some strong philosophical differences between the organisations that deliver FRSP Programs. As stated in the Audit Office report (2000): *"Some, primarily church based services have a deep philosophical commitment to the support of marriage through bad times and focus on prevention and therapy. Others provide counselling to help couples who have already determined to separate, to solve the problems involved in doing so. The focus of these two groups is different and attempts to merge these types of services may jeopardise the work of each."*

**Recommendation 11:** Future funding arrangements for the FRSP support client choice and recognise the differences between service providers.

### Planning Mechanisms

The Background Paper suggests that future decisions regarding the location of services should be determined by measures of social and economic stress. However, alternative determinants have been successfully used for equitable distribution of FRSP funding.

The Audit Office (2000) found that the needs based assessment process and the evaluation procedures previously adopted by the Family Relationships Branch to determine where FRSP services are provided were 'appropriate

*to the identification of...areas that will benefit most from the services'.*

The Audit Office cites the example of the planning processes used to target Children's Contact Services. The process sought to identify the 25 statistical sub-divisions of highest need across Australia. Consultations took place between FaCS, A-G's, and other relevant organisations including the Child Support Agency to ensure that the selected locations were well placed to support a Contact Service. In identifying areas of need, reliance was placed on statistics provided by the Australian Bureau of Statistics, Centrelink and the Family Court of Australia relating to marriage breakdown, proportion of single parent families and population statistics to ensure that services were placed in communities with populations large enough to fully utilise the service. Other considerations included the existence of facilities that support the service, for example, other FRSP services and family courts.

The Separation Support Network (SSN) is currently undertaking a similar process. The network originated from a meeting held by the Family Court of Australia when that Court was developing its *Future Directions* strategy, and acknowledges that many agencies contribute to support systems for families and that a network of representative agencies could establish better pathways. The SSN is actively developing a set of protocols and a referral system for clients facing family separation with the aim of ensuring that clients have much better pathways between and access to the services they require.

Broader planning approaches such as those being undertaken through the SSN have a greater chance of ensuring that clients can access the right services at the right time. Mechanisms for planning how FRSP services are targeted should also take into consideration the broader policy context within FaCS and the recommendations of the Family Law Pathways Advisory Group (2001).

**Recommendation 12:** Develop a framework for planning FRSP services that incorporates needs based planning, service coordination, attention to service pathways and appropriate links to other service networks.

## Changing Funding Mechanisms

Relationships Australia believes that FRSP services must be quality, outcome driven services that meet client need. Funding mechanisms must be designed to support and not compromise this outcome.

The Background Paper proposes a number of significant changes to funding mechanisms in the FRSP. Changes to funding should be introduced gradually in order to avoid unanticipated or unnecessary negative consequences.

### Broadbanding

The Background Paper proposes that distinctions in funding between service types be broken down and replaced with a more 'broadband' approach in which approved organisations can provide a flexible range of services to individual clients. Broadbanding is based upon the idea of organisations "pooling" the funds they receive for individual programs to provide more flexible services.

There are many benefits of this approach and Relationships Australia supports *in principle* changes that will result in easier access to services and greater discretion for our workers in direct contact with families to consider and choose the most beneficial services.

However, we are concerned that the risks associated with the 'broadband' approach have not been adequately considered and that strategies to address these risks have not yet been considered. These risks include:

- Reduction of service quality if provider organisations offer a broader range of services without developing the

appropriate expertise, infrastructure or service systems. There should be clear quality controls in relation to how specific services are provided;

- Broadbanding may result in a loss of distinction and respect for specialist skills and expertise if organisations are "pushed" to become generalists; this will not necessarily lead to improved client outcomes;
- There is no evidence to indicate that pooling funds within service organisations leads to better client outcomes;
- There may be a tendency to increase focus on services with higher levels of throughput because of a lack of more appropriate performance measures; and
- Mechanisms to protect accountability, recognise the value of specialised services and approaches and promote accessibility have not been identified.

These risks are not new or unique to the FRSP. Risks to service quality, accountability and access have been broadly acknowledged as important considerations when implementing reforms that decentralise decision making and increase flexibility (SCRCSSP, 1998).

The broadbanding discussion implies that simply pooling funds within organisations will lead to improved client outcomes. Pooled funding models generally acknowledge a risk that instead of tailored services and improved outcomes, throughput will increase and individual support decrease in favour of a 'one size fits all' approach. This will fail to adequately support people with high or complex needs or those who require more costly interventions. In most pooled funding models substantial safeguards are built in to address this risk and to ensure that the mix of supports provided matches the diversity of needs in targeted groups.

**Recommendation 13:** That the following mechanisms are in place before service distinctions are removed in the FRSP:

- ❑ Funding arrangements are outcome focused;
- ❑ Outcome focused funding arrangements are supported by agreed quality standards; and
- ❑ Performance measures are in place to ensure that services can demonstrate that they have met goals at both the individual and the local community level.

### Unit Cost vs Outcome Based Funding

The Background Paper also proposes that broadbanded services would be funded on a **unit cost basis** in which organisations would receive funding per "unit" of service delivered. The risks inherent in these approaches are that:

- ❑ The financial viability of smaller services, new services and services operating in areas with fluctuating demand may be compromised;
- ❑ Services and client access can be driven by short term demand rather than longer term priorities;
- ❑ The relationship between demand and supply is complicated in areas where clients are not aware of all the options and able to make choices; and
- ❑ Some service approaches can look more effective than others based on short term efficiencies but be less beneficial over the long term. Available research on the short and long term benefits of unit costing models in other areas of government funding should be examined.

Research is required to establish sessional costs and outline the complexity of factors appropriate to a unit cost model for FRSP services.

A report by Denise Fry of Australian Community Health Association (Sept 1994) on 'Strengthening Primary Health Care in Australia' points out that casemix and other

forms of unit costing have questionable applicability and value because it is difficult to accurately classify and cost 'units' of community health services. Reasons for difficulties in classification and costing in the community health sector include:

- ❑ The diversity of services and programs available and the variation between and within programs;
- ❑ The diversity of health needs and differences in sociocultural and environmental aspects of communities requires that services be tailored to local needs and conditions. Standardisation and codification do not lend themselves to such development; and
- ❑ Innovation is necessary especially when working with groups which are hard to reach or which have complex health issues.

Furthermore, it has been recognised that the introduction of unit cost funding mechanisms can 'change the role and function of agencies' (see Victorian Health & Community Services 'Future Directions' report 1993). Such funding arrangements need to be flexible, allowing agencies to make the transition from agency-based funding to service-based funding and allow changes in the "public-private provider mix".

The Background Paper also raises the prospect of an **outcome based** funding model for the FRSP. Relationships Australia supports this direction in principle and in practice, as shown through our 2000 National Client Outcome Evaluation.

The Family Law Pathways Advisory Group (FLPAG) also recommends that funding frameworks for community-based service delivery organisations allow sufficient flexibility to meet demand for particular service types (or interventions), or mixes of service types, to meet the needs of families in that community. A suggested approach to achieving this is to develop funding contracts that focus on outcomes rather than inputs or throughputs. Most importantly the FLPAG



recommends that funding decisions for all components of the Family Law System be based on a common framework (outlined in the FLPAG report) with new funding directed towards education, information, early assessment, and referral and intervention services that support family decision making. This places a clear emphasis on self-help, support and earlier intervention as funding priorities for the future.

It is important to recognise the difficulty of developing an outcomes based funding model for the type of services provided under the FRSP. There will need to be extensive research into defining outcomes for families, individuals and children both short term and long term. Factors that impact on outcomes (eg communication skills, history of violence, etc) will also need to be identified and explored.

**Recommendation 14:** That unit costing only be introduced in conjunction with the development of an outcomes based funding model.

### Payment Schedules

The Background Paper also proposes a change in the payment schedule for services from advance payments (quarterly in advance is currently the case) to arrears based payment.

This will create significant challenges to financial management and service provision including:

- ❑ Problems accurately predicting demand over the year which can be subject to significant seasonal variations;
- ❑ Managing cash flow and budgets when funding is paid in arrears;
- ❑ Retaining professional staff in an uncertain financial environment; and
- ❑ Making decisions regarding investment in infrastructure, particularly for new services.

Many of the service providers currently funded under the FRSP would face significant

difficulty if the Program were to introduce arrears based funding. An alternative approach is to pay services in advance with an acquittal process that allows for any necessary adjustment to the amount of funding received based on the outcomes or outputs achieved.

**Recommendation 15:** That the FRSP maintain an advance payment schedule and move towards the development of an acquittal mechanism for adjusting funding on the basis of outcomes or outputs achieved.

### Change Management

The Background Paper states that two of the four reasons for changing funding arrangements in the FRSP are:

- ❑ To bring the FRSP up to date with the Government's philosophies around service provision, with a view to future growth in the Program; and
- ❑ Align the administration of the FRSP with other Government programs, allowing linkages to be made more easily.

These reasons are of some merit but are not well articulated in the Paper. Relationships Australia would like to see a much clearer and more detailed explanation of current government philosophies around service provision (including philosophies from both Departments - FaCS and A-G's) and greater detail as to what alignment in administration means and the linkages that will flow from this.

On a more practical level, the Background Paper suggests that substantial change to the FRSP be introduced in the transition to the next financial year, yet there is also reference to 'appropriate consultation' and a 'realistic transition period'. There is a need for further clarification of both activities and discussion on the timeframes for change. Introducing change by the next financial year will be incompatible with allowing adequate time for consultation and transition.

In particular, the research required to support the development and implementation of a new funding and reporting framework is substantial. It is difficult to conceive how this could take place and be ready for the 2003-04 financial year, at which time it is proposed that four year contracts be introduced. While a four-year contract offers services some stability, it may not be sensible if substantial changes to the Program are newly introduced, and providers are taking on services not previously managed in communities that have not previously been serviced. A longer timeframe for the development of new approaches and the use of trial periods during transition may provide a better long-term basis for introducing sustainable change.

**Recommendation 16:** An agreement is developed between FaCS, A-G's and the FRF on change management in the FRSP, including:

- ❑ A clear articulation of the rationale for proposed changes and a full discussion of the benefits and risks;
- ❑ Transition mechanisms and timeframes which allow for a careful and gradual introduction of new arrangements; and
- ❑ Reasonable time and resources are allocated for consultation and consideration.

### FRSP Support

In 2000, FaCS issued a Discussion Paper and conducted a review of program support and peak bodies in the family relationships services sector. The outcome of that review was a decision to continue to provide program support for the FRSP through the three national provider networks, Relationships Australia, Catholic Welfare Australia and Family Services Australia.

FaCS purchases contracted services from these three bodies to enable more efficient and effective administration of the FRSP. Acting together, the three representative bodies have undertaken projects such as the Quality Project funded by FaCS, which

developed standards and other quality practices for the FRSP.

The FRSP has been in an excellent position to benefit from high level policy advice, research, feedback and service coordination. The relationship is collaborative and the return on investment very high. The investment that the government has made in the FRSP has resulted in services that are nationally and internationally recognised. As well as leading counselling, mediation and education services, Australia is one of very few countries to have provided:

- ❑ dedicated resources to supporting men and their relationships - through the "men and family relationships" initiative;
- ❑ dedicated services to enable children to maintain contact with their non-residential parent - through the children's contact services program;
- ❑ training and development for workers in child inclusive practices; and
- ❑ a nationally recognised quality framework for FRSP services.

Another outcome of the FaCS review of program support and peak bodies was the establishment of the new peak body, Families Australia, of which Relationships Australia is a member. Families Australia has a role that is quite distinct from the role of the provider networks in program support. The review of funding arrangements presents an opportunity to recognise the success of the existing approach and to ensure that program support is maintained as a separate function to general advocacy.

**Recommendation 17:** The current role of the three major provider networks in providing program support to the FRSP be recognised and reflected in future funding frameworks.

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## Summary of Recommendations

**Recommendation 1:** Future funding directions reinforce FRSP goals in developing and sustaining safe, supportive and nurturing family relationships in Australian society.

**Recommendation 2:** The FRSP should maintain its prevention and early intervention focus in strengthening families and building social capital across the whole community.

**Recommendation 3:** A strong focus on children should be reflected in the future funding directions of the FRSP, including recognition that children in all social and economic groups in the community are positively or adversely affected by family relationships.

**Recommendation 4:** That the FRSP maintain its strong links with and status under the Family Law Act 1975.

**Recommendation 5:** Clarification of the Program objectives in relation to community capacity building and the articulation of linkages with other family support programs.

**Recommendation 6:** Immediate increases in investment in the FRSP to address unmet need and gaps in service availability.

**Recommendation 7:** A firm commitment to research into the cost-benefit of FRSP services over the long term to drive further investment.

**Recommendation 8:** Adopt a longer term approach to expanding and equalising funding across States and Territories to avoid major disruption to existing funding and services.

**Recommendation 9:** Address current gaps in services through innovative approaches without withdrawing services where there is high utilisation and a positive community presence.

**Recommendation 10:** Future funding directions identify strategies and priorities for access to FRSP services for people and communities that may currently experience barriers or require more tailored responses.

**Recommendation 11:** Future funding arrangements for the FRSP support client choice and recognise the differences between service providers.

**Recommendation 12:** Develop a framework for planning FRSP services that incorporates needs based planning, service coordination, attention to service pathways and appropriate links to other service networks.

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## Terms & Acronyms

A-G's	Attorney General's Department
FaCS	Commonwealth Department of Family and Community Services
FAMQIS	the Quality Information System used by organisations funded under the Family Relationships Services Program
'Forum' or FRF	Family Relationships Forum
FRSP	Family Relationship Services Program
RA	Relationships Australia
SSN	Separation Support Network, a collaborative network with representatives from the Attorney-General's Department, the Child Support Agency, Centrelink, the Defence Community Organisation, the Department of Family and Community Services, the Department of Prime Minister and Cabinet, the Family Court of Australia, the Federal Magistrates Service, and the Family Relationships Forum.

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# Relationships Australia

Canberra & Region Inc

(Adapted from RA Victoria)

## PARENTING PLAN CHECKLIST

The following is a checklist of possible matters you might want to consider as you construct your parenting plan. It is unlikely that all points will be relevant to your particular circumstances and you may have other concerns not listed.

- 1     **Involvement of Children**
  - How will we involve the children in our decision-making?
  - How will we give them a chance to express their wishes?
  
- 2     **Living arrangements (short term / long term)**
  - How much time should each child spend with Mum and Dad?
  - How structured and how flexible should these arrangements be?
  - If changes are needed how much notice is required?
  - How will we arrange holidays (ours and theirs)?
  
- 3     **Special days**

What arrangements will we make for "special" days?

  - Mum and Dad's birthday
  - Christmas
  - Children's birthdays
  - Other important days in our family
  
- 4     **Maintaining contact**
  - Do we need to discuss how the children will maintain contact with each of us when with the other parent (eg phone calls, letters)?
  
- 5     **Other family members**
  - Do we need to discuss how the children will maintain their relationship with other extended family members (eg grandparents, uncles and aunts)?
  
- 6     **Children's activities**
  - How can we facilitate the continued participation of our children in their cultural and sporting activities?
  
- 7     **Transportation**
  - How will the children move between houses and their activities?

- 8     **Education (short term / long term)**
- What are our children's present and future educational needs?
  - What type of school would we wish them to attend?
  - How much will each of us be involved in school activities?
  - Will both of us receive information from the school?
  - How will homework be managed?
- 9     **Financial support for the children (short term / long term)**
- How will the day-to-day and periodic costs be shared?
  - On what basis will we decide these figures?
  - Will the Child Support Agency Assessment be taken into account?
  - Will CPI increases be taken into account?
  - How/when will payments be made?
  - How will miscellaneous educational costs be met (eg camps, uniforms)?
  - How will we meet health care costs (eg insurance, dental, prescriptions)?
  - How will pocket money be handled?
  - How will other unexpected costs be met?
- 10    **Housekeeping**
- Will we share responsibility for washing of clothes?
  - How and by whom will the children be fed during the week?
  - Will any of the children's belongings be shared between households?
  - Will we share in the purchase of presents?
  - Are there any other practical issues?
- 11    **Parenting Decisions/Communication**
- What parenting decisions do we feel require joint consultation?  
(eg discipline)
  - How and when will we communicate about parenting decisions and, if we disagree, how will we resolve our differences (eg return to mediation)?
  - Should we include our children in these discussions?
  - Do we need to discuss how we talk to the children about the other parent?
  - Do we need to review this plan and if so how will we go about that?
- 12    **In case of our deaths**
- Do we need to discuss what our wishes are for the continued nurturing of our children?
  - Do we need to change our wills?
- 13    **Other matters**
- Are there any other matters we need to discuss that will be important in our children's lives?
- religion
  - special health needs
  - emergency procedures
  - relocation of either parent
  - important values and principles