**CatholicCare Sydney ALRC Issues Paper Submission May 2018**

**Question 1 What should be the role and objectives of the modern family law system?**

CatholicCare Sydney has a long history of providing family law services, witnessing the increasing complexity and changing nature of families needing to access dispute resolution and other family law services over the past twenty-nine years. Currently we provide a suite of services for separated families:

**Family Dispute Resolution (FDR) Service**

**Sydney Children’s Contact Service (CCS)**

**Bankstown Family Relationship Centre (FRC)**

**Post Separation Case Management Program (Keeping Kids in Mind)**

**CALA Pilot Program – Culturally appropriate, Legally assisted FDR at Bankstown FRC**

**Family Law Counselling/case management**

**Post Separation Parent Education courses - Keeping Kids In Mind, Building Connections, “Our Kids” for children, and other parenting skills courses including Circle of Security, 123 Magic/Emotion Coaching**

The above experience and expertise provides the foundation for CatholicCare Sydney’s submission.

While we recognize the need for legal and court processes to provide decision making avenues for some families, CatholicCare Sydney strongly advocates for the continuation and expansion of non-adversarial and best practice approaches to family law issues. Where these can be deployed, outcomes are better for children, families and the community.

**Recommendations**

 1. The safety and wellbeing of children as the absolute goal of family law intervention, particularly in the context of persistent concerns from the sector and advocates that contact with a parent can be inappropriately privileged over child safety and wellbeing.

 2. Commitment to thorough and ongoing assessment for family violence, child protection and other risks. The onus for this should be on professionals from all parts of the sector.

 3. Family law professionals should be comprehensively trained and supported in workplace systems and cultures of collaboration and child focus, utilizing evidence-based protocols and practice guidelines.

 4. Adequate resourcing of funded family law and complementary services to maintain and increase capacity for the range of specialized, resource intensive programs that offer support to children and parents. It should be acknowledged within the system design that these types of services deliver better social and economic outcomes through early intervention, reduction in the costs of ongoing disputes, and increasing the wellbeing of children and families (thereby decreasing access to other social services).

 5. Adequate resourcing of the courts and of legal services to address court delays, and ensure capacity for affordable legal support, more legally assisted FDR, and more independent children’s lawyers who are able to see the children they serve. Our experience suggests that an unacceptable portion of children are not actually seen by their independent lawyer, drastically reducing the efficacy of a measure that was designed to protect the interests of children, independent to their family’s preferences.

**Question 3 In what ways could access to information about family law and family law related services, including family violence services, be improved?**

We agree that access to family law information needs improvement - those who need this information are often in crisis, fearful and stressed. New FDR clients often report extreme anxiety arising from their perceptions about “the system”, and fear costly and prolonged court processes, or even losing contact with their children through the process. What our experience highlights is that there is a lack of trust in the services that are designed to assist people. How to overcome this lack of trust should be considered when formulating strategies to improve access to information about family law and related services.

FDR Practitioners (FDRPs) also report a significant number of solicitors who are either unaware of, or do not promote, alternative dispute resolution or other support services. This represents a significant barrier to the accessibility of information about appropriate services.

Online information is currently difficult to navigate and a significant barrier to groups in the community such as Culturally and Linguistically Diverse (CALD) people, Aboriginal and Torres Straight Islander (ATSI) people, people with disabilities, people who struggle with literacy and people experiencing difficult mental health and trauma. Websites do not currently provide adequate child/young people appropriate information.

**Recommendations:**

 1. Improve existing family court/family law/family services websites to be more accessible to the groups noted above. Improvements could include plain English, information in community languages, fact sheets, and links to relevant services.

 2. Focus on information provision and education campaigns for professionals through a range of “soft entry points”. Soft entry points often have an existing relationship of trust and can therefore significantly reduce stress and anxiety, as well as the time it takes people to decide to get help. Soft entry points are also where people may first present with family separation issues. They include: schools (including through welfare officers/ counsellors, Schools as Community Centres), health professionals (GPs, antenatal and other targeted health services), and other government organisations (local council services).

 3. NGOs with family law services and expertise should be specifically resourced, as part of their service delivery, to provide more local information sessions to the community, including targeting groups with identified barriers. Currently there is very limited capacity to conduct community education and networking as workers carry increasingly complex caseloads.

 4. Consider learnings from new pilot projects and initiatives. For example, our response to Q6 highlights approaches being developed through the current pilot of Legally Assisted, Culturally Appropriate FDR (LACAFDR) in the “CALA Project” at Bankstown FRC. This pilot combines a focus on family violence with the need for culturally appropriate family law services. Extensive community consultation, partnerships with family violence and legal services, and initiatives such as free legal information services, are among the approaches seeking to improve safety and access to appropriate services for CALD clients.

 Within court settings, initiatives such as the Family Advocacy and Support Service (FASS), and the co-location of Information and Referral officers employed by key FRCs, are useful to enhance access to complementary services such as children’s contact services or family violence and counselling supports.

 5. Other avenues to improve access to information are the social media and informal support networks utilised by increasing numbers of parents. Existing court/legal websites, and even Family Relationships Online, may not be where information is sought – for example, an FDR client came to our service through the recommendation of someone in an online support group for young mothers. Legal and non legal services could improve their accessibility if they could harness technological and creative expertise to improve access through new strategies, and by expanding the range of place- based and face to face entry points for information and services.

**Question 4 How might people with family law related needs be assisted to navigate the family law system?**

CatholicCare Sydney supports the need to enhance information and assistance for families to navigate the different services and processes within the family law system, and our agency has implemented a case management model to provide such navigation.

The Post Separation Case Management Service (Keeping Kids in Mind), based at Bankstown FRC, replaced the original Family Liaison Officer/Family Advisor model common to many FRCs. It is a more therapeutic, fully integrated case management model, working alongside FDR, court and child- related family law services to assist families. Case managers work with both parents with the focus on the children, and take a whole of family approach. They can also work directly with the children through the “Our Kids” Post-Separation Children’s Group.

CatholicCare clients are supported as they navigate the family law system through specialised case management which can range from a one-off consultation to an ongoing, more holistic approach. They can be assisted in multiple ways, including psycho-educational support, information and referral. Post Separation Case Management can:

* Help parents build parenting skills and understanding of children’s developmental needs, and enhance their parental reflective functioning to better support the safety and wellbeing of their children.
* Help parents to process their emotional responses to their separation, understand the impact of ongoing conflict on the family system, and reflect on personal behaviours and choices for positive change.
* Provide day and evening Information sessions on the family law system, FDR and service support options. The availability of after-hours case management service also increases access for working parents.
* Make appropriate referrals to specialised services.
* Provide access to services for parents and children experiencing family and domestic violence by applying the “Safe and Together” model in assessments and ongoing case management.
* Support parents from CALD communities by the use of interpreters and cultural effectiveness strategies in interventions. A consultation and outreach pathway to increase accessibility for ATSI communities is also in development.
* Support parents to prepare for FDR, during the FDR process, and after FDR to provide ongoing support in implementing agreements.
* Support the development of more a collaborative co-parenting model.
* Connect parents into “Keeping Kids in Mind” multi-session, post-separation parenting groups, as well as other generalised parenting groups.

The Family Safety Practitioner model cited in Paragraph 55 of the issues Paper may have similar benefits to the KKIM model.

We recommend strong consideration of integrated case management models to support families who may or may not engage with court processes, and recommend that such services be available free of charge to ensure accessibility for all needing this assistance. Case workers would provide coordinated referrals, ongoing assessment and case management for families, assisting them to navigate the system and to access appropriate services including FDR, family law counselling, post separation parenting courses, legal advice and specialist family violence or drug and alcohol services.

Some DSS funded family law services are undertaking more holistic practice to assist clients who may struggle to navigate the family law system whilst seeking specific services. CatholicCare Sydney’s Counselling Service has evolved to operate within a case management framework to enable this broader support for clients, and we note that over time the FDR model has increasingly moved to a case management approach within the boundaries of mediator impartiality.

**Question 6 How can the accessibility of the family law system be improved for people from culturally and linguistically diverse communities?**

CatholicCare’s Bankstown Family Relationship Centre is one of the eight FRCs across Australia funded for pilots of Legally Assisted, Culturally Appropriate mediation (LACAFDR). The “CALA” Project has built on existing research and project learnings to develop an accessible model of family dispute resolution for separated families with children, from CALD backgrounds, who have experienced family violence. It is based on the research carried out by Dr Susan Armstrong with Bankstown FRC (Culturally Responsive FDR and FRCs: Access and Practise, 2010; Encouraging Conversations About Culture: Supporting Culturally Responsive FDR, 2012), which provides a model for community consultation aimed at creating culturally effective FDR.

While Bankstown FRC had strong relationships with multiple community agencies in the area, embarking on this pilot identified a need for greater consultation and service integration to ensure a culturally effective FDR model, and to further improve access for CALD clients. CALA aims to engage collaboratively with local communities to develop an FDR approach that is safe and culturally effective, holds the safety of children as paramount, and supports families to achieve sustainable parenting arrangements for their children. Consultation with community, faith group members and service organisations has enabled dialogue about the needs of families, how family and family separation is viewed, attitudes and language relating to family and domestic violence, and issues of faith and cultural protocols for supporting families through separation. We have sought out existing strengths in local CALD communities, asking how we could support and enhance these strengths through our services. We are in the process of creating a cultural panel of collaborative partners to continue to advise and support the ongoing evaluation and responsiveness of the CALA model.

The CALA model is supported by workforce development, integrating trauma informed approaches and co-ordinated FDR with culturally safe and effective language and practice. The CALA team have engaged in cultural competence training, as well as family violence training in line with recommendations from the Co-ordinated FDR model and Australia’s National Research Organisation for Women’s Safety (ANROWS). We have a number of CALD and bi-lingual workers in the broader team and have actively sought this capacity through recruitment, receiving applications from CALD practitioners as a result of this work becoming known and from our community consultation. The FRC has also been able to utilise the Family Relationships Services Australia (FRSA) scholarship program for CALD workers to support the training of appropriate bilingual practitioners in FDR.

Other aspects of the project also aim to increase accessibility to family law services for CALD clients. We provide a free legal outreach service fortnightly at the FRC, as well as regular Legal/FDR information sessions. CALA team members, including community legal centre solicitors and FDRPs, are also able to provide community education. Additionally, work has been done through the LACAFDR Steering Committee to address the need for competent, well trained interpreters to work with family law services - more collaboration at different levels is required here.

The CALA project will be evaluated in the second half of 2018, and we hope to build on the learning to date to better engage with culturally diverse communities and clients.

The above experience and established commitment of CatholicCare Sydney to improving family law practice with CALD communities demonstrates that genuine outcomes can only be derived through

* Deep and long term engagement with CALD communities.
* The development of trust and mutual respect
* A multidisciplinary approach
* An approach that has at its centre the strengths of these communities
* Highly trained professionals with an understanding of trauma, culturally appropriate service provision and the barriers faced by CALD communities in the area of family separation.

CatholicCare Sydney also acknowledges the concerns discussed under Questions 7-9 and supports the Review’s intention to improve access to family law services and reduce barriers for people with disability, LGBTIQ people, and people living in regional and remote areas of Australia.

**Question 10 What changes could be made to the family law system, including to the provision of legal services and private reports, to reduce the cost to clients of resolving family disputes?**

We agree that the costs of legal services and private reports for families involved in court proceedings are onerous, and a barrier to many seeking resolution of family law disputes. This is of particular concern in family violence matters where unsafe or unworkable agreements can be made to avoid further costs. We also note that family reports make recommendations after limited engagement with the whole family, despite many families having a number of risk factors and complex issues.

We recommend that more resources be assigned to the provision of reports so that families have an alternative to prohibitively expensive private reports. Consideration should also be given to the lack of accreditation, regulation or best practice principles for family reporters, who work beyond the clinical and governance frameworks of courts and funded family law service providers. We recommend a system of accreditation for family report writers.

Recommendation 107 should be considered to allow for FDR in appropriate financial/ property matters with adequate funding for this expansion of services, and for legally assisted mediation for all families (if required, and not dependant on being eligible for a grant of Legal Aid) - this would allow the FDR sector to extend support to more families as an alternative to court. We recommend this extension of services to address disputes earlier, and note the cost benefits of such matters being resolved without recourse to the court system.

**Question 11 What changes can be made to court procedures to improve their accessibility for litigants who are not legally represented?**

**Question 12 What other changes are needed to support people who do not have legal representation to resolve their family law problems?**

Through our interactions with many court-ordered Children’s Contact Service clients, we have heard examples of both systems abuse and of disadvantage through the sometimes ill-informed actions of self represented litigants. We value the support given to some clients by community legal centres and Legal Aid and are aware that funding challenges and eligibility issues have often limited capacity to support the families who need legal advice and support.

We support recommendations in Issues Paper Paragraph 117 to simplify court processes and rules so that the system can be navigated by self-represented litigants, to redraft court documents into plain English, and to provide facilitated workshops and/or short courses to orientate self-represented litigants to the court process.

**Question 14 What changes to the provisions in Part VII of the *Family Law Act* could be made to produce the best outcomes for children?**

We agree with Issues Paper Paragraph 130: much confusion has arisen with respect to “equal shared parental responsibility”.

It is also apparent that many elements of the family law system are directed more towards adults, and that children’s voices are not sufficiently heard. A shift in culture is needed across the sector to genuinely and actively support children’s’ right to be heard.

To support better outcomes for children we recommend:

 1. Consideration should be given to extending “child inclusive mediation”. Courts could, when referring parties back to mediation, make orders to include Child Inclusive Practice (CIP) mediations, subject to assessment for suitability and appropriate service models by the relevant FDR service.

 2. Independent Children’s Lawyers should play a greater role in ensuring children’s voices are heard, to enhance outcomes for them and their families; relatively few cases have an ICL appointed, and not all ICLs even meet the children they represent. (See response to Qn 36 with case examples regarding ICLs and CCS families.) ICLs should undertake compulsory and ongoing training similar to that given to the child consultants who provide CIP. This will increase ICL skills to connect with and understand the child’s view, and report on the child’s needs with sensitivity and accuracy. An alternative or additional method (depending on the child’s needs) would be to draw on the skills of a trained child consultant, who could be appointed as a case manager for the child or children, meeting with them, reporting back to the ICL and referring children (with parental consent) to support services and programs to support them through the court process.

 3. All reports to Family and Community Services (FaCS) should be brought before the family court in a timely manner, to inform decision making about children.

 4. Consideration should be given to the concept of time spent with each parent, and clear guidance given regarding the way time is determined in order to keep children safe.

**Question 15 What changes could be made to the definition of family violence, or other provisions regarding family violence, in the *Family Law Act* to better support decision making about the safety of children and their families?**

Violence and abuse often continue or escalate after separation, and people experiencing coercive and controlling forms of violence may be subject to ongoing fear and systems abuse as they try to resolve contact arrangements or property settlements. Our clients also report the economic pressures which often arise when leaving a violent relationship, and may be increased through the child support system (eg using children/contact time to bargain for financial support). Our services regularly link people experiencing violence to specialized services and support, however this is not done consistently across the sector.

Recommendations:

 1. We agree that further consideration should be given to the proposals set out in Paragraph 133 of the Issues Paper, in consultation with experts in domestic and family violence research and best practice. The definition should be so clear as to ensure that orders regarding children and financial disputes have a paramount consideration of safety in the context of family violence.

 2. Ongoing risk assessment should be undertaken and shared by all practitioners working with the family.

 3. As the safety and wellbeing of children should be enshrined at the centre of the family law system, the presumption of equal shared parental responsibility and language of shared time should be removed.

 4. Definitions of family violence should be extended as proposed in Paragraphs 131-132; family law professionals should have ongoing training and supervision to understand the gendered nature of domestic and family violence, identify the forms of violence, and manage the often heightened risk which occurs following separation. (AIHW Family, domestic and sexual violence in Australia - 2018)

 5. We support policy shifts towards a more holistic approach which supports the provision of more integrated responses across all relevant agencies, as recommended by ANROWS. Court orders and family law services could also assist by mandating/recommending perpetrators to appropriate services such as accredited men’s behavior change programs, so that responsibility is taken by perpetrators of violence, giving courts and services feedback on subsequent levels of safety or risk for children and ex-partners.

**Question 20 What changes to court processes could be made to facilitate the timely and cost-effective resolution of family law disputes?**

**Question 21 Should courts provide greater opportunities for parties involved in litigation to be diverted to other dispute resolution processes or services to facilitate earlier resolution of disputes?**

We share the concerns outlined in Paragraph 170 of the Issues Paper in relation to the negative impacts of court delays on separating families.

We support the appointment of more judges to family courts.

Suggestions such as a triage approach to applications, and a more streamlined case management model, could also mitigate the serious impact of delays for families in the context of family violence.

Such models could additionally address concerns recently raised by all Children’s Contact Services across Sydney, who (through Greater Sydney Family Law Pathways Network – GSFLPN) are in dialogue with Sydney and Parramatta courts about how courts can work better together with CCSs and associated specialist services, to resolve the more intractable challenges of families moving from supervised contact to self management. Our response to Q31 expands on CCS recommendations that court orders for supervised contact include relevant complementary services, which can enhance safety for families and better outcomes for contact, increasing future capacity for self management.

CatholicCare Sydney’s Parent Education team, as well as practitioners in our family law services, recognise the benefit for parents who engage in post-separation parenting programs, for example the five week psycho-educational “Keeping Kids in Mind” course. NGO services frequently refer clients to such complementary programs, which can assist parents to resolve ongoing conflict early and remain focussed on the children’s needs. More court or legal referrals to such programs, as early as possible, could enhance outcomes for families and in turn the processes dealing with parenting disputes.

We recommend that court orders include relevant complementary services that will improve safety and parenting.

**Question 22 How can current dispute resolution processes be modified to provide effective low-cost options for resolving small property matters?**

CatholicCare Sydney has provided mediation of financial and property matters since 1989 and continues to assist separating couples, with or without dependent children, if they choose this option to resolve their financial disputes.

We endorse the extension of the current system, of attempting FDR before lodging a parenting application, to include small property matters. Review of the current guidelines regarding suitability will be necessary to consider factors relevant to financial matters, and ongoing assessment for family violence would be critical to such mediations. FDRP vocational training would need an additional focus on financial matters and should be supported by ongoing professional development and training for existing FDRPs.

**Question 23 How can parties who have experienced family violence or abuse be better supported at court?**

**Question 24 Should legally-assisted family dispute resolution processes play a greater role in the resolution of disputes involving family violence or abuse?**

CatholicCare Sydney endorses the provision of legally assisted FDR more generally for families in the context of family violence or abuse, to be made available to all families where there is violence irrespective of whether one parent is entitled or not entitled to Legal Aid.

As cited in the response to Question 6, the legally assisted and culturally appropriate model (CALA) being piloted at Bankstown Family Relationship Centre incorporates shared training in family violence and trauma informed practise for the lawyers and FDRPs involved, as well as partnerships with family violence services. David Mandel’s “Safe and Together Model” has informed the approach to family violence in this pilot of coordinated FDR. We recommend consideration of Mandel’s model, which emphasises effective safe parenting where there is family violence and parents are required to continue as co-parents.

The Coordinated FDR Program (“Evaluation of a pilot of legally assisted and supported family dispute resolution in family violence cases”, AIFS 2012) illustrated the potential efficacy of legally assisted models, and the need to resource such multi-disciplinary approaches to provide safe options for the resolution of disputes, involving family violence, outside the court. We look forward to evaluation of the current pilots and hope for an extension of legally assisted FDR, particularly through further resourcing of such models through NGO and community legal centres partnerships.

We also affirm the proposal in Paragraph 184 to embed specialist family violence workers in the courts to assist in addressing the trauma concerns of litigants.

**Question 25 How should the family law system address misuse of process as a form of abuse in family law matters?**

Across our suite of family law programs we have seen many clients who were subject to abuse through misuse of process including delaying FDR, or through the court process, as noted in Issues Paper 190. We agree with the SPLA recommendation to include “abuse of process” in the list of examples under the FLA definition of family violence.

In relation to Paragraph 192, we are concerned that subpoenas issued to counsellors could enable another party to gain information about the content of counselling sessions. Case notes can be taken out of context in a form of systems abuse, intended to meet the ends of the party issuing the subpoena. The subpoena process enables potentially skewed evidence such as historical trauma (eg a history of child sexual assault) being used to establish psychological vulnerability and impairment, and therefore “unfit” parenting, or notes pertaining to alcohol and illicit drug use (current or historical) being used to draw conclusions about parenting capacity. Case notes may also contain information regarding family violence experienced by the party, and if cross applications are made for AVOs this information may be misrepresented and the violence minimised.

We therefore recommend that the review consider what is deemed admissible in informing decisions regarding parental capacity, and also consider how the subpoena process can be examined to ensure it is not a form of abuse within the family law system.

**Question 26 In what ways could non-adjudicative dispute resolution processes, such as family dispute resolution and conciliation, be developed or expanded to better support families to resolve disputes in a timely and cost-effective way?**

CatholicCare Sydney’s FDR service, established in 1989, has continued to provide a timely and cost-effective alternative to resolving property and parenting matters in the court, as mediation practise has evolved and the sector broadened with the introduction of family relationship centres. Our process incorporates thorough and ongoing assessment for safety and suitability, and a staged, flexible and timely FDR model in response to individual family needs. Clients are supported through a trauma informed, case management model which includes referrals to co-located services including: post-separation course for parents or children, men’s behaviour change programs, counselling, child inclusive practice led by our Post Separation Child Specialist, Sydney Children’s Contact Service, and the Holyoake program which supports children and families impacted by the alcohol and other drug (AOD) issues of family members. Beyond CatholicCare we also refer to other local or specialist services, particularly legal and family violence support services.

Ongoing funding of these types of complementary services is critical to enable safe and positive outcomes for separating families who use FDR processes. Models such as child inclusive practice are resource intensive, and many clients have no capacity to pay for such services; this should also be considered in future funding models.

FDR services could be developed further through more resourcing to enable legally assisted practice, such as the model currently being piloted for AGD in the “CALA Project” at Bankstown FRC. Such models could enhance FDR capacity to assist culturally diverse clients and those presenting with family violence issues, and undertake cases which might otherwise be deemed unsuitable and be referred to court. Community legal centres can form positive partnerships with FDR services when they have sufficient and stable funding to undertake family law/family violence matters – this valuable resource must be increased to support more FDR services and clients.

We agree with the observations in the KPMG report “Future of Family Law Services” and numerous research/conference papers, that matters coming to FDR services are increasingly complex: this requires a holistic approach from services, with a strong focus on family violence/risk assessment, trauma- informed response to clients, and the capacity for models including legally assisted FDR to ensure safe and fair outcomes for families. This case study illustrates both our current capacity for effective FDR, and the potential to expand FDR processes.

 **FDR Case example:**

Over a two-year period our FDRPs worked with a separated family with complex needs: the mother had a life-threatening illness; her health was deteriorating rapidly, there were end-of-life issues, and a sense of urgency in resolving parenting and financial dilemmas.

The parents’ relationship was a volatile mix of demands, support, and strong emotions triggered by each other, with a history of domestic violence for the mother, and a denial of DV by the father. The two children were caught in the middle of ongoing unresolved parental conflict.

The eleven-year-old son had a myriad of behavioural issues and had been seeing a psychologist for years. His anger issues were challenging for the mother. The nine-year-old daughter seemed lost in the mix, compliant and almost “invisible” because the troubled son took up everyone’s attention.

Our FDRPs did multi-session mediation with the parents, and two of the three joint sessions were shuttle mediations because of the volatility of the parents. The first session was abruptly concluded when the father stormed out of the room having taken offense at the mother’s list of accusations. FDRPs did further individual work with each parent to enable the second joint session to proceed, supporting the father to give the process another chance and assisting the mother through trauma informed support – in the second session, both parents worked constructively for the sake of the children and reported a good outcome. The parents sought a third session to negotiate a financial settlement, although some issues remained in dispute.

This case, which could otherwise have gone to court, supported a family facing profound end of life issues in addition to separation, enabling the parents to do much groundwork at a fraction of the cost and conflict that result from court proceedings and legal fees. The clients reported great appreciation for the level of support they received over time, and the child-informed FDR practice highlighted the impact on ongoing parental conflict and the needs of the children.

Both parents could have benefitted from legally assisted mediation (if funding had allowed). In such cases it could also be useful for clients to be invited or even mandated to return to mediation every few months, so that achievable “baby steps” could help everyone move forward. Post-separation parenting courses, like Keeping Kids in Mind, and child inclusive practice were options for these and other clients; unfortunately voluntary clients quite often decline the additional services which FDRPs identify as important to support post separation relationships and agreements. We continue to address barriers to accepting other recommended services (eg blame of the other parent, costs) by engaging non-mandated clients around the benefits; the option of conditional FDR could also be considered to maximise outcomes for families.

**Question 31 How can integrated services approaches be better used to assist client families with complex needs? How can these approaches be better supported?**

CatholicCare Sydney is committed to enhancing the integration of services for family law clients, including through information-sharing between agencies to counter the tendency to silo. We note the Victorian Family Safety Model pilot (Issues Paper 233), linked to men’s behaviour change and FDR services, as a model for consideration, as well as the Keeping Kids in Mind Case Management model at our Bankstown FRC, cited previously.

We also value the participation of family lawyers in contributing to more collaborative practice to support families with complex needs. This can be supported at a local level through Family Law Pathways Networks, providing shared training and networking between NGO and legal services to enhance more integrated and holistic approaches to family law clients.

We particularly want to highlight issues around integrated service approaches in the context of Children’s Contact Services (CCSs) and Men’s Behaviour Change programs (MBCP).

Most families who use CCSs have complex needs, experiencing one or more issues such as family violence and/or other child abuse, ongoing high conflict, mental health, and substance or alcohol misuse (Commerford & Hunter 2015, CFCA Paper No.35). Parents may also lack parenting skills/experience and have poor parental reflective capacity (Sheehan et al., 2005). Many CCS families fall into the high risk or higher risk factors set by Australian Children’s Contact Services Standards (2008), which means that some parents may not be safe or able to move to self-managed contact in the medium / long-term, whilst others will require therapeutic support to make this a viable future medium / long-term option (Commerford & Hunter 2015, CFCA Paper No.35). As such, many families will require added therapeutic support to make a transition to self-managed contact arrangements possible. Similarly, some families may not be safe to commence supervised visitations with a children’s contact service until the parents / children have engaged in therapeutic support.

When families are court ordered to a CCS (often on interim orders), in most cases we find that they have not been co-ordered to any therapeutic intervention. Therefore many families are not receiving the support / intervention they need to either make the commencement of supervised contact safe and viable, or to be supported to build skills needed to move towards self-management. This can result in families being unsuitable to commence supervised time (as ongoing safety concerns are not addressed), or supervised time breaking down early (e.g. parent behaves inappropriately / unsafely during visits, child then resists further contact). Additionally, families’ use of supervised contact may be terminated with no alternative contact option available for families (as many CCSs will not provide supervision for longer then 12 months, due to long waiting lists). Meanwhile, children may be exposed to further risk of harm.

Some Children’s Contact Services (particularly private contact services) will not provide a therapeutic / integrative case management practice model, and supervise contact visits with contact workers taking a neutral, passive role to observe parent/child interactions, without intervening or guiding their clients’ parenting. This may relate to there being no financial incentive for contact services to work within an integrated case management model, as funded CCSs are not resourced to provide the level of staffing needed for case management/therapeutic intervention, and private services typically only charge parents for the supervised sessions.

CatholicCare Sydney provides an integrated therapeutic case management model in Sydney CCS through utilising the multi-disciplinary skills and capacity of staff within our suite of family law services.

We strongly recommend this approach, which gives families the best opportunity to address the issues that led to a court order for supervised contact, and therefore make self-managed contact arrangements a viable future option.

The CFCA (No.35) CCS key issues paper (Commerford & Hunter, 2015) also supports the view that CCSs should adopt a therapeutic model of service; which may include either trained contact workers or mental health professionals supporting parents at the contact centre (e.g., coaching, psycho-education), whilst parents / children may also receive further therapeutic support services such as attending a parenting orders program (counselling), post-separation parenting programs, parenting education courses, men’s behaviour change programs. Children’s Contact Service staff should have tertiary qualifications appropriate to work with families who tend to have complex needs and where there are child safety concerns.

**CCS Case example one**: In 2017, interim consent orders were made for a family where there were allegations of the father committing significant domestic violence, substantiated with police records, Apprehended Violence Orders (which had been breached multiple times), and criminal assault charges. The orders requested the Children’s Contact Service to assess the family for suitability for supervised time. The primary-school aged child indicated unwillingness to see the father, and expressed significant fear about seeing him (even with supervision of contact workers, and with the encouragement of his mother). The mother had engaged a psychologist to support the child to go into visits if court-ordered. Upon assessment, the Children’s Contact Service determined not to accept the matter for supervised visitation, as the child was fearful of the father and expressed unwillingness to go, and because the father presented as highly blaming of the mother, and appeared unable to contain his blame and hostility (e.g. wanted to question the child about the mother’s ‘lies’, and denied being abusive / violent). There were ongoing safety concerns reported, including the father verbally abusing the mother in an aggressive manner in the child’s presence in public. The service suggested to the parents / Independent Children’s Lawyer that the father would benefit from further therapeutic intervention (men’s behaviour change program, drug testing), along with the mother / child continuing to engage in therapy, to support possibility of future contact. The next interim consent court order directed the father to engage in an accredited men’s behaviour change program and a psychologist. The order also directed the mother to continue to facilitate the child’s engagement with a psychologist, and allowed the psychologist to involve the father in therapy if/when appropriate. The child’s psychologist and Children’s Contact Service were to determine when/if it would be appropriate to commence supervised visitation (i.e. if child was willing to see father, and if father appeared willing to conduct himself in a respectful and child-focused manner). The orders directing the parents to engage in therapeutic intervention were a good outcome, though ideally these would have been put in place *before* the family were court ordered to a supervised contact centre, as there were clear reasons as to why they were not yet suitable for supervised visitation (i.e. child unwillingness / fear; ongoing domestic violence issues). Other contact services (particularly private contact services), may have simply accepted the family to commence supervised time without conducting this risk / safety assessment and referral to therapeutic intervention.

**CCS Case example two:** A family were court-ordered to supervised visits with CCS, as there were concerns about the mother’s misuse of drugs, and high parental conflict. The father was supervising the children’s time with their mother, but both parents reported that this arrangement was not workable. Prior to commencing with our service, the father and the children engaged a program for family members of a person with drug & alcohol problems – the children attended group programs, and the father received individual counselling. The mother had been receiving individual counselling with a psychologist. After a period of visits, the children started to express to their mother some of their memories and related concerns (about the separation, previously living with their mother, the mother’s drug use). The children referred to concepts learnt in the children’s group, and CCS staff were able to support the mother in responding appropriately to the children (having shared some information with the children’s group therapist). The mother was able to discuss some of the issues raised during visits in her individual psychology sessions, to support her mental wellbeing and move towards positive parenting choices. After almost a year of supervised visits, the CCS identified that the parents were having difficulty coming to agreement about future options for contact arrangements. CCS referred the family (with the support of the Independent Children’s Lawyer) to a Parenting Orders Program to assist in building their capacities for child-focussed, low conflict co-parenting. The family have since been able to move to supported visits (a lower vigilant form of supervised contact, which helps families to transition to supervised changeovers), because through the integrated case management service provision, the parents were able to build post-separation parenting skills.

 **CCS** **Case example three:** A family had consent orders for the children to live with their father, and spend regular unsupervised time with their mother. These arrangements broke down amidst allegations of further abusive behaviours by the mother towards the father, witnessed by the children (e.g. the mother damaging the father’s car during contact with the children). After a period of no contact, the parents engaged in FDR at a Family Relationships Centre, and agreed for the children to receive specialist (federally-funded post-separation) therapy, and for the mother to engage with a federally-funded family relationships counsellor who specialised in perpetrator family violence interventions. They also agreed that the CCS would share information with both these services, to collaboratively assess the children’s willingness / readiness to recommence spending time with their mother, and the mother’s willingness to conduct herself in a respectful and child-focused manner. This is an example of successful collaborative case management by four separate family law programs.

**Recommendations:**

1. That parenting matters in the family court are assessed early for the need for complementary therapeutic services, particularly if being referred to a supervised contact service. That parents are held accountable for their engagement in these supports, for example as a condition of (or prior to) spending time with their child/ren (particularly where that parent’s behaviour has compromised the safety of the child). (c.f.: Bancroft, Silverman, & Richie, 2012)
2. Complementary therapeutic services that may be relevant to families using a Children’s Contact Service include: parenting order programs (POP) for parents (where a therapist works with each parent separately, alongside a therapist who works with the child); individual counselling for parents; men’s behaviour change program for counselling or group-work (we note that men are often ordered to ‘anger management’ instead of to an accredited men’s behaviour change program, which is not best practice for male family violence interventions); parent education courses (where Children’s Contact Service staff can concurrently role-model/coach parents during contact visits to help them apply the learning). Children’s Contact Services can gain consent from parents (or the court can direct) to communicate with the respective services providing therapeutic intervention (e.g. psychologist, parenting orders program) to share areas of focus for intervention, and/or to prepare parents and children for commencement of supervised time, and should also liaise with the independent children’s lawyer (if appointed). This approach would allow for a coordinated and integrated response towards monitoring ongoing safety risks for families, and supporting child-focussed and safe supervised time.

CatholicCare Sydney has an established **Men’s Behaviour Change Program** (MBCP) with staff accredited under NSW Government Practice Standards for MBCPs.

The No to Violence submission paper (No. 82, 2017) to the ‘parliamentary inquiry into a better family law system to support and protect those affected by family violence’ highlighted that Australian men’s behaviour change programs (MBCPs) receive only a few referrals from the Family Law Courts. This has been the experience of our men’s behaviour change program, in which most of our referrals come from community corrections and Family and Community Services, and rarely from the Family Law Courts. The newly established Family Advocacy Support Service (FASS) can refer men to men’s behaviour change programs, however FASS is a voluntary program, and men may not voluntarily agree to engage with a MBCP. Self-represented male litigants may also be less likely to attend FASS, and do not have legal representation who may encourage them to engage with a MBCP. There might also be little incentive for men to voluntarily engage with a MBCP, as they may believe that attendance will imply an admission of abusive / violence behaviour, and would adversely influence the outcome of Court decisions.

In our experience, the majority of men who attend assessment for a MBCP hold resistance about participating in a MBCP, and typically continue to use denial, minimisation, and blaming tactics to reduce or absolve themselves of responsibility for their abusive behaviour. However, qualified men’s behaviour change practitioners are skilled at engaging men and supporting them to explore the benefit of addressing their abusive / violent behaviour. Further, once men become engaged with men’s behaviour change programs, many who initially started with resistant attitudes to change are able to start acknowledging their abusive / violent behaviour, and may begin making the important changes required to move towards safe, reparative and restorative parenting.

A large-scale Australian study (Brown, 2016) examining the effectiveness of domestic MBCP identified that men who were court ordered to attend MBCP showed statistically greater improvement than men who were not court ordered. This is consistent with our experience, and may relate to the tendency for men who are court ordered to be less likely to drop out of MBCP early, giving our MBCP better opportunity to engage the man and reduce his resistance to change. Men who are court ordered to attend MBCP may also be subject to greater accountability and oversight by systems (e.g. Court, child protection, corrective services), and therefore be engaged with a number of other services (e.g. parenting programs, mental health support, drug and alcohol testing), which may improve the men’s likelihood of making required behavioural changes. Further, accredited MBCPs work within an integrated model, in which information about the participant’s participation and engagement are often shared with the referrer (such as the Court, via subpoena of case file and/or with consent of participant) and other family services / child protection. Information concerning risk of harm is mandatorily reported to the relevant authorities.

**Recommendations:**

1. That where male perpetration of family violence is identified, the man be directed through Family Law court orders to engage in MBCP (or other specialist perpetrator family violence intervention provider), rather than rely on men to voluntarily engage with a MBCP service. We note that some family court orders refer men to ‘anger management’ programs rather than to MBCP; this is an inappropriate referral given MBCPs are designed to specially address perpetration of family violence, and are registered providers who are regulated and practice in accordance with practice standards as set by the Government.

2. That Court could explain to men the benefit of them attending a men’s behaviour change program and taking responsibility for their abusive / violent behaviour, and the consequences should they not address these behaviours. For example, that the Court is assessing the capacity of the man to take responsibility and act protectively towards the child/ren, and move towards a safe and respectful co-parenting relationship. This may assist there to be greater incentive for men to engage in MBCPs.

3. The No To Violence submission paper (cf. No. 82, 2017, p. 6) outlines an effective integrated Family Law Court and MBCP model operating in the UK (Child and Family Court Advisory and Support Service [CAFCASS]). Within this model the Family Law System in the UK is the second largest referral to domestic violence perpetrator programs. CAFCASS refers men to the domestic violence perpetrator program (DVPP), and the DVPP “reports back to CAFCASS concerning the updated/current risk that the father poses to his children, and assessments of his capacity to be a safe parent” (No To Violence, 2017, p. 6). CAFCASS uses this information, along with other relevant information, to make recommendations to the Family Court about future parenting arrangements.

We recommend consideration of a similar model to integrate family law and MBCP in Australia. For example, the MBCP could report (and / or the MBCP case file could be subpoenaed) to the Independent Children’s Lawyer or other independent Court representative on issues such as the risk that perpetrators pose to their children and the other parent, and assessments relating to the man’s observed changes towards safe and reparative parenting (which would likely include a caution that this information may not be able to be corrected by the other parent / child, or be indicative of long-term changes). The ICL could use this information along with other collated information (e.g. from child protection, health agencies, police reports, children’s contact service reports) to assist the decision-making of the Court.

4. Adequate funding and resourcing should be given to MBCPs to meet the high demand for these accredited services.

**Question 32 What changes should be made to reduce the need for families to engage with more than one court to address safety concerns for children?**

Families accessing children’s contact services are often also engaged in several court systems. Their child protection and family violence issues are critical factors in CCS assessments to determine suitability for commencing supervised contact, and (if suitable) to planning intervention / referrals to support the family to move towards future self-managed contact arrangements.

CCSs typically only have parents’ self-reports and a copy of the family court orders / any AVOs (supplied by parents) by which to make these assessments. Parents often mistakenly believe that family-law related services have all the information the courts have (e.g. detailed police reports, parents’ affidavits, state child protection recommendations, family / expert report), which has implications for safety (e.g. parents assume services have police reports, information about child protection involvement / decisions). However, these are only shared with services with the leave of the Court. Having some information (e.g. through child representative lawyer, notation made on court orders for supervised time) can assist Children’s Contact Services to make decisions which will mitigate risk to the family, other CCS families and staff.

For example, most CCSs will not commence supervised time where a parent is the subject of a current criminal investigation relating to child protection concerns (e.g. child sexual / physical abuse). Further, it is the policy of many CCSs to not place another contact family in the same contact room / space as another family where the parent of one of those families has child sexual abuse allegations made against them. However, there have been multiple circumstances where these criminal investigations / allegations of child sexual / physical abuse are not communicated by the Court to the CCS, which adversely impacts the capacity of CCSs to adequately manage the safety of children / CCS families.

**CCS Case example:** Court orders were made for supervised time between a father and preschool-aged child. When the contact service invited the mother to an intake assessment (after a three-month wait), the mother’s solicitor advised that the father was being investigated by police / child protection regarding allegations of significant physical abuse towards the child. This information may not have otherwise been made known to the CCS prior to conducting intake interviews with each parent. Furthermore, the ICL agreed that the CCS should receive a copy of the s11 family consultant report, but as the father’s solicitor did not consent to its release, there is a delay as the ICL seeks an order from the court to release this report.

We recommend that such information, relating to potential risk or other factors which can inform family law decisions, should be communicated to relevant agencies including family court and CCSs.

**Question 33 How can collaboration and information sharing between the family courts and state and territory child protection and family violence systems be improved?**

There is often disconnection and a lack of information sharing between child protection and family law, although issues are interrelated for many families. Ongoing cross sector education and training is required for workers to increase their understanding of both sectors and to influence culture and practise, so that children and families are better supported and kept safe. Our agency has contributed to Greater Sydney Family Pathways Network initiatives such as Child Safety forums to canvass these issues, with input from NSW Family and Community Services (FaCS), family law and police.

A practitioner observation is that separated families who raise child protection concerns may be advised by FaCS, when matters are deemed reportable, not to allow children to attend contact with the other parent. It would be helpful for FaCS to provide parents in this situation with a confirmation letter of the advice, as they can be fearful of not complying with orders despite safety risks. Additionally, the current system of reporting requires practitioners to make a report to FaCs, then ICLs or other lawyers must subpoena these reports - this is time consuming and in some cases ICLs may not be aware of FaCs reports which should inform family court decisions.

Proposals in Paragraphs 249-52 of the Issues Paper should be considered to provide more consistent approaches and a national database of court orders, as well as co-located child protection workers and specialist domestic violence courts.

**Question 34 How can children’s experiences of participation in court processes be improved? Question 36 What mechanisms are best adapted to ensure children’s views are heard in court proceedings**?

Our Children’s Contact Service, working directly with children impacted by court proceedings and decisions, affirms the need for children’s experiences and voices to be central to all family law processes.

Previous researchers in the limited field of CCS - related research (e.g., Sheehan et al., 2007, Birnbaum & Chipeur, 2010) have raised concerns that judges may see ordering supervised contact as a compromise in cases where visitation should have been terminated until the non-residential parent engages in the support services they require. Supervised contact may also be ordered in high-risk cases where judges may be reluctant to make orders for no contact at the interim stage, even when allegations of severe maltreatment, violence or abduction have been made (Commerford & Hunter 2015, CFCA Paper No.35). These inappropriate orders for supervised time may be made due to concern about the parent-child relationship attenuating. However, these interim orders present risk of the following undesirable outcomes that may lead to further traumatisation / risk of harm to children:

* Children and “lives with” parent being placed at risk of harm (e.g. further trauma) if supervised time commences.
* If contact services assess the case as unsuitable for supervised time to commence, this may place the victims of alleged / substantiated family violence at greater risk as the perpetrator (often the ‘spends time with’ parent) may feel that supervised time was their ‘last opportunity’ to see their child/ren. Note that three cases of homicide have been linked to CCS families in NSW.
* Families may have spent a number of months waiting for a CCS to assess their matter; and a determination of unsuitability can cause further significant delays, whilst the matter is relisted at court and appropriate supports (therapeutic intervention / drug testing) are court-ordered and accessed by families.
* Supervised time may commence, but due to unaddressed issues, may break down after only a short time, which undermines the capacity of the family to have successful safe, child-focused supervised visits in the future.

When court orders are made for supervised time at the interim stage of proceedings, often a family report has not yet been completed, the Independent Children’s Lawyer (if appointed) has not subpoenaed relevant material (e.g. child protection reports, police records) or met with the child/ren. Typically, a family consultant has also not assessed the family. This means that the CCS is conducting the first thorough psychosocial assessment of the risk/safety factors and the family’s needs to make contact safe and viable. It may not be common practice for all contact services to conduct thorough assessments of suitability to commence supervised time: the for-profit model of some contact services (e.g. privately-operated CCSs) may lead them to accept families without proper assessment, or where it is unsafe for children. There are no regulation requirements for any children’s contact services in Australia, and we support the recommendation of the Australian Children’s Contact Service Association (ACCSA) that regulation be introduced to ensure the safety and wellbeing of children.

Finally, children in previous research (see Commerford & Hunter, 2015) have reported that the decision to use the CCS was made without them having a say, that they were confused over the roles of contact workers, that they did not understand what a CCS was prior to the first visit, and that they had no one to talk to about their feelings and experiences of having supervised contact.

**CCS Case example:** Interim consent orders were made in the Federal Circuit Court for our CCS to assess suitability for two children (in upper primary school) to spend supervised time with their father (with any time not to commence until further order of the court). The children had experienced many years of serious domestic violence from their father, including post-separation violence. The father had been incarcerated for charges related to this domestic violence. Before attending our service for an assessment interview, the children had met with the Independent Children’s Lawyer, to whom they expressed their fear of the father, and that they did not want any contact with him. The CCS observed in the father’s intake a high level of blame, hostility, and contempt towards the mother, police and criminal & family legal systems. There was significant concern that the father would not contain these feelings when spending time with the children. The CCS assessed the children, where they reported that the ICL told them that “all children have to see their father”. The eldest sibling was not subject to the court order regarding supervised visits, but stated they would attend if their younger sibling was “forced” to, so they would not be alone. The children articulated fears about seeing their father, and expressed a strong preference not to see him at all. The older sibling had diagnosed post-traumatic stress disorder as a result of her experiences of the father’s violence. The CCS determined that the matter was not suitable for supervised contact, due to the children’s fear and the father’s blame and hostility. However, before the CCS could communicate its decision to the parties or the Court, the Court made a final order for ‘no time’. Essentially, the process of interviewing the mother and the children for assessment was an unnecessary re-traumatisation for each of them, when it was apparent the Court was considering (and then affirmed) an order for no time.

**Recommendations:**

1. Independent Children’s Lawyers should meet with children prior to orders being made for supervised contact, particularly in cases where there is reasonable belief that the children are fearful of the parent / when there has been family violence, and the children may not yet be ready or want to see their other parent (noting that many contact centres will not commence supervised time where children are fearful and unwilling to see the other parent). In these circumstances, the independent children’s lawyer could communicate the child’s needs to the Court, and slow the process down (e.g. refer to therapeutic intervention, as per our response to Q31).

 2. The issues raised in Paragraphs 258 and 259 of the Issues Paper align with our experience, in that sometimes children are not met at all by an Independent Children’s Lawyer, when these children would often benefit from multiple meetings with an ICL. Our CCS has had mixed experiences when collaborating with ICLs – e.g. some ICLs have met with children prior to forming a view on recommended court orders, and have then met with the children to explain these orders to them. Some have shown a lack of understanding of fundamentals relating to children, for example not recognising that a child who had experienced ongoing domestic violence could express fear and reluctance to see a parent.

 3. We agree with paragraph 237 of the Issues Paper – the recommendation that a multidisciplinary team conducts for the court a risk assessment for children.

 4. Children’s Contact Services should be regulated, and be required to conduct risk / safety assessments prior to commence of supervised time, and have appropriate policies in place if the child/ren are fearful of a parent (particularly in family violence cases).

 5. Children’s Contact Services (CCSs) should also be required to do child familiarisation sessions prior to supervised time commencing (where children meet contact worker and see contact centre premises), so that the children have opportunity to understand the role of CCS workers and receive an age-appropriate narrative about why their family is using a CCS. CCSs should also develop ways to hear child feedback, so that children have capacity to communicate with workers about their experiences. Children should also receive an explanation (based on age / maturity of child) about how the information they tell contact workers may be shared (e.g. directly with children’s lawyers, with parents, or in observational reports that are subpoenaed).

 6. There has been very little research conducted on children’s experiences / wellbeing at CCSs. This is concerning given the complex needs that CCS families present with, and also given that the CCS sector is unregulated (with a large number of for-profit CCSs operating) and that there is a significant diversity of practice models. Funding is inadequate for CCSs to undertake this research without research partnerships.

 7. More broadly, we recommend consideration of a child’s rights perspective (rather than an adult driven, parent’s rights perspective), underpinned by further research and education into models to better engage the views and needs of children and young people. The recommendation for a new program to oversee the provision of child representation, such as the UK’s Children and Family Court Advisory and Support Service (CAFCASS), should be considered.

**Question 37 How can children be supported to participate in family dispute resolution processes? Question 38 Are there risks to children from involving them in decision-making or dispute resolution processes? How should these risks be managed?**

Like many NGOs, CatholicCare Sydney provides child inclusive practice as an option for children to participate in FDR processes, although this is subject to the consent of parents, as well as assessment of parental reflective capacity and any risk factors. FDRPs manage risks by thorough and ongoing assessment of parents, using tools such as the “Parent readiness scale” and with our child consultants will implement an appropriate CIP process to allow children’s voices to be heard without risk – for example, some child feedback may be given separately to parents. Feedback from children is always very carefully prepared with supervision of child consultants and case management involving discussion with all practitioners including FDRPs.

 **CIP case example:** Siblings aged 9 years, 8 years and 5 years were referred for a child consultation. Their parents were going through FDR and in conflict about why weekend contact had stopped. The mother wanted contact reinstated because the children told her that they wanted more time with her, while the father wanted to maintain reduced contact, because the children were telling him that they didn’t want to change the arrangements. Parental conflict had increased, resulting in the middle

 child refusing to spend time with her mother.

 The children each had two sessions with a child consultant. They spoke about feeling caught in the middle, about wanting to take care of their parents (resulting in them telling their parents different things), and what they thought their parents wanted to hear from them. The children also presented as having very different individual needs, however both parents appeared to view the children as being the same, although the middle child was on the autism spectrum, and the younger child presented as much younger than expected for a 5 year old.

 Feedback to both parents described the main issues impacting the children, including the long-term effect of conflict on the developing mind. The child consultant spoke about the importance of viewing the children as individuals with different needs, including the importance of the parents spending one on one time with each child. The feedback also provided information about anxiety and links to autism, which was having a cumulative effect on the middle child’s capacity to stay overnight away from a primary carer, drawing attention to the importance of quality time over quantity.

 The CIP process gave these parents the space to reflect on their children’s experiences and to refocus on their parenting responsibilities. The level of blame towards one other reduced as they understood that the level of conflict between them was impacting on the children’s ability to cope with living between two homes. The mother was able to understand the reasons for difficulties experienced by the middle child, and become less blaming, directive and insistent about overnight contact. The children’s voices and experiences, shared through this process, helpedtheir parents to be more attuned to the differences in personality, needs and experiences of each child.

A challenge for the future provision of this specialised and important work is the lack of training available for CIP practitioners and supervisors, as noted under Q 41 – this is a serious gap in the sector, and we recommend that resources be made available under future funding to enable the sector to continue developing expertise that will enable children’s safe and meaningful participation in FDR processes. A child’s story, shared in the context of assessment for the ‘Our Kids” children’s group at Bankstown FRC, emphasises the need for family law services to genuinely listen for, and respond to, the voices and lived experiences of children in all family law processes.

 **Case example: “Tommy”,** aged 9, was referred to the FRC by his school after his parents had received final orders from the Family Court.

When a child specialist asked him about what life was like, now that mum and dad live in separate houses, he said:

 “Dad has moved out now but we have a rule that says we spend time with him on weekends and school holidays”.

When asked how things were going with mum and dad, now that the “rule” was in place, he replied:

“I see mum checking out the front at night and I have a sneaky look too, sometimes I see dad parked out the front at night across the driveway and mum tries hard not to show on her face that she is scared … I think that's why she puts us to bed early (like she used to) and I don’t think she sleeps much that night as she is tired after that happens”.

Describing what it’s like going to his dad’s home, Tommy said:

 “On Saturday I listen for sound of his car as it pulls into the drive way and the sound of his feet on the front steps and the way he knocks on the door. I can tell by how it sounds how things are going to be with him and my mum. If his car sounds noisy and his feet sound heavy and the bang on the door is hard, I get that like sick feeling in my stomach, I get my sister and go to my room with her until I am called out”.

**Question 40 How can efforts to improve children’s experiences in the family law system best learn from children and young people who have experience of its processes?**

Further research collaborations between family law service providers (NGOs) and institutes (such as AIFS, universities or the Australia Research Alliance for Children and Youth) may have greater capacity to engage with children and young people from separated families, who have existing relationships with the NGOs.

Programs working directly with children should have age-appropriate options to provide feedback. Sydney Children’s Contact Service engages with children from their initial familiarisation/assessment session at the centre, prior to any contact visits commencing if children are ready to proceed. As contact visits occur, we also check in with children individually, using age-appropriate tools, and this informs the case management of families, including decisions to suspend or terminate visits, or to focus our support of parents in developing parenting skills.

Children and young people who access CCSs are often the most vulnerable clients we see, impacted by serious and complex parental issues, and at times resisting or refusing contact with parents despite court orders and parental expectations to the contrary. As previously noted (Q36) we are concerned at the lack of CCS focused-research, and recognise that services are very unlikely to have capacity to invest staff or financial resources in research projects.

We recommend resourcing research that will include a focus on children and their outcomes within this highly complex part of the sector, as well as on early intervention services.

**Question 41 What core competencies should be expected of professionals who work in the family law system? What measures are needed to ensure that family lawsystem professionals have and maintain these competencies?**

We acknowledge the concerns relating to gaps in competency noted in Paragraphs 281-2 of the Issues Paper, and support consideration of the proposals for further training in Paragraph 283.

For FDRPs, core competencies should include:

* Family Violence
* Family Dispute Resolution and Conflict Resolution
* Child Development
* Knowledge of Family Law and related legislation (Family violence, Child protection)
* Cultural Awareness
* Trauma-informed Practice
* Risk Assessments for families, particularly children
* Child-Inclusive Practice
* Understanding of the functioning of the courts ( observation is useful)
* Finance and property disputes, if the scope of FDR is expanded as per Q22

External individual supervision should also be a requirement, in addition to the ongoing professional development required for AGD accreditation. Funding for NGOs should continue to allow for the costs associated with this training and supervision.

The competencies outlined above for FDRPs, with the exception of FDR specific content (eg CIP, FDR practice) are relevant to all practitioners in family law services, some of whom require additional specialisation eg law, or therapeutic interventions relevant to separation, grief and loss.

We note in relation to Sydney, and possibly other areas, that there is now very limited access to child inclusive practise training (particularly for child consultants) because courses previously provided to the NGO sector are now extremely limited or non existent. This is an issue for the future capacity of NGOs to train and supervise staff to undertake this specialised work. It may be that organisations who previously provided CIP training have decided they can no longer resource this service as they become more focussed on sustaining their own viability in the increasingly business environment of community services.

We support the longstanding recommendation of the Australian Children’s Contact Service Association (ACCSA) that there should be accreditation standards for the CCS sector. We have serious concerns regarding the for-profit contact services used by some families impacted by the long waiting lists for funded services. Many lack any level of social services expertise, risk and safety assessment, suitably qualified contact workers or appropriate governance and supervision. Family courts and lawyers should also be trained to differentiate between funded, professional and child focussed CCSs and the unregulated for- profit companies who can put children at risk.

**Question 42 What core competencies should be expected of judicial officers who exercise family law jurisdiction? What measures are needed to ensure that judicial**

**officers have and maintain these competencies?**

Judicial officers should have competencies in family law and related legislation, child development and child protection, cultural awareness and trauma informed practice, and critically, a thorough understanding of domestic and family violence. Awareness of appropriate services for referrals and complementary orders (eg Children’s Contact Services and Men’s Behaviour Change Programs) is also important to enhance best outcomes for families requiring a range of legal and non legal services to support safe and self managed parenting arrangements.

Family Law Pathways Networks are an invaluable resource in providing cross sector training to assist judicial, legal and non legal family law professionals in gaining and maintaining such competencies. CatholicCare Sydney actively contributes to such initiatives through the Greater Sydney FLPN and recommends ongoing funding for these networks.

**Question 44 What approaches are needed to promote the wellbeing of family law system professionals and judicial officers?**

Professionals undertake very complex and challenging work in family law services, and we agree with Paragraph 293 of the Issues Paper that vicarious trauma is a significant factor impacting the wellbeing of this workforce. As an NGO we prioritise ongoing and regular clinical supervision for individuals and teams, and this has to be resourced within our funding. We are unsure whether judicial officers and staff have any form of supervision, and if not would recommend that the culture within legal and court systems be considered in this review in relation to the wellbeing of staff.

Another aspect impacting the wellbeing and longevity of the workforce is the remuneration capacity of the NGO sector, subject to funding and community service awards. Recruitment and retention can be challenging when professionals, who have paid substantial amounts to undertake often post-graduate qualifications, advise employers that pay rates for many family law service roles are inadequate to meet cost of living expenses. This can further limit the range of practitioners delivering such services, as only those with financial means (eg through their partners or socio-economic backgrounds) may be able to afford the training, and then manage on NGO level incomes. As an agency we greatly value the commitment, professionalism and skills of our family law service practitioners, and appreciate the opportunity to contribute to this review, seeking improved outcomes and wellbeing for clients and staff.