



GOVERNMENT RESPONSE  
TO THE  
FAMILY LAW PATHWAYS  
ADVISORY GROUP REPORT

MAY 2003

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This is the Government's Response to the Family Law Pathways Advisory Group's Report: *Out of the Maze - Pathways to the Future for Separating Families*.

The Government has established a Family Law Pathways Taskforce to coordinate implementation of Pathways initiatives and, in consultation with key stakeholders, to develop a coordinated and consistent policy framework for the future delivery of services for separating families and families in conflict.

The Taskforce is jointly chaired by the Attorney-General's Department and the Department of Family and Community Services and includes Federal government agencies with responsibilities for policy and delivery of services to separating families.

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Family separation and divorce is frequently associated with entrenched parental conflict. Such conflict is damaging to the individuals involved, particularly to children, and has detrimental and costly effects for governments and the wider community.

Research indicates that parental conflict:

- can violate children's core developmental needs, posing a serious threat to their psychological growth;
- has a profound influence on adolescent development and future adult behaviour and can be the strongest predictor of violent delinquency;
- is a more potent predictor of poor child adjustment than is divorce; and
- is detrimental to the fathering role, partly due to the mother's withdrawal from facilitating situations that enhance the father-child relationship.

The process of separation and divorce may increase the stress and conflict that these families are already experiencing. However, it is clear that the quality of a child's relationship with one or both parents and the quality of parenting that a child receives can mitigate the impact of family separation /divorce. When levels of conflict following separation and divorce are low, fathers tend to be more involved and child outcomes are better. Early intervention is most effective to resolve and prevent further conflict.

For some time now the Government has recognised and promoted the need for earlier conflict resolution and agreement in separating families and for a greater focus on the needs and interests of the children involved. A greater focus on the needs and interests of children can itself contribute to reduced parental conflict and greater agreement.

Federal Government support for separating families is provided through a wide range of government and non-government service providers including:

- family relationships organisations which, among other things, provide community-based counselling, mediation and conciliation, as well as relationships and parenting education and also services to assist men in their family relationships;
- Centrelink, with its range of income and personal support measures;
- the Child Support Agency for assessment of child support liability and collection and disbursement of child support;
- legal aid commissions and community legal services which provide legal assistance and support for people who are unable to afford the cost of private legal services;
- the Family Court of Australia and the Federal Magistrates Service which provide a wide range of services to assist people to resolve and determine disputes through litigation and alternative processes (including conciliation, counselling and mediation and the provision of information); and
- other programs funded by the Department of Family and Community Services which provide assistance to individuals and families in various circumstances, including those experiencing relationship stress and separation:
  - the Emergency Relief programme providing material and financial assistance and advice to low income families
  - the Commonwealth Financial Counselling Service providing financial management and budgeting advice and advocacy to people on low incomes, and
  - the Supported Accommodation Assistance Programme (SAAP) providing crisis accommodation and case management support to people at risk of homelessness from relationship breakdown and domestic violence.

The Australian Institute of Family Studies, an independent statutory authority located within the Family and Community Services Portfolio, is Australia's leading provider of research and information on family functioning and wellbeing. It has developed

a substantial evidence base on Australian families at critical stages of the family life course which is a valuable resource to help shape future directions in family support.

While the Federal Government's investment in families and the family law system is significant, it is apparent that many of the services that have grown up to support separating families have done so in an ad hoc way and that there is often no holistic assessment of, or provision of integrated services to address, families' needs.

In May 2000 the Government established the Family Law Pathways Advisory Group to advise it on how to achieve an integrated family law system that is flexible and builds individual and community capacity to achieve the best possible outcomes for families. The Advisory Group's Report, *Out of the Maze – Pathways to the Future for Families Experiencing Separation* (Pathways Report), was launched in August 2001.

The Advisory Group found that the right sort of help and information was not always available to families at the time and place they needed it most. It found that some people managed their separation with little interaction with the system at all. Others felt frustrated by it, believing in some cases that the system was biased against them. It found that there was little assessment of all of the needs of separating families and too much adversarial behaviour. Some parts of the system work well, but overall it is not as effective as it could be, or should be. It is clear that a more coordinated and integrated approach to helping families in distress is needed.

The Advisory Group made a wide range of recommendations directed not only to government but also to the courts and to private professionals and organisations working within the family law system. The Government supports the Advisory Group's recommendations and is pleased to see the enthusiasm with which they have been received by the family law sector and the very positive initiatives that are already being pursued to implement the Pathways objectives.

The Pathways Report provides the family law sector with a clear direction for ongoing and incremental improvements over future years. The initiatives outlined in this Response will provide a foundation for future change.

The Government's Response to the Pathways Report has three overarching themes:

- 1: Early help: connecting people to information and services
- 2: Better outcomes for children and young people
- 3: An integrated system that meets families' needs.

## 1. Early help: connecting people to information and services

The Pathways Advisory Group considered that education for the community and professionals, accessible information and appropriate assessment and referral at all entry points to the system are some of the key functions of an integrated family law system.

Government and non-government service providers have already begun working collaboratively to produce coordinated information about the family law system. Some of the products that have already been produced include the brochure *My Family is Separating – what now?*, the booklet, *Me and my Kids – Parenting from a Distance* and the Relate website ([www.relate.gov.au](http://www.relate.gov.au)). Collaborative work is also going into educational resources, such as the *Back on Track* workbook developed by the Child Support Agency and community organisations to help separated parents gain new skills in parenting in step families.

The Government will continue to develop Australian Law Online, including Family Law Online ([www.familylaw.gov.au](http://www.familylaw.gov.au)) and the Family Law Hotline (1800 050 321), as a national source of information about the family law system and about where to obtain help. Australian Law Online already provides fact sheets on questions commonly asked by people experiencing family break-up as well as information about the services provided by a number

of government and non-government organisations in the family law system. It will be enhanced to include up-to-date contact information about the availability of services in local areas as well as links to relevant information and home pages of service providers.

The Government will continue its commitment to family relationships education to help couples and families strengthen their relationships by learning and applying new skills.

Relationship education, family skills training, parenting education and adolescent mediation and family therapy services offer a range of practical assistance with improving family functioning and strengthening relationships.

Early assessment of peoples' needs and seamless referral to the most appropriate services is essential if peoples' needs are to be met effectively. People come into the family law system in a myriad of ways – the first point of contact may be a lawyer, court staff, a government agency or a community organisation. This creates a difficulty for families in finding their way to the most appropriate service. The Government is working with stakeholders in the family law system to develop a common referral tool that can be used by a wide range of organisations and individuals to help ensure families receive the help that they need. There will be extensive consultation with the family law sector, including community and court-based services and legal practitioners, as the common referral tool is developed. Family Law Online will be an essential tool to support the referral process. The Family Court of Australia is working with stakeholders to develop guidelines to enable smooth referral of families between the courts and Children's Contact Services and to clarify the responsibilities of contact services with respect to contact orders that affect them.

For separating families, early interventions that seek to minimise or resolve family conflict and focus parents' attention on the needs of their children can be very effective. The Government's Family Relationships Services Programme is already providing a wide range of community-based early intervention services such as counselling and mediation to help families resolve conflict and to prevent conflict from escalating into unnecessary litigation.

A very positive evaluation in 2002 showed that the Men and Family Relationship Services are providing effective early intervention and support services to help men better manage their family relationships and to deal with the emotional consequences of separation. The Government will continue these services.

The needs of Aboriginal and Torres Strait Islander peoples may differ significantly from those of other cultural groups and they often have difficulty in accessing mainstream services. The Family Court's Aboriginal and Torres Strait Islander Family Consultant Programme provides Indigenous Australians with culturally appropriate information and assistance to enable them to access the full range of available court services. This programme, which currently operates from Darwin, Alice Springs and Cairns, will continue.

For some time now the Government has been promoting the need for earlier conflict resolution and agreement in separating families and less adversarial behaviour. This approach was endorsed by the Family Law Pathways Advisory Group which found that there was too much unnecessary litigation and adversarial behaviour and not enough emphasis on agreement and ongoing parenting. However, lawyers remain one of the most significant points of call for people when they first separate or seek to divorce. Accordingly, it is important to ensure that legal practitioners who undertake family law work are aware of the wide range of non-adversarial community based services for couples and families and, where appropriate, quickly refer people to them.

To foster this objective, the Government and the Law Council of Australia have jointly funded the employment, by the Family Law Section of the Law Council, of a Primary Dispute Resolution Liaison Officer whose role will be to encourage greater communication and referral between lawyers and community based service providers.

At the same time the Government is developing a quality framework for primary dispute resolution services and is reviewing the non-judicial dispute resolution provisions contained in Part III

of the *Family Law Act 1975* with a view to improving the clarity, workability and flexibility of the current provisions and provide consistency with other aspects of the family law system and the wider legal system.

## 2. Better outcomes for children and young people

The Family Law Pathways Advisory Group found that there was not enough focus on the best interests of the child or on child inclusive practices in family law services. Positive ongoing contact with both parents helps children to come to terms with separation and is associated with positive longer term outcomes for their development including the ability to form healthy adult relationships.

Over recent years the Government has funded pilot projects to help separated parents to resolve their conflicts and to establish better contact with their children without the need to go to Court. The very successful Contact Orders Programme has used a mixture of interventions to address the needs of families struggling with the emotional and practical consequences of family breakdown. Through this programme, high conflict couples are able to move towards self-management of their child contact arrangements and, as a result, both parents become more involved in caring for and guiding their children. The Government will expand this very valuable service.

Children's Contact Services provide another form of support designed to assist children to maintain contact with their parents where continuing contact is at risk. There are often flash points for separated families in conflict when children are handed from one parent to the other. Children's Contact Services provide a safe, neutral environment for children to establish or maintain contact with their non-resident parent. The Commonwealth Government has established a total of 35 Children's Contact Services since 1996. As indicated at the last election, the Government will maintain the Children's Contact Services Programme.

Children can be major casualties in the course of family conflicts and break-ups. Increasingly family relationship services have focused on implementing child inclusive practice – explicitly taking into account the needs of children when working with families in conflict. This approach can benefit both children and parents in the resolution of conflicts, in the decisions parents make and in the long-term consequences for all involved.

The Government has supported services to implement this approach through funding best practice forums for family relationship services around Australia. It has also funded “Children in Focus”, a professional development programme for counsellors and mediators promoting skills for achieving child-sensitive outcomes when working with separating parents. To build on the evidence base of this work, the Government will be funding the Australian component of an international study into child inclusive practice in mediation.

The Government has also funded ‘Changing the Face of Practice’, a professional development programme for family law practitioners promoting skills for achieving child-focused practice when working with separating parents.

The Family Law Pathways Advisory Group recommended that the development of clearly defined roles for, and responsibilities of, child representatives be given urgent priority. In response to that recommendation the Family Law Council is undertaking an urgent review of its 1996 report *Involving and Representing Children in Family Law*. The Attorney-General will consider the Council’s advice on this matter as a matter of priority in the light of the Advisory Group’s recommendation. At the same time, the Family Court is working on Guidelines to make clearer the role of child representatives in Family Court proceedings.

As part of the Government’s response to the Family Law Pathways Report, the Family Law Council is also considering how best to address the Advisory Group’s recommendation to amend the *Family Law Act 1975* to recognise the unique kinship obligations of Australia’s Indigenous people and the rights of Indigenous children to their own culture, religion and language.

### 3. Integrated system that meets families' needs

The Family Law Pathways Advisory Group found that there was a need for greater coordination of the various elements of the family law system. As we indicated at the last election the Government will support measures aimed at ensuring that the current family law system (including lawyers, government agencies, doctors, counsellors and mediators) works in a more coordinated way. To this end the Attorney-General and the Minister for Family and Community Services will convene a national forum of service providers to build better linkages and communication across all aspects of the family law system and to consider the future implementation of Pathways initiatives.

A number of initiatives aimed at improving integration of the family law system have already been implemented. For example, a pilot service involving an intensive referral and support mechanism has been developed by the Child Support Agency and several non-government organisations to assist newly separated non-resident parents to access existing community services.

Models for delivering an integrated response to separating families through close collaboration and partnership between relevant stakeholders, including the Family Court of Australia, the Federal Magistrates Service, Child Support Agency, Legal Aid, Centrelink and several non-government organisations are being developed in a number of locations across the country. To date these include Newcastle, Adelaide, Brisbane and Canberra.

A number of initiatives which support fathers in the workplace have been implemented including the 'Hunter Men's Services Network', a network of key government and community sector organisations aimed at sharing information and resources to support separated fathers better. A workplace program, 'Staying Connected' has been developed by the Child Support Agency and Interrelate and will be piloted at RAAF Williamstown. The program supports fathers

to stay connected with their children when they are not living in the same household, where fathers are required to spend significant time away from home for work and where there is conflict in the partner relationship.

The Government has funded a number of partnership projects around Australia, including one in Tasmania where Relationships Australia partnered with the Child Support Agency to develop and trial a model of service delivery where families were directly transferred from the Child Support Agency to Relationships Australia. A 'Self Help Quiz' to guide separated parents through the separation process was also developed.

The Government will encourage the development of further local networks of post-separation service providers with the objective of achieving more integrated service delivery and facilitating more effective and appropriate inter-agency referrals.

At the national level, key players in the family law system representing government, the legal system and the community sector have come together in an informal coalition (the Separation Support Network) to share information and work on opportunities for collaboration which model the principles of integration and coordination identified in the Pathways Report.

The Family Law Pathways Advisory Group noted that there was a lack of Australian-based research on some important family law and separation issues, and that overseas research was not necessarily applicable as Australia leads the world in the family law policy area. It recommended that a comprehensive national research strategy be developed in family law and separation issues that recognises Australia's unique characteristics. The Government will liaise with appropriate research bodies to foster the development of a national research agenda for family law and separation issues, that enhances knowledge and supports effective and integrated service delivery.

The Family Law Pathways Advisory Group stressed the need for all professionals and key staff working in the family law system, including the judiciary, to adopt a multidisciplinary approach to resolving issues for families. The Advisory Group's

recommendations with respect to multidisciplinary education for family law judges and magistrates have been referred to the National Judicial College for consideration. The Family Law Council, in cooperation with the Family Law Section of the Law Council of Australia, is presently drafting national guidelines for family lawyers which reflect best practice for family law practitioners in all aspects of family law practice including the principles outlined in the Pathways Report. The Government has, in addition, written to the Council of Australian Law Deans to ask them to consider introducing a more multidisciplinary and child-focused approach to the teaching of family law subjects.

Courts can sometimes be daunting and confusing places for families, particularly for those who do not have legal representation. The Government will continue to support the highly regarded Victorian Court Network and the Dandenong Family Law Assistance Programme which provide assistance to people accessing the services of the Family Court of Australia and the Federal Magistrates Service.

The Government recognises the special needs of adults and children within the family law system who are the victims of family violence and child abuse. In that context the Government supports implementation of the multidisciplinary approach to managing Family Court cases involving allegations of serious child abuse, based on the successful Magellan pilot in the Court's Melbourne and Dandenong registries. The pilot was supported by relevant Commonwealth and Victorian government agencies and an evaluation indicated that it was very effective in reducing both the time taken to resolve cases and the stress on children and others involved.

The Pathways Report provides government and non-government service providers with a map that will guide future changes to the family law system. The goal is to develop an integrated family law system that builds individual and community capacity to achieve the best possible outcomes for families. This goal is a significant one, and it would be unrealistic to expect it to be achieved

immediately. Nevertheless, the initiatives outlined in this Response will provide a foundation for future development.

To ensure that momentum is sustained into the future, the Government will maintain the Family Law Pathways Taskforce to coordinate implementation of Pathways initiatives and, in consultation with key stakeholders, to develop a coordinated and consistent policy framework for the future delivery of services for separating families and families in conflict. The Taskforce will, in future, be chaired jointly by the Attorney-General's Department and the Department of Family and Community Services and will continue to include all the Federal government agencies with responsibilities for policy and delivery of services to separating families.