

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

Question No. 16

Senator Stott-Despoja asked the following question at the hearing on 31 October 2005:

Research has demonstrated the difficulty in identifying violence and abuse through screening processes. The compulsion to attend mediation creates significant risks that cases where there has been violence or abuse will be pushed through the system, despite safeguards, because the court system is currently inaccessible to many due to insufficient Legal Aid funding and the costs of legal representation.

a) How will relevant FDR services operate in practice, both in conducting screening for violence and abuse, and in conducting dispute resolution in cases where there may have been such abuse, but it has not been disclosed? Unless these issues are addressed there is even greater risk than currently exists for unrealistic, unfair and even unsafe agreements to be negotiated.

The answer to the honourable senator's question is as follows:

a) Under its funding agreement with the Australian Government, each organisation funded under the Family Relationships Services Program (FRSP) to provide family dispute resolution is required to develop a protocol for responding to all situations involving violence, and for ensuring that each worker fully understands what they should do when confronted with such situations. Protocols rest on the principle that workers should report all matters of serious concern to their supervisor. It is then the organisation's responsibility to ensure that family violence matters are reported appropriately and urgently, as necessary. Each organisation must liaise closely with the Police and local Domestic Violence Crisis services in developing procedures relating to domestic violence.

The Family Law Regulations require family and child mediators to consider whether the ability of any party to negotiate freely in the dispute is affected by a history of family violence (regulation 62(2) of the Family Law Regulations).

With respect to the new Family Relationship Centres, guidelines have been provided on screening and assessment. A best practice framework and tools are currently being developed to support this function and staff of the Centres will be trained in screening and assessment, including for family violence and child abuse. These will be in place before the Centres commence operation.

Where family violence or child abuse is identified, Centres will assist clients to access appropriate services. Centres will be required to comply with national referral protocols with key agencies, including the courts, legal services, child protection and family violence agencies, and also to develop referral links with services at the local level.

Before they open Centres will be required to comply with the safety standards contained in the FRSP Approval Requirements, and must have in place safety and security plans that address safety risks across all relevant aspects of service delivery.

The Government will take steps to minimise the risk of unrealistic, unfair or unsafe agreements. The provision of quality, safe and ethical services is a core objective for the Centres and draft Key Performance Indicators ensure that a Centre's performance is assessed, not on the number of agreements reached, but on the workability and durability of parenting arrangements made.