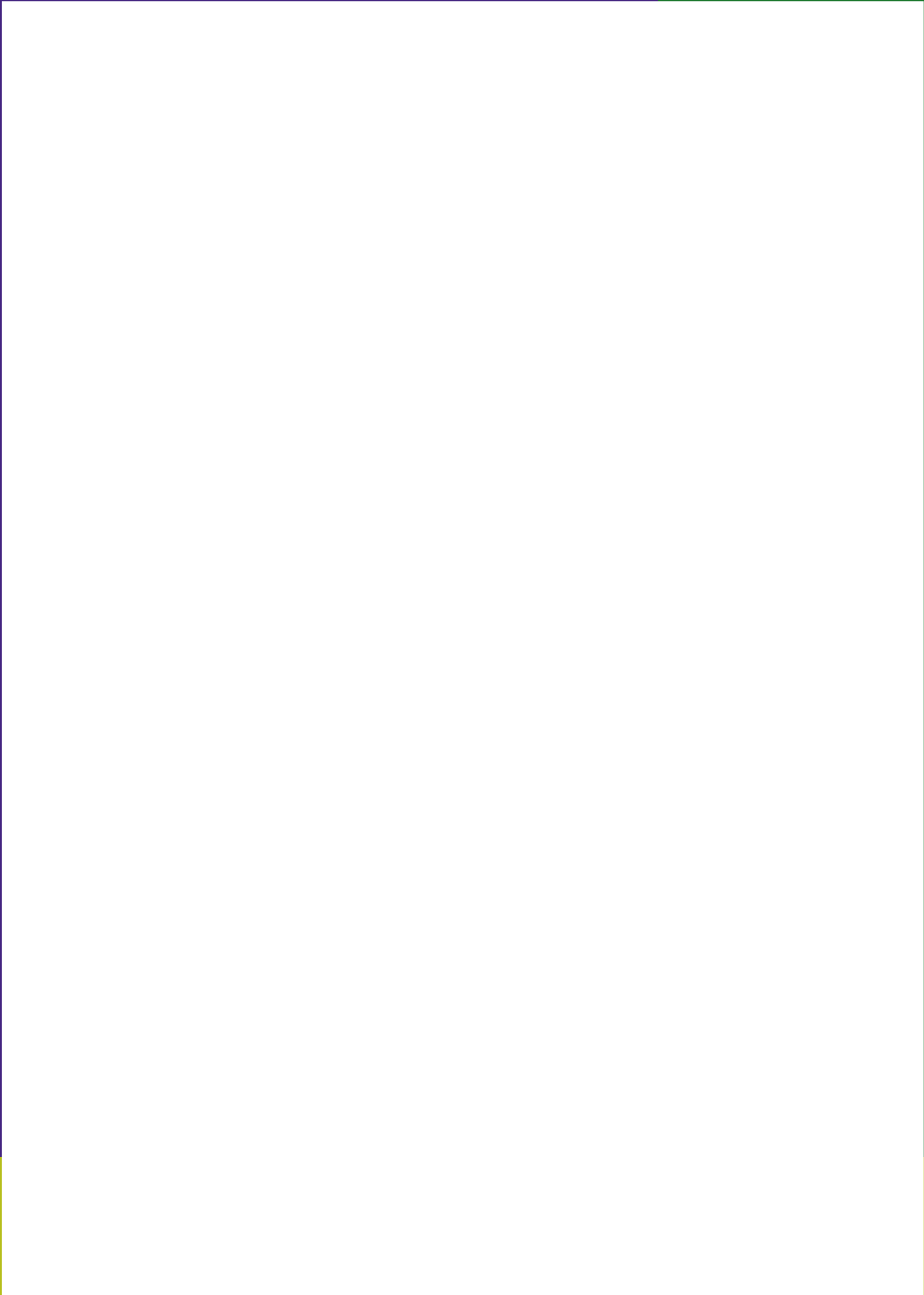




Australian Government



CHILDREN FIRST

A RESOURCE MANUAL FOR THE CONTACT ORDERS PROGRAM

A partnership project between
the Attorney-General's Department, the Department of Family and Community Services and
Keeping Contact — UnitingCare (Unifam) Counselling and Mediation Services (Parramatta),
Mums and Dads Forever — Anglicare WA (Perth),
and Parents in Contact — Relationships Australia Tasmania (Hobart)

'...the voice of the child/ren and the profound impact of
discussing the trauma they are experiencing
have a significant effect on the majority of parents,
and help them to rethink their motivation...'

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Foreword

'You know, you're really good to play with.'

Child aged 7 years, to caseworker within the Program

Family separation and divorce are times of great stress and turmoil for everyone involved. Parents have to go to the Family Court or Federal Magistrates Court so that the legal status of their relationships can be changed, and new arrangements for themselves and their children can be made. In the past, when disputes arose about parenting, the thing to do was to have lawyers sort the problems out. There are more than 50,000 divorces each year in Australia. Sometimes it takes a long time before court decisions are handed down. Often these court cases are both traumatic and expensive for everyone involved.

Children often get caught up in the turmoil of separation and divorce. In the midst of this conflict it is essential that their voices be heard. Research shows that it is not the divorce or separation itself that affects children the most. Rather, it is the conflict between parents to which children are exposed that can do the most harm. All parents want to do the best for their children. The love parents have for their child doesn't stop when they separate. Being a parent is a very important job and it is not easy at the best of times. In the emotionally charged atmosphere of family separation and divorce, coping with the situation and remaining a good parent can be a daunting challenge.

Over the past ten years or so, the Australian Government has funded community organisations to provide a better way of dealing with family disputes outside of the

courtroom. Alternative dispute resolution provides a way for both parents' wishes for the future to be heard, without fighting in court. More importantly, it can allow parents to hear how conflict and separation affect their children as well as learn what it is that the children will need from their parents in the future. With alternative dispute resolution, children do better. It doesn't cost as much as going to court. Things don't get dragged out over months or years. Parents are able to focus their energies on being good mothers and fathers.

A new alternative dispute resolution program is the Contact Orders Program. Some clients of the Program are also clients of Children's Contact Services.

To consolidate what has been learnt through the Contact Orders Program, three organisations, Anglicare Western Australia, Perth, Relationships Australia Tasmania, Hobart and Unifam, Parramatta collaborated with the Attorney-General's Department and the Department of Family and Community Services to put together this Resource Manual.

This Resource Manual will be useful for:

- organisations and their staff providing Contact Orders Programs
- agencies providing alternative dispute resolution post-separation programs, and
- practitioners and organisations in the family law system, especially those who refer clients to post-separation programs.

Introduction

What is the Contact Orders Program?

The Contact Orders Program ('the Program') represents a new way of working with clients and former clients of the Family Court and Federal Magistrates Court. The Program was developed at three locations, Anglicare WA in Perth, Relationships Australia in Hobart, and Unifam in Parramatta. The aim is to assist parents and children after separation, in cases where there are high levels of conflict and dispute about issues of parent-child contact and where children should live. Often these families have attended the courts more than once, the conflict has become protracted and the contact arrangements unworkable.

Focusing on the best interests of the children and working where possible with all members of the family, the three organisations have each developed a different approach to working with these clients. The Program offers assistance through a mix of education, group-work, therapy and primary dispute resolution. Through processes which focus on relationships, the Program assists families to move away from a position of entrenched conflict within the adversarial system, to the point where they can manage their own contact and residential arrangements.

What does the Contact Orders Program do?

There are a number of ways in which the Program's models and practices are different from those of other family relationship services.

- 1 The Program challenges parents to focus on their children's needs and feeds back the children's voices to the parents.
- 2 Clients of the Program are usually in high conflict situations resulting in the breakdown or breach of Contact Orders and arrangements.
- 3 Practitioners need to use skills to encourage both parents to participate in Program activities (because one parent may not attend willingly).

- 4 Compared with the usual family relationships services client group, these clients require more support and a range of services available to them because they are less able to take responsibility for managing their relationship with the other parent.
- 5 The Program uses a family case management model.
- 6 The Program uses practitioners, including a child consultant, to work with the individual family members.
- 7 The Program provides a range of services on a case by case basis ranging from group education through to individual counselling, and with other services such as children's contact services and specialised group-work when available.

What are the aims of the Contact Orders Program?

Program providers aim to:

- reduce the number of times separating parents take expensive legal action to settle their contact arrangements with their children
- lessen the amount of conflict and disputation between parents with its harmful effects on the well being of the children
- ensure greater compliance with Contact Orders or the formulation of new orders better suited to the needs of children and more readily managed by parents
- provide an alternative to stressful and time-consuming court procedures relating to breaches of Contact Orders, and
- provide an alternative to current penalties for breaches of Contact Orders.

What are the desired outcomes of the Contact Orders Program?

Program providers set out to achieve the following outcomes:

- children's relationships with their non-resident parent are established or

maintained and children are given a voice so that their needs can be recognised and addressed

- a workable relationship is negotiated between separated or divorced parents in relation to their ongoing parenting responsibilities, and
- parents are provided with a greater understanding of their children's needs and children are given access to improved and appropriate relationships with their parents.

History of the Contact Orders Program

The former Attorney-General, Daryl Williams, received a report in March 1998 from the Family Law Council regarding the enforcement of Family Court Contact Orders. In response to this, the Australian Government initiated a project aimed at assisting families to resolve contact issues, after separation or divorce.

Three organisations were chosen, Anglicare WA, Relationships Australia Tasmania, and Unifam. These community-based organisations were funded through the Family Relationships Services Program and their target groups were:

- parents in breach of a contact order
- children whose parents were separated or divorced, and
- families trying to manage child contact arrangements.

The pilot Program sites began operating during the first quarter of 1999, and in 2000 the *Family Law Act 1975* was amended with the aim of improving the enforcement of parenting orders.

An evaluation was carried out by the Sydney Children's Hospital in 2001–02 and in 2003 a summary of this evaluation was produced.¹ The Australian Government allocated ongoing funds in the 2003–04 Budget and the pilot Programs are now part of the Contact Orders Program.

Purpose of the Resource Manual

In response to recommendations within the formal evaluation carried out in 2001–02, the Attorney-General's Department funded a project to develop resource material for the Contact Orders Program, which has enabled the production of this Resource Manual and two videos.

The Resource Manual covers a range of different issues and therapeutic approaches as developed and implemented by the three sites during the pilot period.

In 1999, post-separation programs were at a very early stage of development. It is hoped that organisations wishing to develop their own post-separation programs will find this a valuable resource, and that it will help them deal with some of the development and implementation problems that the three sites have addressed during the pilot period.

This Resource Manual will:

- provide trainers with resource material as the basis for training new and existing providers
- provide organisations and their professional staff with resource material for the ongoing delivery of the Program
- provide allied professionals with an understanding and overview of the Program
- provide a point of reference for Program activities as they expand into new organisational contexts, and
- supplement the videos prepared in conjunction with this manual.

The Resource Manual is not a training manual. It recognises that staff who come to work in this Program bring a range of relevant specialised skills and professional experiences to implement and deliver the Program in their own area.

The information contained within the Resource Manual complements the skills which professional staff bring to the Program. The experiences of the three pilot sites have demonstrated that there is no single best way to try and achieve the Program's aims and objectives. Factors such as demography, staffing, skill-sets, and organisational culture will impact on the way that the Program is developed and evolves. The practice described in this manual has been the product of experimentation, review, evaluation and evolution.

¹ The Contact Orders Program — a summary of the independent evaluation of the Contact Orders Pilot, July 2000 to April 2002 Attorney-General's Department 2003

PART 1

The client groups

'We have no one else to talk to about this.'

Child, about the value of talking to counsellors in the Program

Children

The primary client group for the Program are children of separated or divorced parents where there is continuing conflict over contact arrangements, Contact Orders and breaches in the orders. Several common characteristics of the children are:

- they are caught up in their parents' conflict and they lose their voice because they don't want to hurt either parent or one parent in particular, and
- they feel distressed about what is happening to their family but often don't show it as distress, but rather act in ways to protect and not hurt one or both of their parents.

As a result, some of these children may be ambivalent about contact or refuse to go on contact. These children and young people often have concerns including:

- where will they live
- how much they should see the parent they are not living with
- whether their parents are safe to be with
- fear when their parents fight, wondering if they themselves will ever be happy again
- confusion about the reasons their parents don't love each other
- fears about leaving one parent to go to the other
- anger towards one or both parents, distressed about new adults coming into their parents' lives, and
- feeling that they can't or shouldn't love one of their parents for fear of hurting the other.

Children's overall development can be delayed and/or impaired by such experiences resulting from separation or divorce.

Children in the Program commonly display behaviours and emotions such as sadness, depression, anxiety, withdrawal, regression with toilet training, distress and crying at changeover, stubborn refusal to co-operate with parents, lying, anger, aggression, fighting with other children, and difficulties in class.

Young people can have some of the same feelings and questions as younger children, feeling compromised in wanting to be loyal to both of their parents. They can become violent, suicidal, cut-off emotionally from one or both parents, use alcohol or drugs, have problems with friends, leave school early, become withdrawn and have lowered self-esteem. Young people's development may also be delayed and/or impaired.

Adults

Adult clients within the Program have usually been involved in the family law system to some extent already, and are having difficulty agreeing about the contact arrangements for their children. Often they are also arguing about where their children should live. By the time they take part in the Program it is not unusual for them to already be antagonistic towards each other. This is partly due to the adversarial approach they have taken within the court proceedings. The expense of litigation, child support, and maintaining a separate household can add to conflict and increasing feelings of injustice and powerlessness. Both parents can also be

under a lot of stress emotionally, financially, at work, and/or in their new relationships/families.

There are many factors which can add to the stress experienced by members of a separated family. These include:

- length of the dispute over contact (including lengthy periods when one parent hasn't seen the children)
- escalation of conflict, and violence in front of the children, and
- children not being returned from contact or not being available to be picked up from the residential address.

Parents who have been fighting over contact for some time (the 'entrenched' clients) are often exhausted by the constant battle, angered that they have had to endure it, loathe the other parent, and are very anxious about their relationship with their children. They can appear vulnerable, tense, suspicious, angry, depressed, volatile, aggressive, defensive, resistant and hostile to workers in the Program. Because parents are often required by the Family or Federal Magistrates Court to participate in the Program, they can be resistant, so that they require considerable patience and understanding about the hurt and pain they have experienced.

Parents who are less embroiled in dispute, perhaps with interim orders, may be more willing to accept intervention, and may be more child-focused, unless there are other aggravating factors. Factors such as child protection issues, past or present domestic violence, or a separation when the child was very young (and hence where the parents have no history as co-parents) can help escalate the conflict over contact for parents even though they may have had minimal involvement with the court.

A significant number of adult clients of the Program, seem to suffer from mental illness, personality disorders and attachment difficulties, unresolved ex-couple issues, and a heightened sense of fragility.

Many clients may also have had a dramatic change of their life circumstances since the separation or divorce — perhaps a new partner, and maybe also children from both families in their 'new' family. Some will be sole parent resident mothers or fathers; some will have left the workforce to be parents full-time, and others will have had to take up full-time work

in order to survive. There will also be those who have left their paid work so that they can devote more time to the legal proceedings and reviews of child support, or to seek professional support for their position against the other parent. Many clients will have moved, perhaps even interstate, following separation.

Clients may have any of the following contact arrangements in place:

- regular weekly or fortnightly contact
- supervised contact
- holiday contact only
- joint residence
- sporadic contact, and
- on-again-off-again contact depending on the level of conflict.

It is likely that many clients who are in dispute over safety concerns and the level of risk for the children may not have carried out contact orders for some time.

In summary, this client group is a specific subset of the general post-separation population. It is distinguished by the fact that it is a group which is unable to sustain workable contact arrangements for their children, even when court-ordered, both because of the intense conflict between them and the serious relationship issues that remain unresolved for one or both parents and/or their children. Program workers should aim to contain the level of relationship distress in these families with clear parameters around the work of the Program, whilst at the same time remaining open to hearing lengthy histories of pain thus enabling these adults to feel properly heard.

Staff working with parents in this group have found that the conflict may have been exacerbated by protracted adversarial legal and/or court battles, and indeed the drawn out legal process may be a contributing factor to the conflict.

Extended families

After the separation, the quality of relationships can be seriously affected for extended family members, especially the relationship between grandparents and grandchildren. Loyalty towards their own child, the child/ren's parent, can prevent grandparents from organising contact with their grandchild/ren directly with the ex-partner. More often than not they have also

been observers of court disputes that have left them feeling helpless and angry. Grandparents may attend the Program with the aim of helping to reconnect estranged family members, and decreasing the conflict between the two families.

Voluntary and involuntary clients

There are three main categories of client which reflect the willingness or otherwise of participants to engage in the Program.

1. Informally referred or self-referring voluntary clients

These clients are usually willing or reasonably willing to participate in the Program, and are often reasonably positive about the likely outcome. They tend to constitute the minority of incoming referrals, and may not have written agreements regarding participation in the Program. If, when they are assessed, it appears that these clients' needs may be met through other mainstream-funded programs such as mediation, relationship education or separation counselling services, the Program may refer them to the appropriate internal or external services.

2. Formally referred voluntary parents

These are usually clients who have been referred (without formal orders) to the Program by judges or registrars in the Family Court, Federal Magistrates Court or Legal Aid Commission. Family Court mediators or counsellors, and legal practitioners in private practice may also recommend clients' attendance. Some common characteristics of this category are:

- both parents agree to participate and include such participation in consent orders
- both may be willing or reasonably willing to participate in the Program
- one parent or both parents may feel negative about the likely outcome, and
- the Family Court has issued a consent order which specifies that the parents are to participate in the Program.

3. Formally referred involuntary parents

The majority of Program clients fall into this category. The Family Court or Federal Magistrates Court directs these clients to participate in the Program, and such

participation is written into interim or final orders for contact or residence. Clients may be referred because of breaches of these orders. Some common characteristics of this category are:

- at least one parent is very reluctant to engage with the Program, and one or both is/are negative about the likely outcomes
- there is always a high level of conflict between the parents and failure of communication
- there is or has been a high level of domestic violence and/or drug and alcohol use and/or abuse of the child/ren—Restraining Orders are often in place, and
- there is usually a child representative appointed who will monitor compliance with the terms of the Contact Orders.

Overall, the 'typical' profile for clients who participate in this Program suggests that they:

- are often volatile, angry, anxious, and explosive
- have found independent negotiation difficult and as a result appear stubborn or rigid
- are in breach of Court Orders
- are likely to have experienced similar difficulties in their own upbringing
- are likely to have existing problems in a psycho-social context—alcohol and/or drug misuse, psychological/psychiatric disorder, hyper-anxiety etc, and
- are likely to have experienced childhood abuse or trauma.

Clients' timelines

Referral/order to the Program can occur at any point along the continuum of the separation/divorce/family law process. Having applied for Contact Orders through either the Family Court or the Federal Magistrates Court, the parents may have interim orders that one or both disagree with, or have had final orders that are not being implemented and which have resulted in one parent making an application to the court to determine whether a contravention of a primary order (ie an order under the *Family Law Act 1975* affecting children) has occurred.

The Program is diversionary. It focuses on ways to assist parents resolve their disputes without continuing to litigate. This means ideally that the earlier the referral within the

family law process occurs, the better the prognosis for the family. The longer the process, the more entrenched and intractable the opposing position of each parent becomes, and the more serious the level of dispute between them.

Most of the families in Unifam's *Keeping Contact* Program in Sydney are referred at the end of the process after a lengthy court battle which includes multiple breaches in the final orders. With *Mums and Dads Forever* at Anglicare in Perth, many of the families are referred earlier in the process, after interim orders are made. This enables them to work therapeutically in a group context before they finalise the orders. They have an opportunity to explore, along with other parents, the impact that further dispute would have on themselves and their children. The *Parents in Contact* Program in Tasmania at Relationships Australia with the Children's contact service nearby has a mixture of referrals from both ends of the spectrum.

The majority of clients in the Program have been separated for at least two and a half years and the average period of separation is three and a quarter years.

Because of high demand for the Program, clients may have to wait for some time before they can participate. The Program providers have implemented various ways of addressing this problem, including prioritising certain referrals. They are mindful of the need to resolve disputes in the interests of children as soon as possible. A challenge for the Program is to balance the offering of services between those clients who might derive greatest benefit from participation and those who meet the urgency criteria.

The client relationship with the service may not formally end no matter how long the client might have participated in the Program. There have been instances where clients have re-entered the Program in a different separated context within a two-year period and also situations where clients have presented in multi-familial contexts. Clients may return to the Program to resolve new contact issues without returning to court. Apart from engaging clients earlier rather than later, it can be advantageous to see them in between court hearings so that contact issues can be dealt with before positions become more entrenched.

Family and domestic violence issues

There is a large body of literature dealing with the impacts of domestic violence on children, for example McIntosh 'Thought in the face of violence: A child's need' (2002) *Child Abuse and Neglect*, Vol 26, pp 229–241 and Margolin and Gordis, 2000; McIntosh, 2000; Edleson, 1999; Kolbo, Blakely, and Engelman, 1996; and Cummings and Davies, 1994. Research indicates that children's emotional development is significantly threatened when they witness violence between their parents, and many studies also highlight cognitive and social ramifications. Established findings indicate that the more lasting the violence, the more acute the conflict, and the fewer mediating influences, the worse are the outcomes for children.

Restraining orders are referred to by a variety of names in State jurisdictions (eg as Violence Restraining Orders and Apprehended Violence Orders).

Professional practice regarding family and domestic violence matters must at all times be informed by principles of best practice and guidelines of professional affiliations such as the Australian Association of Social Workers or the Australian Psychologists Society. Publications dealing with these issues are listed in the Bibliography.

The existence of family violence makes the Program's overall aim of developing a conflict-free relationship between separated parents hard to achieve. In families where violence is severe, whether it is physical, sexual or emotional, safety and the ongoing wellbeing of victims and witnesses must be the over-riding factor.

It is difficult to educate or mediate between separated parents when Restraining Orders are in place.

The first priority of the Program must be to have both a clear policy and comprehensive safety measures in place for both clients and staff. Violence needs to be acknowledged by those involved, and messages about the consequences of violence have to be made clear to those who are committing it.

In cases of family violence, practitioners need to be mindful of the possibility of parents using contact as an opportunity to further abuse or control the other parent. The court or the legal system can be used as a means of

keeping children away from their other parent. Emotional abuse or control is also often used to retaliate against the other parent. Because defining and providing evidence to substantiate this form of abuse is a complex procedure, it often means that violence is not recognised by the legal system and court process. There is a fine line between identifying the use of emotional abuse or control and genuine parental concern for the needs of children. It takes a lot of skill and understanding to be able to make this distinction. Experience and training in the area of family violence is an important part of working effectively with this client group.

Child protection issues

The issue of child protection is underpinned both by legislation and professional practice. In some jurisdictions there are no mandatory reporting requirements when child abuse is suspected. However, many organisations and professional associations have developed policies and procedures which require staff to report incidents where abuse is suspected.

Child protection issues are particularly relevant when children live within a separated family where conflict is present. It may be that incidents of abuse have not been detected by the referring organisation and only come to light when the children participate in the Program. The testimony of children may also highlight incidences of abuse by members of the extended family or situations where abuse has occurred in the past. Legislative requirements about notifying child abuse, as described in Section 19N of the Family Law Act, are detailed in Part 4.

Organisations involved in the Program need to foster strong working relationships with case workers from local child protection authorities. Documentation provides the child protection authorities with the information they need to take immediate action. The organisation should encourage these authorities to keep them informed about whether allegations made in particular cases are later substantiated.

There is a wide range of literature available about child protection issues and some relevant websites, obtained from the Family Law website at www.familylaw.gov.au are included in the Bibliography.

Diversity issues

Working with Aboriginal and Torres Strait Island Australians

The following comments were offered by Djennabura and Josey Hansen Djidi Djidi Consulting who are Nyoongah women from the Ballardong/Bibelman and Wilman/Ballardong Clan.

It should be noted that some Aboriginal Australians may prefer not to be referred to as 'Aborigines' rather, to be acknowledged by their clan affiliations. It is therefore recommended that providers and practitioners be sensitive to this issue.

Not all Aboriginal or Torres Strait Island Australian languages, customs, rituals and religious/spiritual beliefs are similar. However, the underlying themes for working with Aboriginal or Torres Strait Island Australian people will apply in that the Aboriginal or Torres Strait Island Australian peoples are acknowledged as the original caretakers and custodians of the land.

The protocols for working with the Nyoongah clan—the 'people of the land' in Perth—are described below:

Our Old People's Way — Proper Way

When conducting any event or workshop or meeting you need to consider:

- whose **Homeland** you're in, ie Nyoongah
- acknowledgment which needs to be given to the original custodians by a Nyoongah person, one who has grown up the land. This is our old people's proper way, and they will welcome you as well. Another way is to get someone to acknowledge the original custodians, Nyoongah People, and mention that they are honoured and privileged to have the opportunity to meet on Nyoongah land.
- always observing the signs as you walk in someone else's **Homeland**; don't disturb it by kicking up the dust that needs not be disturbed. *Listen with your eyes, ears and heart when working alongside Original Custodians.*

Working with different cultural/linguistic backgrounds and spiritual/religious awareness

Demographic data available in each Program area has revealed that participants are drawn from diverse cultural and linguistic groups.

Programs, particularly those in larger metropolitan areas, are likely to experience a higher percentage of clients from different cultural or religious backgrounds and they may hold values that are different to those of mainstream Australian society. This becomes problematic when a clash of cultural or religious values occurs.

In the case of relationships where the ex-partners are from differing cultural or religious backgrounds, it is vital that unstated cultural beliefs, particularly relating to residence and rights to contact, are identified and addressed. The Program needs to be sensitive to cultural norms about individualism and family groups, including privacy issues. It is probable that most clients (especially children) will have a basic understanding of English language, but an interpreter must be provided when this is not the case.

Clients should not be put into a situation where they are required to translate unless there is absolutely no alternative. There is a risk that they may, for various reasons, including a desire to dilute the conflict or to appease extended family members, seek to interpret what is said and written before translating.

People who have been raised in extended family situations are often comfortable with having family members involved in procedures guiding them in decision making. Younger generation clients may demonstrate a different world view to that of their parents and even grandparents on account of cultural and religious morés. This may become compounded in cross-cultural relationship contexts and where tacit disapproval to separation occurs and specific gender-based role expectations exist for the extended family. Caution should therefore be exercised in these situations recognising that extended family members may demonstrate divided allegiances.

Other Special needs

Working with alcohol and drug issues

Substance abuse and addiction is a family issue. Alcohol and drugs are often issues for separated families in this Program. Children may also show signs of acute addiction problems, and intervention may be necessary.

The Program needs to have clear policies and procedures for managing alcohol and drug issues. The problems need to be identified and addressed.

If a client needs help with an alcohol and/or drug problem which may impact upon contact or affect the welfare of the children, some thought must be given to finding an assistance program for the client as soon as possible, and this can best be done through close liaison with alcohol and drug organisations. It may well be that such an organisation recommends that alcohol and drug-based counselling and/or treatment be arranged before the client's participation in the Program. Community-based alcohol and drug education, counselling and treatment may also be arranged to coincide with the Program.

Working with mental health issues

A significant number of clients are likely to suffer from mental health issues. Mental illness can appear suddenly because of the stress caused by separation. Sometimes a client may not be aware that they are showing signs of a condition, and their behaviour may threaten persons or property if it is not diagnosed and appropriately treated.

In the most serious cases mental illness can pose a real risk of harm to others, self-harm or suicide. Care should be taken when clients are assessed for entry into the Program that any condition is recognised or declared, and the client is informed that if they are undergoing treatment, continuing with the treatment is a condition of participation in the Program.

Practitioners will need to make a judgment case by case, as to whether clients should be included in activities, particularly group work.

Experience has shown that mental health issues can appear at any point throughout the Program and may be triggered by the stress of events, so it is important that regular reviews are carried out as part of the case management.

Working with disability issues

Some clients in the Program, children and/or parents, may have disabilities.

Non-resident parents may have problems arranging contact with children with disabilities. In order to help resolve these problems, practitioners may need to deal with the issues of additional parenting skills, specific accommodation and the additional costs which might be incurred.

PART 2

Existing programs

*'She only asked me one question!
It was good, she let me play with
the sand and add water.'*

Child aged 7 years, to father

Keeping Contact — Unifam Parramatta

The aim of *Keeping Contact* is to assist parents and children in their relationships after separation has taken place. The sole focus of the program is on the relationships involved. There is no limit to the amount of time a family can attend *Keeping Contact*, although most families find they need between six and twelve months to bring about lasting change. There is a period of monitoring and evaluating the agreements and changes made, and families will sometimes make contact again through the program rather than go to court to resolve additional issues that arise.

The *Keeping Contact* model entails the management of a number of independent but related therapeutic activities taking place at the same time. That is, in any one case the practitioner may undertake individual and/or joint therapy sessions with the parents, mediate an agreement, offer case management around supervised contact or liaise with a representative of the child/ren, and facilitate appointments for the child/ren to be seen by a separate practitioner. In each case the children are seen at least once by a separate consultant who also meets with the parents and their consultant to ensure the voice of each child is heard and taken into account before the case plan is developed. A number of ancillary services may be recommended to a family including groups for children, groups for parents, including

resident and non-resident fathers. Everyone who attends *Keeping Contact* is required to attend an initial seminar called *Transitions* run by staff of the Program and mediators.

Intake and assessment (#1)

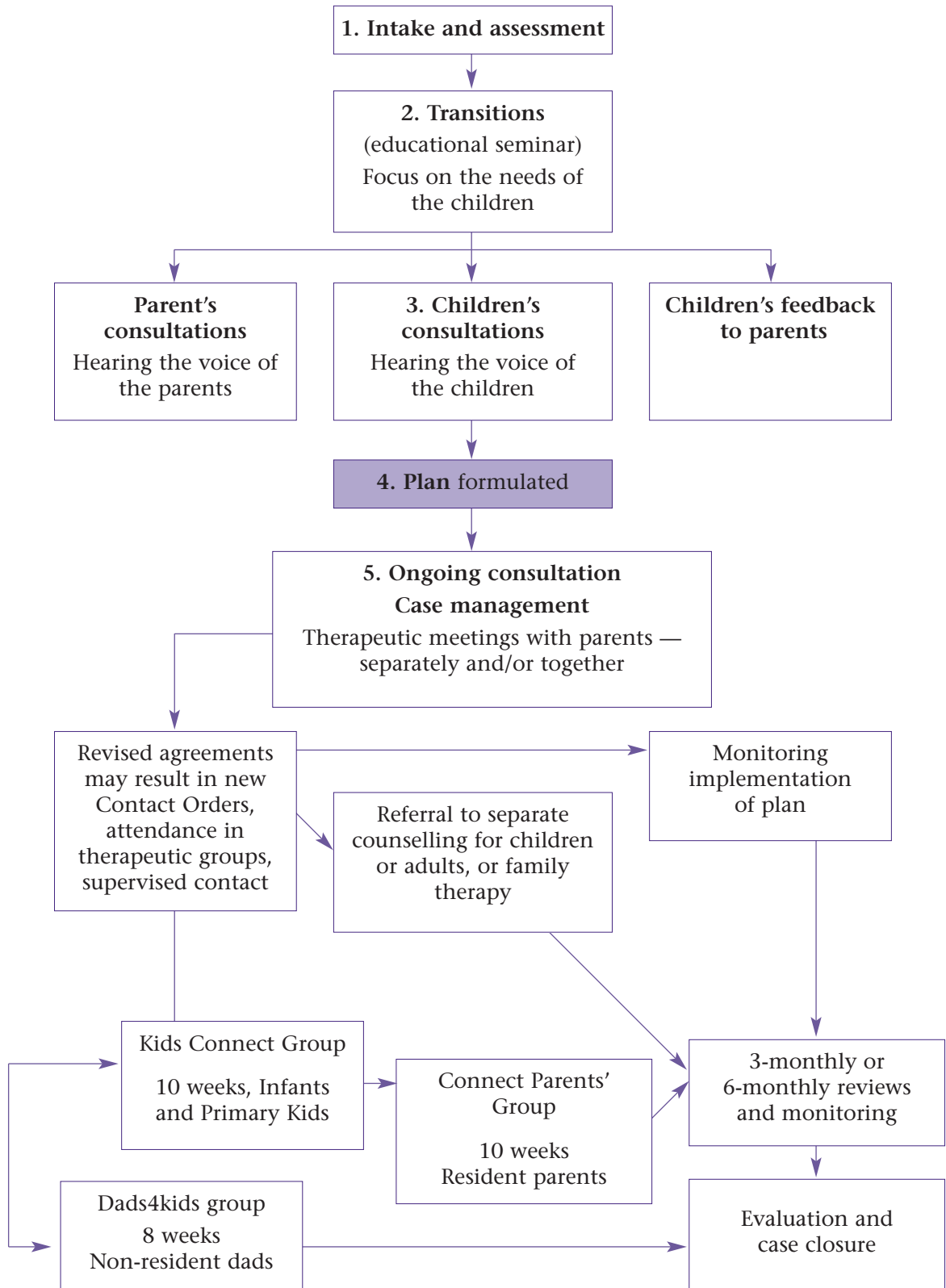
Both parents are required to attend the Program before they are officially registered on the waiting list for a consultant. Other issues include:

- the paramount need for safety in the initial assessment. To address this, a thorough intake is undertaken over a few phone calls to both parties and other relevant parties, eg grandparents, legal representatives, child representatives. During the intake process the client is expected to take responsibility for their attendance and compliance with court orders
- reliance on child/ren's participation, whether in groups or in consultations, to ensure the effectiveness of the Program. Parents are informed of this at intake and are expected to give permission for their child/ren's participation, and
- regular clinical supervision and assistance with decision making for intake workers, as well as de-briefing experience with clients, eg aggressive clients.

Phone intakes are conducted by intake workers. The process includes:

- assessing whether or not clients are court-ordered, and if so, obtaining a copy of the court orders as well as a history of the dispute since separation

PARRAMATTA — Keeping contact model



- assessing the safety of both the adults and the children and obtaining copies of any Restraining Orders, and
- sending letters to both parties, with brochures, and an invitation to book into the Transitions Seminar. Some letters are written to solicitors acting for a client when the client's address is not known.

Transitions (#2)

A three-hour seminar is held twice a month (one day and one evening session) and aims to prepare each parent to focus on their children's needs and to start to think about how their behaviour impacts on the children. Ideally, there are 10–12 participants per group (up to a maximum of fifteen) with two clinicians or mediators. It is compulsory for clients to attend *Transitions* before they can participate in any of the other activities in the Program. *Transitions*, which has been running for three years, incorporates psycho-educational material, didactic and experiential exercises, discussion, and a video *Consider the Children*. Participants receive a workbook with all the material presented and some exercises to assist them to reflect on what their children have experienced as a result of the conflict. It sets out to view separation as a process and to enable parents to locate where they are at in terms of their own separation or divorce.

Children's consultation (#3)

Keeping Contact staff take turns in seeing the children of each others' cases. Each consultant is trained in conducting child interviews and meeting with young people. They have a variety of skills and techniques which enable them to thoroughly assess the child's experience. This material then becomes the basis of a therapeutic intervention back to the parents. Features include:

- children being seen separately or together depending on the individual issues in each case. Generally however, siblings are seen in a group together first, then separately in individual interviews, depending on how comfortable the children are with the idea
- the child consultant giving individual feedback about each child to the parents
- the adult consultant briefing the child consultant on what the adults believe are the issues for each child, and on the specific concerns of parents
- direct questions, stories etc, and indirect techniques being used with younger

children, and there is also the option to use exploratory questions with adolescents

- children being given the same rights of confidentiality as adults and they are allowed to veto any material that they don't want their parent/s to know
- a subsequent briefing after child consultation where the two consultants determine a possible therapeutic plan for both adults and children. For example it may be recommended to parents that all or one of their children see someone else for ongoing work, eg counsellor, school counsellor, and
- the meeting between the child consultant and the parents may take place with both parents together, or separately—depending on whether the parents would receive the information better separately or if it would be more effective for them to receive the information together.

Experience has shown that the articulation of the voice of the child/ren and the profound impact of discussing the trauma they are experiencing have a significant effect on the majority of parents, and help them to rethink their motivation. As a result of this, a therapeutic plan for change focusing on each parent's relationship with the child/ren is developed.

Planning (#4)

The Program has two parts. The first part focuses on the separation, parental conflict, and communication difficulties with the other parent. The second part focuses on the children, the impact of the separation on them and the ways in which they get caught up in the conflict. Step-parents (new partners) are invited to attend when an assessment of the new family arrangements suggests that their support of the process might be useful. The process is quite confronting. There is a strong emphasis on how each parent is contributing to the conflict, and the unhelpful things parents may be doing to their children, eg sending messages to the other parent, are challenged. Participant evaluations have been very positive about both the information provided and the process of being in a group with other parents in similar situations.

Consultation and case management (#5)

The adult consultant carries out the consultation process which is the major clinical work of the *Keeping Contact* program.

The consultant takes on the role of the case manager which may include:

- working with both parents either separately or together, within a child-focused framework. The children are also recognised as clients, even though they are seen by a separate consultant
- creating leverage around the Court Order. Generally both parents are court-ordered to attend and initially are involuntary participants
- inspiring hope in the clients that the situation can change and dealing with the trauma caused by many years of conflict and legal battles
- assessing to see whether issues such as violence or other child safety issues are prohibiting contact, or whether unresolved issues of former couples might be affecting contact
- clients reading (or having read to them) and signing an agreement at the first interview, which sets out the expectations of the Program and the consultation process. There is a behavioural code which each client is expected to comply with (eg no name-calling of the other parent, respect for the staff of the Program etc)
- assuring the clients that the consultants are impartial, and will not be gathering evidence about who is the 'best' and 'worst' parent. There is no need for parents to try to convince the consultant about their version of reality as consultants accept that each party will see things very differently
- exploring the history, the current situation, the viability of the Court Orders, and the reactions of the children
- focusing all discussions on the needs of the children, addressing one issue at a time, building on all successes
- advising about boundaries, acceptable behaviour, and containing clients' anxiety
- encouraging parents to believe they are the experts about their children; that their children want the conflict to end; and that they want to have permission to have a relationship with each of their parents
- after the child consultant has met with each parent, developing a case plan which sets the direction for the clinical work, and
- regularly reviewing and adapting to the changing needs of the case. Therapeutic letters, phone sessions and face-to-face

meetings continue until the issues are resolved and/or the relationship distress diminishes.

Connect Kids

This is a 10-week group for children based on the theoretical framework of Roseby and Johnston's groups for infants and primary-aged children whose parents are in high conflict. It runs twice a year during the school term for one and a quarter hours per week, and there are six to eight children per group with two group facilitators. The program has been split into separate age groups consisting of five to eight-year-olds and 8–12-year-olds. The children in the younger group use puppets, role play about feelings, do drawings and learn to develop a safe space in the midst of the chaos around them. In the older group the children do role plays which they videotape and then discuss, look at the separation of parents' and children's jobs, and create a panel discussion where they take on the roles of experts advising other children who may be in their situation.

It is sometimes difficult in the initial stages to get parents to make a commitment to bring their children for nine or ten weeks.

A parallel 10-week group for parents (generally resident parents) has been developed around the same content.

These groups are an ancillary part of the *Keeping Contact* process, and although participation by parents and children is encouraged, it differs from the adult and child consultation process in that it is not compulsory.

Connect Kids groups provide the children with a normalising experience and some tools to cope within their own situation, and although it is a very powerful tool, evaluation has shown that the individual child consultations are rated by the children themselves as the most helpful part of *Keeping Contact* for them.

Unifam is experimenting with how to feed back information from these groups to parents, eg party for the children at end of their group; the children show the parents the things they have learnt, either through a letter they have created, or some video footage. There has been good feedback from parents about changes they have noticed in their children as a direct result of their

participation in the group. A brochure outlining the content of each session is provided to both parents. Parents need to give their consent for their children to attend the groups, and feedback about each child who attends is provided to both parents at the end of the ten weeks.

Connect Parents

This group is for the resident parents (usually mothers) who bring their children to the *Connect Kids* Group. The group, which evolved informally through parents dropping children off and chatting in the waiting room, is seen as an adjunct to the individually focused consultation process. It runs parallel to the children's group for ten weeks and afternoon tea is provided.

Unifam decided to formalise the discussions around the content the children were learning about. The group provides a forum for parents to discuss their frustration following the separation, their concerns for their children and their parenting struggles. It also provides a safe environment for the participants to challenge each other about the way their children are caught in the middle of the conflicts over contact, and about their children's and their own relationships with the other parent.

Dads4Kids

A common complaint by mothers about the safety of the children on contact was the basis for the development of this Program. It was recognised that non-resident fathers' groups needed to include material about learning to develop an attuned attachment to their child as well as strategies to help them deal with their child/ren's difficult behaviour.

Dads4Kids is an eight-week group for non-resident fathers. In the first group there were eight angry men who were unimpressed that their ex-partners didn't trust them with the children. The Program focuses on managing the transition from being a parent living with children to being a non-resident parent. Non-resident fathers who are having trouble accepting the separation seem to have the greatest difficulty with this transition.

The program helps build confidence in themselves and in particular in their parenting skills through the use of discussion, brainstorming, and lots of active listening, discussions of parenting styles, their experience of their own parents, communication with children, conflict, and

the role of playing with their children.

A project is set for each participant to try to improve on something related to contact — even a small thing — and each father feeds back his progress to the group. One of the exercises consists of each father putting himself in his child's shoes, and writing a letter to him as 'Dad'. This usually proves to be a very powerful, challenging and emotionally touching activity.

The interesting thing about the group is that the men challenge each other, making the facilitator's job easier. By week four or five the men start to own up to their own behaviour and to analyse their capacity as fathers including their strengths and the things they have to offer their children.

Mediation and conciliation are also offered alongside the *Keeping Contact* Program and are useful adjuncts. Four family therapists are employed part-time in the Program along with a clinical supervisor and each has therapy skills and an ability to work with children and adolescents. In the *Keeping Contact* Program the workers use the title 'consultant' to encapsulate all these roles into the one name.

The *Keeping Contact* Program regularly conducts its own action research and reviews the efficacy of the groups and interventions

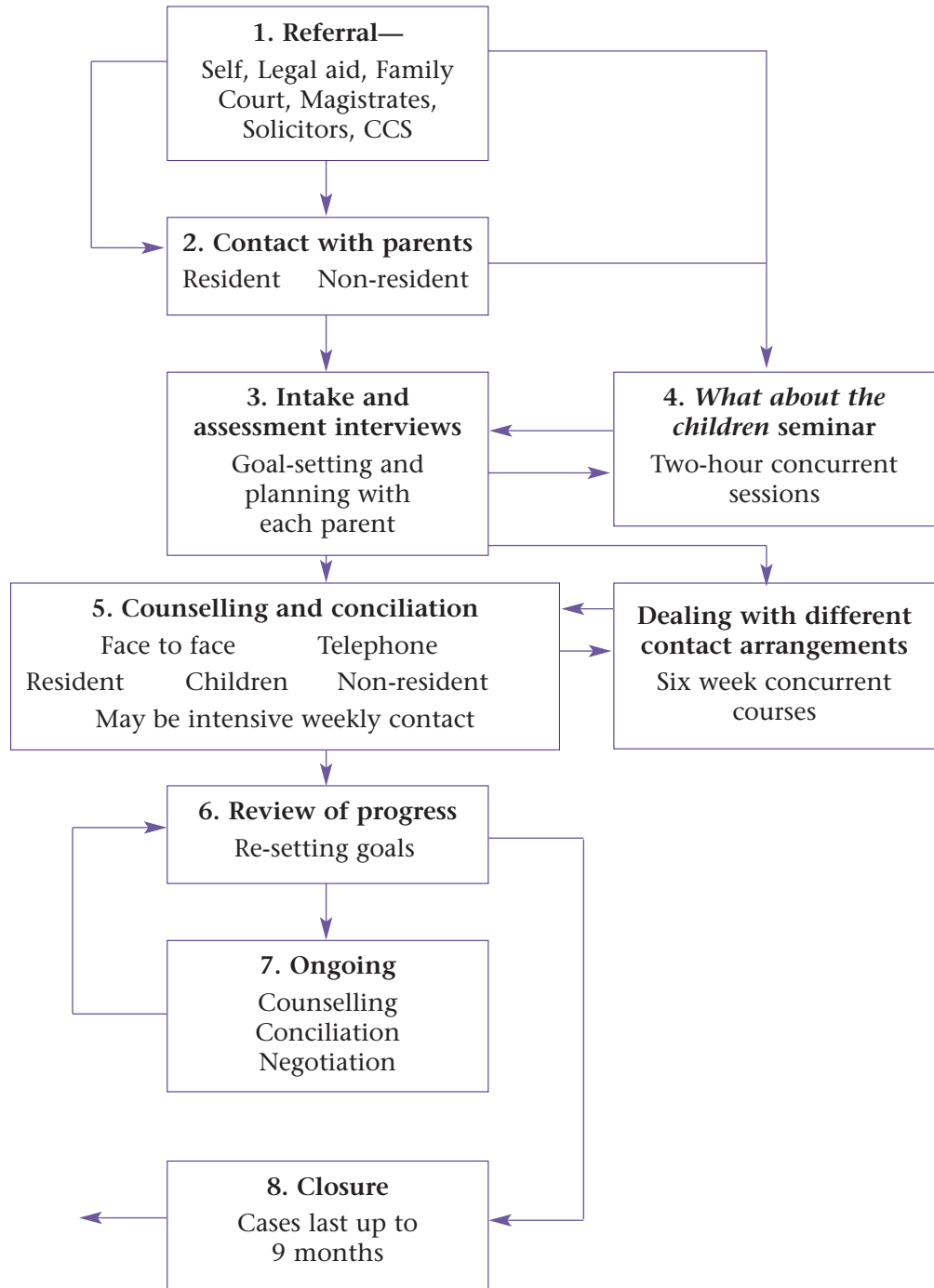
In an attempt to solve the problems of long waiting lists, Unifam is trialling an accelerated assessment procedure in addition to conducting an intake project which will more efficiently manage the clients entering the Program by assessing where the need is most urgent.

Parents in Contact — Relationships Australia (Tasmania) Hobart

Referral and contact with parents (#1 and #2)

For inclusion in the Program both parents must either agree to participate (formally or informally) or be mandated to do so. Referral may occur at any stage of the post-separation process and through a variety of means from self-referral to Family Court Order. Following referral, telephone (or postal) contact is made with both parents and separate appointments for intake interviews are made. If there is a waiting period before the intake interviews can take place, parents may first attend *What about the children* seminars.

HOBART — Parents in Contact model



Intake and assessment interviews (#3)

The intake interview consists of:

- a detailed history from each parent regarding the family and the breakdown of co-parenting – specific information is sought regarding the family law history, domestic violence, restraint orders and any matters relating to the welfare of the child/ren
- the ascertaining of the goals of each parent in regard to co-parenting and an assessment of the suitability of the Program
- the provision of detailed information for parents regarding the kind of service the Program can offer
- the signing of the service agreement by each parent after they have reached an informed decision regarding participation in the Program
- the setting of mutually acceptable goals for the case and the clients' consent to the initial process
- the registering of parents for the next *What about the children* seminar, and if required,
- the Family Court or legal representatives are advised that the parents have enrolled with the Program.

What about the children seminar (#4)

All parents enrolled with the *Parents in Contact* Program are required to attend the seminar. It is essential to establish from the beginning that the primary focus is the importance of the best interests of the child/ren. Parents may participate before or after the intake interview, depending on timetabling.

The seminar, which lasts for two hours, consists of a showing of the *Consider the Children* video and presentation of information which deals with the effect of separation and parental conflict on children. The seminar has a pre-set format that is always followed, but participants are encouraged to ask questions and discuss the issues raised. Ex-partners do not attend the same seminar session. However, two seminars are held in the one week so that both parents receive the same information and are made aware of the issues at the same time. There are evening and daytime sessions to cater for parents' different work and family responsibilities.

There are occasions when the seminar will be presented to one or two individuals at other times, when for example, a parent (and perhaps new partner) may be coming from an interstate location for a contact visit outside the scheduled seminar times.

Dealing with difficult contact arrangements group work

Parents are usually asked to take part in the group work, but there are several grounds for waiving this requirement. For example, a parent may be living interstate or outside reasonable travelling distance of Hobart.

A group runs for two hours a week, for six weeks, and is closed after the second session. It is open only to *Parents in Contact* clients. Ideally, a group will comprise men and women, and resident and non-resident parents. In practice, more women than men are resident parents, and more men than women are at work during the day. Consequently, the majority of daytime group members tend to be resident mothers, while the majority of evening group members tends to be non-resident fathers.

Groups are run four times a year and usually attract four to eight participants. Our experience is that small groups can be as effective as larger ones. Course contents and group processes are adapted to suit the make-up of the group. Most parents are reluctant to join the group and, unless participation is specified in Court Orders, they can and do choose not to attend. However, virtually all parents who do participate report that they found it a worthwhile use of their time.

Group members are encouraged to participate in all activities and to share their experiences. In order to facilitate this, both self-reflection and group discussion of issues and strategies are encouraged. The content of each session is pre-set to the extent that certain models and concepts are always expected to be included, and certain attitudes and values challenged. Nevertheless, facilitators are flexible in their approach, and try to accommodate the particular needs and situations of participants.

Because sharing of experiences is fundamental to the group activity, as well as the fact that not all participants are confident with reading and writing, few handouts or other written materials are used. Ideally, there will be one man and one woman facilitating a group to help ensure appropriate role modelling.

Counselling and conciliation (#5)

There is no set formula for working with families in the Parents in Contact Program. Each case is recognised and respected as unique.

However, work with a family is often intensive for the first two months, with weekly contact with each parent. The level of intensity may also rise and fall over time, contingent on Family Court and other legal processes; improvement or breakdown in communication between parents; school and calendar events; changes in accommodation, and so forth.

In the *Parents in Contact* Program, due to staff availability, the counsellor meeting the parents is also the counsellor meeting the child/ren. In the present situation, there is less emphasis on formal mediation-style feedback from children to parents, and direct feedback from a child to a parent occurs infrequently.

Children

It is usual for the child/ren to be interviewed. However, if children are babies or if they are adamant that they do not want to take part in the process, they may be seen just once and not specifically taken into the Program. Whatever the case, their needs and interests remain at the forefront.

All discussions with children are confidential and privileged, except for mandatory reporting requirements. This condition is made clear to both parents before the service agreement is signed in the intake interview, and is also made clear to the children. Where there is more than one child in the family children are always seen individually, and they may also be seen together. A child's wishes in this regard are respected.

At the end of each session, a child is asked whether there is anything they want the worker to tell either or both of their parents, or whether there is anything the worker can help the child tell either or both of their parents.

The purpose of meeting with a child is to get a sense of how the child is coping; to see what effect past or current separation and conflict issues might be having on them; to identify the child's preference regarding contact arrangements; and to provide the child with an opportunity to explore their fears, hopes and concerns, with someone who is not personally involved.

There is no established pattern for appointments with children. There may be

only one meeting with a child, when they are asked what they feel about specific issues. In cases where the family situation is very unstable and unpredictable, a child may have regular (possibly weekly) appointments for a time so that a consistent and dependable relationship can be developed. If there is a solicitor appointed as child representative, it is often useful for them to meet with the child at *Parents in Contact* where the child already feels comfortable.

Parents

The work done with parents is often based on the models, strategies and insights explored during the group work. Discussions with parents may take place face to face or by telephone. Much of the work, especially in the early stages, is conducted on an individual basis. As matters progress, it may be possible to work with both parents together, either by 'shuttle mediation' or facilitating direct communication. Helping separated parents to develop an effective co-parenting relationship is a key objective. The aim is to improve their communication and focus it on their child/ren's needs. This is done through facilitating negotiation between parents with regard to implementing contact arrangements, and by helping parents to see issues from a shared perspective instead of from opposing camps.

Sometimes, *Parents in Contact* arranges and helps to bring about a meeting between a parent and a child, where there has been no contact for a long period. In these cases, the resident parent is often reluctant for contact to occur and may be concerned about the child's welfare. A meeting such as this, organised by *Parents in Contact*, is always specified in consent orders or contact orders and often a child representative appointed by the court is present too.

Short term personal counselling may be offered to a parent if there are issues directly related to or impacting on a child. This may include topics such as grief over the loss of the relationship; victimisation or perpetration of domestic violence; anxiety and anger. Information, discussion and guidance on parenting styles, parenting issues and child development are also important components for some clients, especially non-resident parents.

Review of progress (#6)

Progress of a case is continually monitored through mechanisms such as:

- counselling/conciliation; maintaining the parents' focus on the goals established at intake; and posing the question 'Is this working?'
- regular and frequent case management meetings which take place with the program manager, as well as with the Children's Contact Service where cases are held in common, and
- meeting both appropriate activity deadlines agreed to in Family Court orders and appropriate reporting requirements to parents' solicitors, child representatives or the Family Court.

Depending on the progress of a case, or when new issues evolve, the goals and the process followed may be modified or supplemented during the Program. If a case has been open for six months, a major review is conducted to ensure that there has been appropriate progress. When this occurs, the goals as well as the process of working with the family will be renegotiated.

Closure (#7)

Participation in the Program may end for a number of reasons:

- goals are achieved and further involvement of the Program is not required
- some progress has been made, but achievement of the stated goals is unlikely at this time, in which case legal proceedings may be resumed
- no progress has been made and no progress can be reasonably expected, in which case legal proceedings are highly likely to be resumed, and
- one or both parents cease to participate in the Program again, legal proceedings may be resumed.

A case is closed if there has been no activity for three months. It is reopened if the family is again referred to the Program at a later stage and if there is a reasonable expectation of improvement.

Evaluation

Participants are asked to complete a simple quantifiable evaluation form at the conclusion of the first session, to record how useful they found it to be. The form consists of a series of questions to be scored on a scale of 1–10. The completed form is then sealed in an envelope and given back to the facilitator.

A second self-evaluation form is completed at the end of the course. Participants are then asked to compare the two evaluations and comment on the reasons for differences in scores (and reasons for no change). This helps the participant understand what changes, if any, have taken place, and this knowledge can be the basis for further counselling or conciliation work. Both evaluation forms are then given back to the facilitators.

This method provides both quantitative and qualitative information about:

- the change experienced by individuals within the group, and
- an understanding of what prompted change and an understanding of what difference the change will make in co-parenting is obtained.

Comments made by parents, children and other family members regarding the usefulness of the Program or their experience of it are recorded by the counsellor and included in monthly reports. Comments made by other professionals (eg solicitors) are also noted. Anonymity is always maintained.

When a family is no longer involved with the Program, an evaluation form is sent to each parent with a stamped addressed envelope for its return. The evaluative information obtained from the few that are returned is regularly assessed so that the entire Program can be developed to address the issues raised within the feedback.

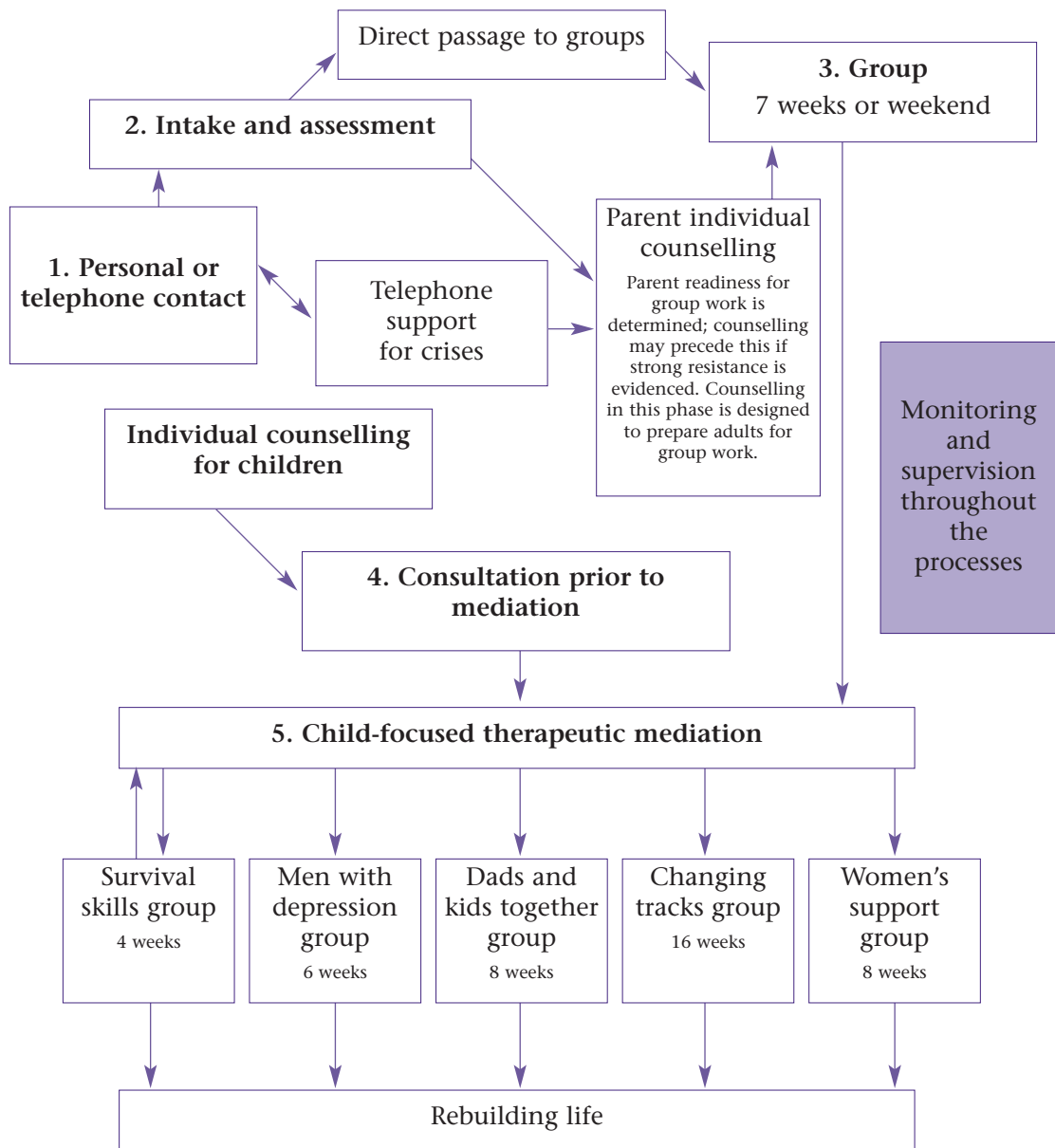
Mums and Dads Forever — Anglicare Western Australia, Perth

Contact (#1)

The first contact with the client is usually made by telephone, and the main objective is to decide whether or not the Program is appropriate for the client, and if it is, to make a convenient intake appointment with a counsellor. The importance of obtaining (extended) family details including the full name of ex-partner is stressed, if for no other reason than to ensure ex-partners do not meet unexpectedly in the waiting room.

During this first contact a brief overview of the Program is usually given, mainly to assure clients that they will not be participating in a group with their ex-partner. Sometimes clients are abusive or aggressive during this first contact. If that's the case, and the administration worker is unable to calm the

PERTH — Mums and Dads Forever model



client, as a last resort the client is told the call will be ended. The staff member can then debrief with a clinical supervisor. The waiting list for initial intake interviews is usually no more than two weeks.

Intake and assessment interviews (#2)

These interviews provide the Program with information about demographic details. Just prior to the interview, clients fill out a client information form which the counsellor looks at with a view to gaining some insight into potential and actual problem areas. During the interview the counsellor hears the client's story and so gains some understanding of the complexities of the case. At this point the counsellor is able to assess any issues that may prevent the client from participating in a group, ie mental health issues, substance abuse, and the presence or otherwise of domestic violence issues during the relationship or since separation. There are other considerations too:

- identification of child sexual abuse—allegations and/or conviction or court case pending
- focus on the parent's ability to understand a child's perspective
- outlining the major aims of the Program and what services it offers, and
- planning of the client's progress through the Program, as appropriate.

Education Group (#3)

More than 95 per cent of all clients are directed into the groups as their first point of contact with the *Mums and Dads Forever* Program and only those who are assessed as not being 'group ready' are diverted to counselling first.

These groups are run within a common timeframe, usually with a week between starting times, with two run in the evenings and one during the morning. Currently (early 2004) there is an approximately two-month waiting list to get into a group. One pilot has been conducted over two Saturdays a fortnight apart and it is hoped to run a few more of these during the next twelve months (2004).

These are ideal for shift workers, those who live some distance away and/or people who work in distant locations, eg the mines.

The sessions are psycho-educational and there is a major theme for each two-hour session. Each one begins with the *Consider the Children*

video. The video is shown to set the scene for parents, to allow them to put the issues between themselves aside, and to focus on the best interests of their children.

The second session examines the details of and any issues relating to the family of each parent and individual differences between parents' experiences, and the third session looks at the process of separation for both parents and children and highlights the grieving process.

The fourth session explores communication using role plays, and the following session examines conflict resolution processes, looking at the different ways people approach conflict. The penultimate session is directed to problem solving activities, and the last session gives an overview of the preceding sessions and elaborates on any aspects that people are struggling with before beginning to plan for the future phase.

Sessions 1 to 6 include a brief evaluation, and the evaluation of the last session is more in depth and includes an abbreviated version of the '*Client Information Form*' referred to in the Evaluation section in this Resource Manual.

Case management

At the end of a group all participants are assessed and further contact is made as agreed previously with the client. Both parents are required to attend a group before mediation takes place. Experience has shown that clients are more receptive to the idea of negotiating an agreement when they have learned to accept and respect opposing points of view.

Individual counselling

Individual counselling usually follows the education group although it may occur during the group process. The aim is to help parents to separate the issues they have with their former partner, from those the child/ren have in their relationship with their parents. It's not obligatory for parents to attend this stage of the Program. If parents decide to proceed with mediation that is child-focused, then the child/ren are seen individually for as many sessions as seem necessary.

Telephone support

This is made available to all participants in the Program and they are encouraged to telephone a counsellor if a crisis arises. This

assists clients to review what they have learnt and provides practical support in applying skills needed for crisis management. While this can be difficult to manage from an organisational point of view, it is considered one of the most helpful components of the Program because it encourages people to continue to manage their own situation in a positive way. Only professional staff make these types of calls.

Consultation (#4)

Consultation with clients ensures that if former partners would like to proceed with mediation, each can be seen individually.

- If a court appearance is pending then former partners are asked to put off the court date for at least six months (this allows an opportunity for negotiations).
- The counsellor interviews each partner to assess how they see the future for themselves.
- Part of this process is to assess whether clients have taken on board some of the things they have learned from the group, and to assess whether former partners could cope with being together in the same room. After former partners have been assessed an appointment for mediation will be made.

Child Counselling/Consultation

Parents' permission is generally required before child/ren can participate in the Program. The Anglicare WA policy is to see the child/ren separately in most cases, but there is always the option of seeing them together with their parent/s. It is common for child/ren to be seen more than once. During these sessions various tools and techniques are used—drawing, bear cards, etc. Feedback to parents is given only with the child/ren's permission. Sometimes there are parts of the consultations they are very willing for their parents to know about, but there are usually some issues raised during the consultation that the children do not want reported back to their parents. In such cases the child/ren's rights are acknowledged and observed. Feedback is given to both parents at the same time, when this is both possible and appropriate.

Child-focused therapeutic mediation (#5)

Child-focused therapeutic mediation is 'what is best for the children'. This concept is made clear to former partners at the outset. Considerable importance is attached to setting out clear and enforceable ground rules which include confidentiality, respect etc. For the sake of the smooth running of the meeting, the mediator also ensures that participants are in a position to contribute other suggestions.

If possible, both parties should attend together, if necessary, it can be arranged for them to have separate rooms. On occasion, parents who originally appeared to be able to cope with being in the same room together may have to be separated if anger surfaces. Sometimes this occurs as a result of dealing with past events. A mediator will make every effort to keep parents together because despite these situations being very emotional, they can sometimes be cathartic experiences for the parents. Each former partner is asked for an opening statement based on three questions and they choose who goes first. It is usually several sessions before agreement about parenting and contact arrangements can be reached.

End of Program Groups

Depending on their needs, participants are referred to a variety of groups that can assist them to move on with their life. A group for men with depression has been set up as a result of the number of men participating in the Mums and Dads Forever program who are exhibiting symptoms of depression. They are often much more willing to participate in this group if they have completed the Program and in particular if they feel they have benefitted from the group process. The issues that arise for participants are all able to be addressed from within the Program

The *Dads and Kids* group helps fathers with little or no experience of practical caring for children. These groups address this need through practical, activity-based exercises and relationship education.

PART 3

Components of the Contact Orders Program

'Some people you can't trust, but you can trust [the counsellor]'

Six-year-old boy to Aunt following first appointment

Building trust with clients, especially with children, is an integral element of all components of this Program. Trust is absolutely necessary if there is to be fruitful communication with clients, and it is especially needed for situations where clients are having to confront issues raised, and where they may be unwilling to face their responsibilities.

Feeding back to parents — giving the child a voice

One of the distinguishing features of this Program is that there is provision for making children's testimony available to parents. This may be a powerful tool in the resolving of contact issues as parents are quite often unaware of what the children really want to happen. Experience suggests that without the opportunity to divulge to the worker their true feelings and beliefs about what has been going on in their family, children frequently say what they think their parents want to hear and this can cause confusion where inconsistency is present.

During intake and assessment, parents are asked to give their consent for their children to be seen by workers, and with the children's consent, for information from the children to be fed back to them if appropriate. It is also vital to ensure that

parents be prepared for the possibility that what the children may say could be contrary to their own expectations. Parents' concerns will often be alleviated once they understand that their children will be encouraged and supported to reflect their feelings honestly.

A relationship of trust between the practitioner and the child/ren must be established if the child is to speak about their feelings without being afraid of the parents' reaction. The practitioner makes it very clear to the child whether their information will be communicated to their parents, and if so, when and how.

It is important that this aspect of the Program takes place when parents have completed the process of education and some counselling. This should result in parents being more flexible about contact issues, and at the same time, be receptive to hearing the child's wishes.

Intake and assessment

Intake and assessment is the essential gateway to the Program and an integral part of the case management process.

It needs to be thorough and comprehensive, allowing practitioners to form a professional but caring relationship with clients.

The needs of both adult and child clients are assessed in the context of their social and

family environments. Assessment provides information which helps the organisation determine whether or not the case should be given priority, and if it is determined that the case is not urgent, then other programs which might be useful in the interim are considered.

It is important to identify those clients who are subject to Restraining Orders, and/or who have acute alcohol and drug problems, and/or mental health issues. Priority is given to clients who fall into this category in accordance with the Program's philosophy that the children are the most important clients and that their needs are of primary concern.

At this stage of the process the organisation collects information for statistical purposes. It relies on informed referrals which include details such as Court Orders.

Intake and assessment determines:

- likely client response to the Program and expected cooperation levels
- client suitability for the Program — takes account of client 'pathology' and psychosocial contexts
- likely client response to group work
- client availability (specifically time and location factors)
- legal considerations such as Court Orders, and
- where the case fits in to the organisation's structure with regard to waiting lists, priority ratings and suitability.

It is crucial at this point to set boundaries for the client and to determine safety issues for all those involved. For example, intake at Unifam consists of reading the *riot act* — a local and very informal expression whereby the rights and responsibilities of the client are made clear to them (information provision) and their likely commitment to and suitability for the Program is assessed.

Relationships Australia, Tasmania and Anglicare WA use a formal induction process to provide information to clients and assess suitability and commitment. Detailed client information is collected at this point.

Information provision

Children are told why they are attending the Program, why their parents are attending, and what will happen to the information they give to workers in the Program.

Program clients require a lot of information, especially early on in the proceedings. Many

clients are confused as to why they have been ordered to the program and are very anxious about the process. These anxieties can be manifested in varying degrees of resistance to the process. Because of this, all the sites found it important to continually explain the steps involved, to outline to clients the need to commit themselves to the process, and to inform them of how they are required to participate in the work.

Information is given about the relationship of the Program to the courts, the reasons and occasions that Program providers would be required to write to the court and/or talk to other services, eg the children's contact service. Clients are provided with a framework of the Program's structure and a clear explanation as to why things are done in a particular way. It might be necessary to explain this on several occasions to clients who are particularly anxious.

Information provision differs markedly from education in that clients are provided with information about how the Program operates, the process they will go through, what the Program expects of them and what activities are provided. Its purpose is primarily to give clients the information they will need to move through the Program. Usually it is undertaken outside of groups, both early on and as the Program progresses. It addresses client anxiety and confusion and their need to commit to and participate in the work of the Program. It clarifies the Program's relationship with the courts and provides general information about the family law system.

Education

For children, the educational-therapeutic groups provide the opportunity to adjust to being in a separated family, having stepparents, going on contact, being reassured that it's okay to love both of their parents, and to deal with their feelings about being caught up in their parents' fights. Children and young people most commonly feel confused, and want to 'fix up' the pain in their family. Education helps give them the ability to accept and adjust to the changes in their family.

As well as there being educational input at the start of the Program, education is provided continually throughout the process. Each parent is at a different stage in the separation process with respect to how well they have 'finished' the couple's relationship, how their children are coping

with the changes to their family, what needs to be explained to the children, and the impact on themselves and the children of all the changes and stresses in their lives, including conflict with regard to contact. It is important that parents are reminded and informed about these relationship issues, particularly at times when they may be involved in court battles. It is at these times that they can most easily lose sight of both their own needs and those of their children.

Education helps parents to think about the impact of conflict on children after separation, the post-separation process itself, and the conflict issues that arise from it and need to be addressed. The aim of education is to enable parents to focus on the best interests of the children. Education is also used throughout the Program to reduce the level of antagonism of one parent towards the other so that they can move towards collaborative parenting. Education is interwoven with other processes such as group work, mediation and counselling.

Education groups

Education provided in a group context allows participants to access not only the material being formally presented but also other resident and non-resident parents' views about contact issues. Parents can be profoundly affected by the way other parents see and deal with situations similar to theirs, and their views of separation issues can be influenced and modified by other parents' experiences.

1. Self awareness

Developing self-awareness enables participants to identify patterns in their own behaviour, such as negative comments about the other parent, which are not effective, and which can have a negative impact on their children.

2. Developing new meanings

Once participants are able to identify patterns in their current behaviour, they are then able to begin to integrate new ideas into their behaviour. For example, they might hear how a small change in one parent's behaviour made a large difference, and they may then be willing to try it out themselves.

3. Motivation to learn

Whether participants are referred or court-ordered has some bearing on their

motivation to learn. The message of the need to be 'child focused' often works wonders to motivate people to learn and change, as do experiences of other participants.

4. Different modalities for learning

There is a range of activities and formats available including:

- mixed gender groups that encourage opposite gender participants to develop some understanding about their child/children's other parent (the parent's former partner)
- mixed gender facilitators who present role-modelling in positive relationships
- assuring the group members that there are no right and wrong ways—this is often a real relief for participants who may feel that they are 'right' or 'wrong', and
- use of illustrative videos such as *Consider the Children, Talking Through the Break, Children in Focus—Conflict and Choice*, which have profound messages about children's experiences of their parent's separation.

Other things to consider are group dynamics, seating, presentation, and variety in activities and handouts.

5. Emotional impact

It is important to consider the emotional impact of the material presented on parents participating in groups. It is also important to pay attention to levels of emotion experienced by individual group members to ensure that participants are not left feeling emotionally raw after discussing a particular topic or issue. A session should never be directed at or designed to evoke a participant's emotional distress. Facilitators need to be vigilant about participants' emotional responses to material presented and actions need to be taken to minimise any one's hurt or distress and to ensure their recovery.

Additional considerations for education groups

Not all Program clients are suitable for education groups. Screening processes to determine a client's eligibility should be in place.

Particular challenges for facilitation of Program groups include:

- involuntary participants who may be, at least initially, resistant to participating and learning from the group
- participants who are not familiar with group processes and who may need careful induction and monitoring
- participants who are heavily involved in their own 'stories', and at least initially, are reluctant to listen to others
- participants' entrenched attitudes and beliefs such as not taking responsibility for their role in the conflict or abuse, and
- the possibility that participants will have a lower level of positive feedback than is usual for other mainstream educational groups.

Counselling

Counselling is a general term which describes a process in which individuals, couples and other family members attempt, with the help of a counsellor, to discuss both the practical and emotional issues relating to their relationship.

Broadly speaking, many of the activities of the Program fall under the category of counselling. The counselling activities are considered to be those of family and child counselling under the *Family Law Act 1975* and are therefore covered by the confidentiality provisions in section 19N, as described in Part 4.

Counselling as it relates to this Program needs to encompass a broad-based and flexible approach so that there can be an effective response to the range of Program clients' needs.

Experience has shown that although different Program areas may place different emphases on the role that counselling plays in the services offered, there is general agreement about what core components and range of skills are required in Program-based counselling. Thus Program counselling activities can include:

- provision of information
- consultation
- counselling
- therapy and child-focused therapeutic mediation
- conciliation, and
- mediation (see glossary for definitions of these terms).

All or some of these skills may be required within the course of one intervention or over a period of time, and which skill requires the most emphasis will depend on what point the case management process has arrived at and/or the clients' progress.

The Program counsellor needs to be able to work with people (particularly men) who are angry, challenging and who have a record of abusive behaviour. This requires understanding of domestic violence issues, including the effects of family violence on children.

Basic counselling precepts within this Program

Counselling in this Program is firmly based on a child-focused and child-inclusive practice model. The starting point for counselling is that there is no one 'right' perspective. Parents who are separated and in conflict usually see things from radically different perspectives. Each parent's individual experience of the relationship and separation is likely to be different. Similarly, their feelings as to what was significant, their beliefs about what is important for the future, and what they think is in the best interests of the child/ren will likely be very different. Their values and beliefs in terms of, for example, schooling, discipline, social activity, nutrition, hairstyles and future occupations may all be different.

Unifam in Parramatta refers to counselling as 'consultation' in order to differentiate its service from the service provided by the Family Court Mediation Service which is popularly known as 'counselling'.

The counselling process

Counselling work with a family is often intensive in the early stages, and may require frequent contact with each parent. It is customary for the same counsellor to see both parents where possible. Depending on the agency resources and practice, consideration should be given as to whether the counsellor who sees the parents is also the counsellor for the children of the family. Where resources permit, Program providers may prefer to use different people in these roles, particularly given the specialist nature of skills required for working with children.

Counselling children

The purpose of meeting with and counselling a child is to:

- discover what their experiences are in relation to the separation and conflict, and how they perceive the issues
- ascertain whether, and if so, how the child is affected by the past or current separation of their parents and what impact conflict issues are having on them
- identify the child's preference regarding contact arrangements
- provide a child with an opportunity to explore their fears, hopes and concerns with someone who is not personally involved, and
- provide an advocate for their thoughts and feelings back to the parents.

In most cases it is appropriate for the children to be included in counselling provided they are at least four years old, are willing to participate, and have the consent of both parents.

Child counselling may take the form of a single assessment session along the lines of a child inclusive mediation interview when feedback is given to the parents (see glossary) or when the child's thoughts about a specific issue are sought. If the family situation is unstable and/or unpredictable, a child may be given regular appointments.

Ideally, the parents will not be present when discussions with the child take place. The decision as to whether siblings should be seen together or individually also needs to be made. Generally it is preferable for them to be seen individually, but before this occurs, there may be a need for sessions with all the siblings together, allowing time for individual children to develop confidence and trust in the counsellor.

All discussions with children are confidential and privileged, and both parents and children should be made fully aware of this at intake.

At the end of each session, a child can be asked whether there is anything they want the counsellor to tell their mother or father or both, or whether there is anything the counsellor can help the child tell either or both parents. Experience so far indicates that children rarely choose to provide feedback to their parents face to face.

Although a child may be asked about how they feel about their parent, the counsellor should be careful not to try to use the child to find out about the parents. Equally, the counsellor needs to be cautious about how

the child's information is reported to the parents. This is particularly important when the same counsellor is seeing both the parents and children in the family.

Counselling parents

Counselling with parents may be face to face or by telephone. Much of the work, especially in the early stages, is likely to be conducted with parents on an individual basis. As time goes on, it may be possible to work with both parents together.

Short term personal counselling may be offered to a parent to address issues directly related to or impacting on a child. This may include topics such as grief over the loss of the relationship; victimisation or perpetration of domestic violence; anxiety and anger.

The Program counsellor can share the following core messages with clients:

- parents participate in this Program because they love their children and because they wish to resolve difficulties encountered in co-parenting
- the welfare of your children is of paramount importance
- children have rights; parents have responsibilities
- you each see things differently, you are each affected in different ways and you each have different beliefs about what is important for your child
- children's needs may be different from their parents' needs
- things are neither good nor bad, right nor wrong; they are more or less helpful, more or less appropriate, etc, and
- there are things you can do to make things easier for your kids.

Mediation and Conciliation

Mediation and conciliation skills are used in the Program across counselling, education and other interventions to supplement therapeutic and child-focused work with parents. These skills are used to identify the issues and options available to deal with them and the needs of the child.

They are also used when renegotiating parenting agreements that can then be ratified in the court.

When clients are seen as a couple, the intervention does not follow the traditional mediation or conciliation process. Mediation

and conciliation, as interventions on their own, may not be effective for many clients in the Program because:

- the Program focuses on the third party — the child — not the dispute
- the parents are so polarised and in the habit of blaming each other, they often cannot identify the disputed issues, and
- the parents have a long history of conflict and complex issues.

Case management

Case management provides the structural framework for the Program. The Program needs to recognise the time and resources that case management requires. It involves all the non face to face activities with clients including planning, case discussion with practitioners, monitoring, reviewing, liaising with others, case administration and supervision.

Case management provides a ‘governance’ function within the Program that establishes a suitable flexible overall plan for each client family. It assumes an even greater importance in a Program such as this because it is the framework for all of the interventions. Case management needs to be flexible enough to allow for clients to not always attend the Program, for re-ordering their passage within the Program and for by-passing aspects of it. The management of every case is clinically scrutinised to ensure that there is transparency in the way clients are involved and worked with.

The general principles of case management are that the case manager:

- establishes the parameters of the Program, including the bounds of confidentiality with both the family (children and adults) and the legal representatives involved in the case
- acts as advocate for the safety and well-being, including the physical, emotional and psychological well-being, of the children and each parent
- liaises with other services, children’s contact services, solicitors, child representatives, and the court when necessary
- undertakes a thorough assessment of the case and establishes a case plan that fits the needs of each particular client

- delivers some if not all of the services to the clients, or negotiates with other clinicians to work with the client, eg a referral for mediation or for a child interview separate from the clinical work with the adults, and
- is supervised clinically with regard to that case, even though other clinicians such as group workers may be involved in the interventions.

Therapeutic letters as a mode of counselling

Therapeutic letters are used by family therapists as an intervention to create change. They require very careful wording and must be constructed according to a particular template. As such they are unlike ordinary letters. They are written to the clients for the clients, and are not a formal report.

In this Program, therapeutic letters aim to create an opportunity for change and to assist parents to move from their entrenched positions. They may also describe the progress of each parent, clarify new arrangements, and put in writing summaries of the work that has been completed to date. These letters can then be taken by the clients to court, to their legal representatives, the children’s contact service etc.

Working with clients over the telephone and other media

Non face to face contact can make up a substantial component of work with clients. There is a sense of immediacy about using telephones and other media that is bettered only by personal attendance.

Communication via telephone or other media can allow for ‘shuttle’ negotiation in situations where a time delay might jeopardise the process of reaching an agreement.

Programs need to ensure that telephones are not used by clients as a means of ‘on tap’ access to their practitioner, or as a way to avoid participating fully in the Program. Work on the telephone may range from brief information exchange to longer more therapeutic sessions. Telephone support, instigated by the client, sometimes takes place after their participation in the formal part of the Program has finished.

PART 4

Working with agencies in the family law system

‘The children seem happier now they have come to talk with you’

Parent to counsellor

The Program’s services, such as referral and reporting, are optimised when networks are established with community organisations, family law related services, and the courts/judiciary. Referral may occur at any stage of the post-separation process and through a variety of means from self-referral to Family Court order. The majority of referrals to the Program come from the Family Court, the Federal Magistrates Court and private legal practitioners. There are also referrals from community legal services, legal aid commissions, and private or Government-funded health, social and educational service providers.

Program providers need to promote themselves and to establish their professional credibility with family law related services and courts. They also need to be aware of how those services operate.

Referral, information sharing and reporting protocols

Organisations and individuals who make referrals need to know the scope and capacity of the Program including the kinds of services it offers, as well as the likely waiting time involved before a client can be offered a place in the Program. They also need to know whether Program policy requires that both parties agree to attend activities.

It is recommended that Court Orders do not merely state that clients should ‘attend or contact’ the Program, but that they contain words such as ‘co-operate with the Program and be willing to commit to the Program’s recommendations’. Under s70NG(3), the court is required to notify the provider of the Program that it has directed a person for either assessment or attendance at a program.

In order to determine whether they can meet required timeframes for each case, Program providers need to know the anticipated timeframes for further Court or Magistrate Services hearings/interventions. It is also useful to create reciprocal protocols so that the expectations of each organisation can be accommodated.

Those who make referrals must be made aware of the restrictions on information sharing and reporting back on clients. Where clients are court-ordered to attend a Program, it is sufficient for the Program to report back to the court on the clients’ suitability to take part in the Program (s70NH(2)) and the clients’ attendance (s70NH(1)). The Program may need to ask for an extension of the clients’ attendance and may request the court for notification of the deadline for submission of reports.

Section 19N — confidentiality

Counselling conducted within the Program is provided through approved counselling organisations under the *Family Law Act 1975*. Section 19N (1) (a) sets out the legal requirements of family and child counsellors with regard to information sharing and reporting.

Section 19N (2) — (4) of the Act provides that:

- (2) evidence of anything said or any admission made, at a meeting or a conference conducted by a person to whom this section applies while the person is acting as such a person is not admissible:
 - (a) in any court (whether exercising federal jurisdiction or not);
 - (b) or in any proceedings before a person authorised by a law of the Commonwealth or of a State or Territory, or by consent of the parties, to hear evidence
- (3) Subsection (2) does not apply to the following:
 - (a) an admission by an adult that indicates that a child has been abused or is at risk of abuse;
 - (b) a disclosure by a child that indicates that a child has been abused or is at risk of abuse;

unless in the opinion of the court, there is sufficient evidence of the admission or disclosure available to the court from other sources.

(4) In this section:

abuse, in relation to a child means:

- (a) an assault including a sexual assault of the child which is an offence under a law written or unwritten in force in the State or Territory in which the act constituting the assault occurs; or
- (b) a person involving the child in a sexual activity with that person or another person in which the child is used, directly or indirectly, as a sexual object by the first mentioned person or the other person, and where there is unequal power in the relationship between the child and the first mentioned person.

child means a person who is under 18.

Other liaison — the wider systems

Staff need to be not only skilled in working with families, but also need to be able to work with and balance the often competing agendas of the systems of the law, child support agencies, extended families, and the wider community.

Legal Community

The legal community includes:

- Family Court Judges, Federal Magistrates and court officers
- legal assistance agencies including legal aid
- private legal practitioners
- community legal centres, and
- children’s representatives

Because places within the Program may not always be immediately available, it is important that the Program develops protocols with the court with regard to orders and referrals.

Better coordination and protocols between the courts and the Children’s Contact Services will help create more effective working relationships between the legal community and the Program.

Legal assistance and legal aid provisions can be found on the Family Law Online website (www.familylaw.gov.au _ ‘Getting Legal Help’ _ ‘Community Legal Centres’). Clients may be eligible for legal assistance and legal aid.

Children’s Contact Services

The Program provides a variety of interventions to help clients of children’s contact services and other agencies in the community sector. The Program can help parents, who have been under a supervised contact arrangement, to negotiate a plan to manage contact themselves.

Clients may elect to use Children’s Contact Services. If this service is offered by the host agency, liaison and cooperation between the services offered by the Program are relatively easy to manage, and exchange of information, such as details of a case management or of a client’s progress, may be appropriate. If this service is not offered by the Program agency, then negotiated and shared protocols are essential for successful collaboration between organisations.

Child Support Agency

Many people undertaking the Program will also be clients of the Child Support Agency. Formal exchange of client information is inappropriate, and so unlikely, but the Program should establish a link with the Child Support Agency's community liaison officer. This will enable the Program to keep up to date with changes in Child Support Agency rules and requirements. It will also provide the Child Support Agency with current information about Program resources and their availability.

The resolution of ongoing dispute and litigation around contact can, and often does bring about a decrease in the level of dispute about child support issues. Even where the issue of contact is not resolved, the Program helps address key Child Support Agency objectives by trying to bring about parental acceptance of emotional and financial responsibility for their children.

State Child Protection Authorities

It is essential that the Program has well-defined referral protocols for the reporting of what are considered serious matters to their local child protection authority. Child protection bodies often have Family Court liaison officers with whom links should be established.

The Program regularly deals with disputed allegations of child abuse which may have been investigated by the relevant State or Territory Department responsible for child protection. In these instances the safety of the child is paramount and the case plan may include supervised contact as a means of both monitoring the child's safety and providing both parents with assurances that contact is occurring in an appropriate environment.

Schools

At times, staff will need to liaise with school counsellors and teachers who are likely to have had first hand experience of a child's distress resulting from their parents' separation and contact disputes.

Community Reference Advisory Groups

It is important for the Program to consider having access to such a group. Members of an advisory group might comprise child and adolescent mental health organisations,

community police, Child Protection/ Department of Community Services, family law related services, and children's contact services.

Academic institutions

Program providers might consider developing links with academic institutions. It is important that academic research works with and informs new policy development and implementation. A relationship between the Program and academic institutions can be mutually advantageous. The benefits that academic institutions might offer for the Program include:

- supplying students for research and evaluation
- providing a level of expertise for ad hoc advice
- collaborating to expand and develop new fields of endeavour, such as this Program
- helping shape public perception of Program issues
- educating prospective practitioners
- giving current practitioners the opportunity to reflect on practice, and
- providing venues for community education in relation to the Program's subject matter.

The Program can offer academic institutions hands on experience and training for students. Such practical experience enhances the development of and research into the theory which underpins the Program.

Community resource groups

A number of Program clients may be actively assisted by support groups such as women's organisations and accommodation services. Whilst confidentiality requirements will restrict the Program from the sharing of information about individual cases with other service providers, it is important for the Program to establish its credentials with such agencies, ie to ensure that the program is seen as neutral, that it is not perceived as an enforcement agent in family law matters. Community groups provide a rich source of referral options for clients who are identified as having special needs. Options include drug and alcohol counselling, mental health services, women's resource groups, advocacy services and assistance with meeting financial and basic survival needs.

As part of the induction assessment and review processes, clients whose needs cannot be addressed by the Program provider, can be referred to other suitable agencies, when strong links with community organisations exist.

In order to take advantage of such links, community organisations will need information about the Program so that they can provide these details to their clients.

Community organisations should be provided with these details early on before any referrals to the Program are considered.

This will obviate the potential for misleading information being given out in an ad hoc manner.

PART 5

Primary dispute resolution capacity and the legislative framework

‘I felt I could talk about what’s happened with mum and dad.’

Child on his relationship with the counsellor

Organisations intending to offer this Program need to be able to provide a range of primary dispute resolution services for separated parents and their children. The Program is part of the family law system and needs to operate within the legislative environment.

Background and objectives under the Family Law Act 1975

Where does the term ‘primary dispute resolution’ come from?

Primary dispute resolution is a term in the *Family Law Act 1975* (the Act) which is used to encompass the services and methods of dispute resolution available under the Act. The term ‘primary’ is used rather than ‘alternative’ to convey the message that the methods employed are to be the principal dispute resolution methods for family law matters.

Why did the Government want law reform?

Family law is the area in which the number of citizens who will have direct contact with the law will be greater than any other. Members of Parliament often hear allegations from constituents that the law and the legal system have assisted their former partner to exploit the separation to their own advantage. In order to lessen the need for court action, there was a need to find

alternative methods for dealing with such issues. The Government considered that the family law system was complex and costly, and focused too narrowly on traditional litigation. There was a need to change the focus of dispute resolution from litigation to non-litigation methods, such as those practised by the Family Court and the community sector. Such a focus would encourage parents to develop and agree on solutions themselves rather than have them imposed by others.

What is the object of primary dispute resolution in the Family Law Act 1975?

Part III of the Act emphasises that counselling, mediation and arbitration are the primary dispute resolution mechanisms for family law disputes. Part III shifts the focus of family law dispute resolution away from court imposed solutions to the counselling, mediation and arbitration services available under the Act. Because of the expanded role of approved community counsellors and mediators, protections and obligations needed to be put in place. Judges and legal practitioners have a duty not only to consider the possibility of reconciliation of the parties, but to advise people about the primary dispute resolution methods available to them at all stages of the dispute.

What did the Government want to achieve?

The Act is consistent with the Government's aim to encourage the use of alternative dispute resolution mechanisms. It emphasises what the Government believes is the importance of methods of dispute resolution over litigation. Couples whose relationship has broken down are encouraged to try to settle their differences through counselling and mediation and other forms of dispute resolution prior to seeking a court-imposed decision.

The Act (through the objects of Part VII) recognises the rights of children, based on the *United Nations Convention on the Rights of the Child*. It replaces ownership concepts of 'custody' and 'access' with a parental responsibility for providing 'residence' and 'contact'. However, because parenting after separation involves ongoing responsibility by both parents, the court will make orders if the parents fail to agree on how to care for the child.

The Act therefore is based on parental responsibilities for the care, welfare and development of children and provides a legislative approach to enable parents to negotiate and agree between themselves about a proper basis for discharging those responsibilities.

Government support for Primary Dispute Resolution

The Government remains committed to funding a range of programs for marriage and family skills and the prevention of the breakdown in marriages (\$20.7m in 1993–94). Since 1994 it has made additional and new funding available to offer a range of alternatives to litigation and to ensure that services provided are both effective and appropriate.

The range of services funded by Government for separating families now covers counselling, mediation, conciliation, Contact Orders programs, children's contact services, access to family law online/hotline and primary dispute resolution services in regional areas as well as legal aid commissions (\$29.3m in 2003–04 plus \$1m for legal aid primary dispute resolution).

What are the benefits of primary dispute resolution and how does the Act enforce compliance with contact orders?

Primary dispute resolution is widely accepted as a means of providing benefits at many levels, particularly when it is child-focused. Individuals express their views and

experiences as part of the process and feel satisfaction as a result of being heard.

Couples can make their own agreements and feel more in control and empowered by sorting out their own problems. Families establish a relationship that is acknowledged as being different from what they had before the family separated. Emotional and financial costs are minimised.

The outcomes are likely to be better for the children when the two parents are able to agree on arrangements that put the welfare of the child first. The parents acquire a knowledge and skills base from which to sort out problems that may arise in the future as the child grows up and circumstances change. Agreements made by primary dispute resolution processes are more likely to be complied with than decisions imposed on the family by courts. Agreements made by parents meet the intent of the Act which requires both parents to discharge their responsibilities for the care and welfare of their children.

The Program was implemented at the same time as other broader changes to the Act were being made to address the issue of enforcement of parenting orders. The changes, introduced into Parliament in 2000, comprised:

- an initial legislative provision to raise the profile of parents' obligations towards their children following separation
- a second tier based on a court referral or ordering for clients to attend an appropriate parenting program, and
- a third tier providing for punitive measures in cases where persistent breaches of parenting orders have occurred.

The family law system

Many services assist families to cope with separation and divorce issues. Settling separation isn't just about going to court to argue about property settlements or parenting arrangements. The family law system includes all the service providers who help families to resolve parenting, financial, legal, and emotional problems. It includes social workers, community workers, mediators, and financial counsellors as well as lawyers. The Child Support Agency and Centrelink, the courts and legal aid offices are all part of the system.²

The family law system assists people who are:

- experiencing relationship problems and are separating, divorcing, or adjusting to

separation or divorce, especially those with post-separation parenting responsibilities, and

- children and significant other people (including grandparents and new partners) directly affected by separation, divorce or family law/child support proceedings.

Attributes required by primary dispute resolution services for working within the family law system

The attributes required are that the organisation:

- is well integrated within the family law system
- has strong links at all levels with the court
- sees clients that are separated/divorced
- is informed of the responsibilities of the parents under the Act
- provides primary dispute resolution services for clients who are at any stage of the separation and divorce process
- offers a service to children and members of the extended family where appropriate
- provides culturally inclusive and sensitive services
- works with other agencies, both legal and community-based family support, to accept suitable referrals and where necessary, refer on to other organisations
- has links with all or most of the points where separating families come into contact, for the first time, with the family law system, and
- has a good knowledge of the roles of other points of contact within the family law system.

Government-funded primary dispute resolution services meet the needs of the target groups by:

- having staff with the appropriate qualifications and experience
- being approved, under the Act, to provide counselling and/or mediation services
- helping the parents to use primary dispute resolution to avoid or minimise interaction with the courts

- helping the parents reach an agreement about parenting arrangements or other issues
- improving the parents' ability to create an agreement for themselves in the future
- having a child-inclusive focus, which aims to minimise the effects of conflict on the child
- providing a range of case-managed interventions for clients with different needs and/or who are at different stages in the separation or divorce process
- engaging the other parent, if only one parent comes to or is referred to the service
- knowing the characteristics of the different types of primary dispute resolution clients
- maintaining records and statistics to ensure that the proposed service fits the client profile
- determining how the service delivery model fits with the clients' experience of the service
- having strategies in place to ensure that the potential clients for the services are the right ones
- having practices in place so that when clients contact the organisation they are informed in a timely way about the services being offered
- providing pamphlets, brochures, and/or Internet-based information about what the service has to offer, and
- engaging Aboriginal and Torres Strait Island Australian clients, people from diverse cultural and religious backgrounds, and people from low-income groups.

PART 6

Organisational issues

‘I wish all kids could go to an island then mum and dad could sort things out and then we could go back’

Child speaking to a counsellor

Impact of the Program on the organisation

When contemplating becoming a provider of the Program, consideration needs to be given to the impact that it will have on the organisation as a whole. How the three current sites describe the impact is outlined below. Some of this material has been dealt with separately and in more detail in earlier sections of the report, but it is all drawn together here to give a coherent description of how the Program impacts on the organisation.

Where clients’ needs are particularly intense, clinicians working in the Program will spend most of their time thinking and talking about this client group. The time spent by clinicians attending to clients’ needs will be well in excess of the amount of time they officially spend in the Program, either because of the time spent working across more than one program or because of the proportion of the clinicians’ overall caseload that these clients require. During supervision, it is likely that the clinician will want to discuss these clients at every session, at the expense of clients from other programs. Similarly, discussions with their colleagues will be about these clients and not others.

Therefore, this client group can dominate the clinical life of the organisation.

This client group has multiple issues and even when agreement has been reached about the parenting arrangements for their children they will still require considerable assistance to deal with their own issues. In multi-program organisations it will result in large numbers of referrals to other activities, resulting in this client group ‘spilling over’ and displacing the traditional client group to become the new major client group.

Practitioners in other programs, while not needing to be as multi-skilled as those in this Program, need to develop sufficient skills whereby they are comfortable enough to work with this client group, and so will not want to refer them back to the Program only to have them referred out again.

This is a resource intensive client group. More hours of intervention per case are required than other programs delivered under the Family Relationships Services Program in terms of intake, frequency of sessions, assistance required between sessions and length of time of involvement, which can be up to 24 months. During intake much more information is required to be collected. This might entail verbal reports from the client

and the referrer together with written reports from various sources including any Court Orders (family law, family violence), multiple addresses of all the people involved, and previous involvement with other agencies regarding attempted solutions.

Because of the intensity of emotion in the initial stages, there is usually a need for regular sessions at short intervals until the clients feel secure and progress is more likely to result. During this period clients will often make contact with clinicians between sessions regarding their situation and will nearly always talk about the behaviour of their former partner, which they perceive to be in some way negatively affecting progress and the child's relationship with them. The process of engagement, delivery of the various primary dispute resolution interventions and the parents finally accepting and gaining confidence that they are able to deal with each other for the benefit of their children without erupting into negative conflict can take between 18 and 24 months. This requires staff commitment and organisational support.

The combination of staff commitment, skills required and the behaviour of this client group can place staff at increased risk of burnout. While this client group would like their situation to improve, their behaviour is more like that of involuntary clients and indeed many are court-ordered to attend. Often each parent believes it is the other one that needs to do all the changing or be out of both their own and the child's life altogether. To turn this around and to help the parents reach workable parenting arrangements requires multi-skilling in the areas of counselling, group work, and mediation/conciliation as well as the ability to be comfortable with high conflict and slow client progress. Staff involved need to enjoy being involved with involuntary clients and to not require clients' curiosity and joy of exploring issues (which is generally absent with this client group) as the main motivating factor in their work. This is a specialised area, and not suitable for everyone.

One of the key strategies for countering the increased vulnerability to burnout is for the organisation to provide more resources for the extra supervision required by staff.

Because nearly all clients are involved or have been involved in the family law system, have solicitors and are often court-ordered to attend there is a strong requirement for Program staff to possess a greater level of

knowledge and understanding of family law legislation and the court system compared to those working in the health system or within general counselling. This enables staff to be fully engaged with the client and to be able to be persuasive when liaising and dealing with the legal system, including solicitors, courts and other legal services.

It is clear that the delivery of the Program makes great demands on the organisation. Additional structures and processes are required both within this Program and others delivered by the organisation to adequately support staff who work with this client group. Thus the size of the organisation is an important factor when it is considering becoming a provider. A one or two program organisation may find it difficult to generate the resources to put the support structures and processes in place. In addition, having a number of programs allows flexibility to move staff around and vary their caseload types so that they will be less vulnerable to burnout. In addition, the Program will not become the dominant feature of the organisation's clinical life.

Staff management

When implementing this type of Program it is vital that the staff employed are properly qualified and have a minimum of at least two years' experience working with families. A few essential requirements of staff are good core counselling, mediation and child therapy skills.

Staff management in the Program focuses around the diverse skills and expectations required to proactively assist parents and children who are entrenched in conflict. Staff management styles differ in the three original Programs.

In an agency with other counselling and mediation programs the necessary skills can be spread across a large number of staff members. This allows staff to work with different client types, helping to obviate the 'burn out' symptoms associated with particular groups of clients. On the other hand, this style of management requires close consultation among the staff, with regular case management meetings to keep them up to date with regard to families' progress through the Program.

A different agency with a variety of programs, that is one not limited to counselling and mediation, may manage staff more independently. There may be a

smaller number of staff who are multi-skilled and who can provide the range of services necessary to assist this particular group. In this style of management it is essential that staff have access to high quality supervision, and that they are always aware of their limitations. Regular consultation among staff, together with case management meetings, is an imperative.

The style of management is also dependent on the range of clients. That is, if the clients consist entirely of those families with final orders and continual breach applications then the need to spread the load across a large number of staff members becomes more important. If on the other hand the clients are in a range within the Family Court population then either style of management could be suitable.

Supervision and case discussion

The purpose of supervision in the Program is to provide a clinical forum for the worker to reflect on each parent's issues and concerns in regard to contact and how their children are managing. The aim is to understand the underlying issues that are fuelling the conflict and 'stuck-ness' around the Court Orders and the plans for contact. Once these issues are established, a case plan needs to be developed which will address them, based on material provided by the child/ren. The case plan is continually revised throughout the supervision process.

The aim of supervision in this Program is to provide the clinician with a means of support when dealing with the onslaught of two polarised parenting stories, the trauma in the system, the distress of the children, past and present domestic violence, unresolved child abuse allegations and concerns about children's ongoing safety, as well as the high levels of anxiety and anger which result in conflict between the parents.

There are both similarities and differences in the way clinical supervision has evolved within these Programs, and in how it compares with other forms of supervision. The process is similar to therapy supervision in that it involves case presentation, discussion of issues, crisis response, skills development and support of the clinician. There are differences however in the levels of support, both formal and informal, (sometimes offered on a daily basis), and the greater need for debriefing the clinician after distressing sessions or phone calls.

General Principles and Guidelines

It is important that supervision involves regular *formal* supervision, which takes place at least fortnightly, and then *informal* case discussion and decision making as the need arises.

- **Individual supervision** is essential to allow for the growth of the clinician.
- **Group supervision** is useful to assist the team to develop a combined approach to issues, to see the themes and patterns that emerge across cases, and to help normalise each person's experience of the difficulties and stresses inherent in such cases.
- Supervision may be a **decision-making** process in this Program, which may also involve a reflection on the therapeutic relationship. Ongoing decisions and frequent revisions of the case plan may be made in consultation with a supervisor. Specific instructions by the supervisor are sometimes necessary to help the clinician manage the anxiety and stress imposed by the system as a whole, when dealing with the family, the extended family and the legal system.
- **Intra-team supervision** and case discussion is imperative where one clinician is seeing the parents and another is seeing the child/ren, to enable clear direction for both workers. There can be three-way supervision with both clinicians and the supervisor, or it can occur between the two staff members themselves.

Issues for supervision

The general supervisory skills that are developed when managing this unique client group are similar to general therapy skills, but with an additional emphasis on issues such as management of client anxiety and conflict, especially when it is directed towards the clinician; the clinical management of joint sessions with parents who are experiencing a lot of conflict after separation; engaging an involuntary and non-compliant client; and maintaining the focus on the voice of the children and any impact the dispute is having on them.

What is required of the supervisor?

The supervisor of the clinicians in this Program needs to have a range of tools including:

- theoretical understanding of the research literature in the area of post separation

- systems theory and practice
- primary dispute resolution techniques
- parallel processes and transference
- legal knowledge of court processes, orders and court intervention;
- child and adolescent development
- notions of neutrality and a tolerance of a high level of ambiguity and uncertainty
- debriefing skills, trauma theory and critical incident debriefing, and
- a knowledge of attachment theory and literature.

Supervision of administrative and intake staff

As the first port of call, the front desk staff and intake workers are regularly exposed to angry and distressed clients, who can be demanding, who may not be prepared to wait to speak to a clinician, who may become abusive, or who may be extremely distressed and/or have suicidal tendencies. These staff members require regular supervision and access to debriefing on a daily basis if needed, either with the Program supervisor or a clinician in the Program. The issues that arise for intake staff include:

- the management of angry, abusive, distressed or suicidal clients
- establishment of clear boundaries and dealing with clients on the phone
- self-management and awareness—not taking on the issues of clients, and
- legal knowledge about Court Orders.

Occupational health and safety issues

References to occupational health and safety legislation and access to a template manual are provided in the Bibliography. Each organisation is required by law to have an operational occupational health and safety plan and these plans will identify issues that are common to all social service organisations. Plans for this Program need to take account of the client culture (see earlier section on Program clients) and make provision for staff where there is a heightened risk to their physical or emotional safety.

The plans also have to address the Program specific needs of clients who are participating in more than one service offered by the Program (compared with the needs of those participating in single interventions only) such as their passage between different aspects of the Program in order to ensure staff safety and client rights are fully protected.

The nature of the Program's work requires comprehensive safety management procedures to be in place allowing for responses to all situations where there are concerns about violence and the safety of clients and staff. In the event of a critical incident, the program needs to have critical incident management procedures in place. These should ensure that appropriate critical incident de-briefing takes place, there are clear reporting procedures within the agency and a critical incident management plan is developed which provides support for staff as required.

PART 7

Developing the program

'I wish mum and dad would stop fighting'

Child speaking to a counsellor

Evaluation and research

A well-planned and well-conducted evaluation strategy that is both rigorous and objective is an important component of the Program. A properly designed evaluation will allow the Government and other stakeholders to assess whether the Program is helping bring about its objectives.

Evaluation results can help government, policy making bodies and program delivery agencies argue for the expansion of the Program, and/or justify modifying the content of the Program and its method of delivery.

In some instances the Government might conduct an evaluation of the Program. This might be called an external evaluation. In some other cases, the organisation delivering the Program may decide that it wishes to run its own evaluation or research. This might be called an internal evaluation.

In the case of internal evaluations, as mentioned elsewhere in this manual, it is important to utilise links made with tertiary educational institutions, which can supply the technical expertise often needed for this type of research study.

For both internal and external evaluations, the information and/or report produced might be shared with and utilised by the Government, the organisation delivering the Program, other stakeholders in the family law system, and/or research bodies such as universities.

Therefore when setting up a Program, organisations should be cognizant of, and prepared for the demands an evaluation might place on the collection and analysis of data.

Broadly speaking, evaluations deal with two types of information, qualitative and quantitative data. Qualitative data deals with the 'how' and 'why' of what makes the Program work or not work. Quantitative data relates to examining whether, and to what degree, the Program does or does not work. Some examples of broad categories of qualitative information for the Program are:

- program content
- program targeting
- delivery of the Program
- reaction to the Program by stakeholders other than clients, and
- the Program's interface with other Family Relationships Services Programs (FRSP) and Government programs.

Some examples of quantitative information are:

- rate of making agreements about contact issues and/or parenting after the Program
- rate of subsequent litigation in the court system after the Program
- children's attitudes, beliefs and/or behaviour after the Program
- rate of payment of child support after the Program
- clients' ability to keep to and/or adjust agreements about contact, and
- clients' satisfaction with the Program

More detailed information about the range of data entities (quantitative and qualitative) that might be considered for collection, analysis and evaluation is outlined in Appendix 7.

Some of the methodological issues that may need to be addressed during a quantitative evaluation include:

- accessing clients' court data
- identifying a suitable control or comparison group (ie a group of 'non-Program participants' who are clients of the court, and whose demographic characteristics are similar to those taking part in this pilot)
- designing a study where data about a group is collected prior to a treatment (in this instance, participation in the Program) and then data about the same group is gathered after treatment, and
- randomly assigning people wanting to join the pilot to treatment (participation) or control (non-participation) groups.

An assessment of an individual client's progress can be obtained by using a broad brush client information form during intake at the beginning of the process, and again at the end of the process, when the client has finished the Program. Comparison of the two forms provides Program staff with an indication of any changes that have occurred over the period. It is important to realise, however, that such changes may be due to factors external to the Program.

The final assessment form might include a short feedback request for details of any changes that have occurred in either the contact/residency arrangements and/or the relationship between the parents during the participant's time with the Program. In most cases this final assessment is best completed through an interview with the client.

Material gained from comparing the two tests can be augmented by regular staff reviews of the Program. Also, participants' feedback, input, and suggestions, should be considered when making decisions about changing the Program.

New ways of working

Program services are provided in a dynamic environment where not only ways of working with clients are evolving but new ways of thinking and working are being encouraged through government policy frameworks and initiatives.

The Family Law Pathways Advisory Group was established by the Government in May 2000 to advise it on how to achieve an integrated family law system that is flexible

and enables both the individual and the community to achieve the best possible outcome for families. The Advisory Group's Report, *Out of the Maze: Pathways to the Future for Families Experiencing Separation*, was launched in August 2001. The Advisory Group made a wide range of recommendations directed not only to government but also to the courts, private professionals, and organisations working within the family law system. The Report was positively received by the family law sector and work to progress many of its recommendations was quickly commenced.

The Government's Response was released in May 2003. It outlined the broad range of initiatives being pursued to address the Report's three overarching themes:

- (i) early help—connecting people to information and services
- (ii) better outcomes for children and young people, and
- (iii) an integrated system that meets families' needs.

On 29 December 2003 the House of Representatives Family and Community Affairs Committee released the report on its inquiry into child custody arrangements in the event of separation, entitled *Every picture tells a story*. The report is wide ranging in its analysis of the complex and important issues that impact on family separation. The Government welcomes the report and will be closely considering the recommendations contained in it.

The Committee's report is available at their website, along with media releases and submissions that were made to the inquiry. The website address is:

<http://www.aph.gov.au/house/committee/fca>
 Australian Law Online includes Family Law Online at www.familylaw.gov.au, and *Family Law Hotline* (1800 050 321). The website caters for both the public and practitioners in the family law system and their clients, and is a useful resource for all groups.

APPENDIX 1

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<http://www.ntu.edu.au/atsis/crosscultural.html>

<http://www.anu.edu.au/culture/>

<http://www.austemb.org/abotor.htm> , about Aboriginal and Torres Strait Island Australians.

Alcohol and drugs

There are a number of resources available on the internet to assist practitioners in this context which includes the following:

<http://www.ancd.org.au>

<http://www.health.gov.au/pubhlth/strateg/drugs/alcohol/>

<http://www.geocities.com/morrison94/> (A hand-book on the DSM IV)

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APPENDIX 2

United Nations Convention on the Rights of the Child, Geneva 1989

The following excerpts have been taken from the 1989 Geneva Charter. The rights of children (specifically their right to taking part in activities and decisions that affect them) are stated most clearly in three of the Conventions 54 articles and state that parties should assure:

Article 12: ...the child who is capable of forming his or her own views [has] the right to express freely in all matters that affect the child, the views of the child being given due weight in accordance with the age and maturity of the child

Article 13: ...the right of freedom of expression [including] the right to seek, review and impart information and ideas of all kinds...through any other media of the child's choice

Article 31: ...the right of the child to rest and leisure, to engage in play and cultural life and the arts

For further study on this subject, see: <http://www.unhchr.ch/html/menu3/b/k2crc.htm>.

Further links from the above page go to the Office of the High Commissioner for Human Rights. The direct link is: <http://www.unhchr.ch/html/menu2/6/crc/>

When accessing the UN Official Document Service database, it is best to search by committee/paper number, or by the name of the committee, the Committee on the Rights of the Child (CRC). The Internet is also an excellent resource for links to working party papers, and specific country reports on issues concerned with children's rights. One link worth accessing is: <http://www.unhchr.ch/tbs/doc.nsf>.

Additional reference: Davis, M F and Powell, R, 'The International Convention on the Rights of the Child: A Catalyst for Innovative Childcare Policies', *Human Rights Quarterly*, No 25, 2003: pp 689-719.

APPENDIX 3

Manual updates

This Resource Manual has been produced by bringing together the ideas, recommendations and practices of each of the three existing Programs for their own continuing use and for the use of new Program providers.

The Resource Manual has been produced in hard copy form and bound for initial distribution. Accompanying videos called *Children First and Putting Your Children First* are also available.

The original material will be retained by the Attorney-General's Department, Family Pathways Branch. All enquiries and recommendations for changes should be directed to:

Family Pathways Branch
Attorney-General's Department
Robert Garran Offices
National Circuit
Barton ACT 2600
Australia

APPENDIX 4

Glossary of terms used in this Resource Manual and other relevant terminology

Alternative Dispute Resolution: Alternative dispute resolution refers to procedures, other than adjudication, which may be used within or outside the courts and tribunals to resolve a dispute. Mediation, evaluation, case appraisal and arbitration are described as alternative dispute resolution procedures. Alternative dispute resolution may produce both binding and non-binding decisions.

Apprehended Violence Order (AVO): An apprehended violence order is a court order obtained from a local court that protects a person who reasonably fears violence, molestation or harassment from a specified person. The order is normally for a specific period of time. It may restrain the person against whom the order has been obtained from approaching, speaking to, telephoning or otherwise contacting the other person or persons. It may also be made for the protection of the other people living with the victim, including children.

Note: An apprehended violence order is known by various other abbreviations in other State jurisdictions.

Arbitration: A process which is similar to judicial determination where the parties agree to refer the claim to an independent third party and accept the decision made by that party. Legally binding arbitration can only be used for property disputes. It may be used for the resolution of disputes under the *Family Law Act 1975* (governed by the *Family Law Act 1975* and the *Family Law Regulations*).

Best practice: The praxis (theory and practice) which is acknowledged by practitioners as being the most effective and appropriate model for working in the contact

order arena. This Resource Manual sets out, as far as possible, a consensus formed by the views of the three service providers who participated in the pilot Contact Orders Programs for best practice.

Case closure: An administrative act that indicates completion of a set of caseplanned interventions and a casemanaged sequence of contacts.

Case plan: The agreed basis upon which the work with a client or clients will proceed. Agreement is generated with the client in the first instance and ratified by the process of professional supervision.

Case management: A systemic and integrated process, within which clients are inducted, assessed, allocated within a range of interventions and their participation and progress according to pre-determined criteria is continuously reviewed.

Child focused practice: Means finding the child's voice in the absence of the child.

Child inclusive practice: Means finding the child's voice in the presence of the child.

Child support: The financial support of children under the *Child Support Assessment Act 1989*, including financial support under this Act (and amendments) by way of a lump sum payment or by way of transfer or settlement of property.

Children's Contact Services: Services that provide a safe environment for children to maintain contact with their non-resident parent by offering a neutral location for changeovers or supervised contact visits. Contact services aim to ensure the safety and welfare of families, and to help families reach

the goal of independently managing contact, when appropriate.

Client assessment: The process of arriving at an understanding of the client's needs and problems in order to construct a plan that alleviates the problems by delivering appropriate services. For this Program it involves the separated parents and the children, and may involve other family members.

Clinical assessment: A systematic examination of the presenting client and their situation. There are formal assessment devices and other examination techniques used to examine components such as the presenting problem, interpersonal relationships, contextual and socio-cultural factors, and the individual and family history. For this Program the assessment includes review of the legal history including details of contact with the Family Court.

Coaching: Giving instruction in the maintenance of appropriate behaviour and/or problem solving. It is also known as enactment.

Cognitive Behavioural Therapy: Cognitive-behavioural therapies target both cognition and behaviour as primary change areas. Psychological function is seen as a result of the interaction between three interlocking sets of factors: behaviour, cognitive factors and environmental influences. This approach emphasises the need for attitude change to promote and maintain changes in behaviour.

Cognitive theory: Cognitive theory focuses on the acquisition and function of human thought, how and what one comes to know and think, and the role this plays in what one does and feels. A person's cognitive processes consist of thoughts, memories and reflections of feelings, as well experiences of the environment and people in the environment.

Columbus Project: This project based in the Family Court in Western Australia is similar to Project Magellan in Victoria in that the focus is on the inter-disciplinary management of child abuse and family violence, together with clients moving through the family law system.

Conciliation: Sometimes referred to as directive or outcome-oriented counselling. Parties who are assessed as needing a directive approach to resolve conflict may be

referred to conciliation. This can be voluntary or court-ordered and can be court based or conducted by approved Government funded community agencies. An assessment will be made as to whether the conciliation should be with the couple in the same room or shuttled, either at the same time in different rooms or at different times, if there are issues of safety.

Confidentiality: An ethical standard that safeguards clients against disclosure without their consent of information received in the context of a professional relationship.

Conflicted couples: A term which describes parents, usually separated (or those who have been living as a family) who have unresolved or incomplete and often acrimonious issues (which may or may not involve violence) and which relate to their own relationship or their relationship with their dependent children.

Connect Kids group Program: Unifam—The children's group Program assists children's adjustment to situations of separation and divorce, especially where there is high conflict and violence in the relationships. The structured group activities take children through a series of exercises to help them express their feelings about the sort of events and issues that arise when parents are separated and where there is high conflict between parents.

Consultation: A term used for a counselling session in which there is intersection between three skills to form a new model of clinical practice. Consultations involve a pattern of intervention aimed at understanding the intrapsychic and relational patterns evident in the adult relationship and using this information strategically. It is a merger of psycho-educational, therapeutic and mediation processes. Consultations include children as well as adults, and the number of sessions is determined on a case by case basis.

Contact: Otherwise referred to as 'access' or 'visitation'. Contact is the term that indicates what occurs when the visiting parent collects the child(ren) to exercise visitation or access rights.

Contact Order: Section 64 B (4) of the *Family Law Act 1975* states that 'the contact between a child and another person or persons as a part of any Parenting Order in force shall be known as a Contact Order.'

Contact Orders Programs: The project was initially developed as a pilot and is now being developed as structured and definitive Programs to work with conflicted parents who are experiencing difficulties with contact issues through the family court system. The primary focus of the Contact Orders Program is the best interests of the children.

Core competencies: The skills, qualifications and/or experience directly relevant to and underpinning specialised areas of work such as mediation and counselling.

Counselling: The use of a range of therapeutic interventions to help clients change behaviour and develop coping skills to deal with life circumstances.

Dependent children: Children who are under the age of 18 years and who are financially dependent on their parents.

Directive counselling: Counselling in which the counsellor directly suggests alternative ways of behaving.

Disciplines: The skill sets, professional standards, policies and procedures unilaterally agreed to, bound by a set of professional ethics, subject to professional supervision and practised by practitioners within a specified field.

Diversionary: The way in which the Contact Orders Program sets out to divert people away from litigation as a first resort as a means of resolving their contact issues.

Education: A context within which a practitioner provides a client or clients with an exhaustive range of options available to them and subsequently a detailed understanding of all relevant information pertaining to Contact Orders so that they can make informed choices about what actions to take.

Facilitation: A process in which the parties (usually a group), work with the assistance of a neutral third party (the facilitator) to identify problems to be solved, tasks to be accomplished or disputed issues to be resolved. Facilitation may conclude there, or it may continue to assist the parties to develop options, consider alternatives and endeavour to reach an agreement. The facilitator has no advisory or determinative role on the content of the matters discussed or the outcome of the process, but may advise on or determine the process of facilitation.

Family Systems Theory: Family systems theory views the family as a social system. Central to this theory is the concept of family cybernetics (methods of control and communication). See systems theory.

FAMnet: FAMnet is the former name of the Department of Family and Community Services database. It is now known as FACSLink.

Follow-up procedures: Assessment of progress at six (6) or twelve (12) months after case closure.

General education sessions: Brief seminars containing information about the Family Law Court and information concerning children in situations of separation and divorce.

Group work: A process whereby a facilitator establishes a closed and shared process for parents dealing with Contact Order issues to identify and address shared objectives and options, and facilitate their resolution where this is possible.

Group therapy: Also described as therapeutic group work, eg Connect Kids Group Program, Dads for Kids, and post separation parenting Programs.

Individual client screening: Assessment procedures which determine whether the individual applying to receive services is eligible to participate in the Contact Orders Program.

Individual counselling: Counselling conducted on an individual face to face basis or by telephone. See Counselling.

Information provision: Information provision is associated with induction. It is the process by which clients are apprised of the content of the Program and the attendant obligation upon them as participants. Information provision usually also covers confidentiality issues and is by design, directed to ensuring parents are aware of the principle focus of the Program, ie the best interests of the children.

Informed referral: The presentation of referral information to another organisation that comprehensively addresses the criteria for further action, as detailed by that organisation. Informed referrals are especially significant where urgency is a consideration.

Internal referral: A referral given by a member within the same agency.

Keeping Contact program: (Unifam, Parramatta) The name of the Contact Orders Program at Unifam. This Program assists families with adjustments associated with separation and divorce. The aim is to reduce breaches of Contact Orders by assisting parents to consider the best interests of their children.

Magellan Project: Project Magellan is a Family Court project for managing residence and contact disputes when allegations of child abuse have been made.

Mediation: A process in which parties to a dispute, with the assistance of a neutral third party (the mediator), jointly identify the disputed issues, develop options, consider alternatives, and endeavour to reach an agreement that will accommodate their needs. The mediator has no advisory or determinative role in the content of the dispute or its resolution, but may advise on or determine the process of mediation through which resolution is attempted. Mediation is a process that emphasises the participants' own responsibilities for making decisions that affect their lives. The agreement reached is not legally binding. While pure mediation is not practised at any of the Program organisations, the mediation skill sets are actively used throughout all of the Programs.

Minimum standards for practice: A set of core competencies agreed to by service providers who are providers in the Program. These serve as a guide to ensure that practice in the Primary Dispute Resolution area meets minimum professional standards.

Mums and Dads Forever program (Anglicare WA): The focus of this Program is to assist adults and their children adjust to situations of separation and divorce. Mums and Dads Forever focuses particularly on bringing the needs of children in these situations to the attention of their parents.

Non-directive counselling: A technique used by therapists and counsellors where the therapist guides, but does not direct, an individual or family towards the change they desire.

Parental Alienation Syndrome: Parental alienation involves an extreme attachment to one parent. It has been described as a situation in which children are preoccupied with deprecation and denigration of the alternative parent that is unjustified and/or exaggerated.

Parents in Contact group program: (Relationships Australia, Tasmania) The Parents in Contact Group is a six-week Program focusing on the needs of children involved in separation and/or divorce situations.

Practitioner: For the purposes of this Resource Manual, 'practitioner' can be taken to mean all staff that work with clients in the Contact Order context and includes reception staff as well as Managers and Coordinators. At Unifam in Parramatta, the preferred term is 'consultant'.

Process: A series of pre-ordained actions or steps taken in order to achieve a particular end. Applied examples of processes are counselling and information provision.

Primary Dispute Resolution: Primary Dispute Resolution is the terminology introduced in the 1995 amendments to the *Family Law Act 1975* to emphasise the central importance of alternatives to litigation as a means of resolving family disputes.

Psychodynamic therapy: Psychodynamic theory is concerned with key relationships between self and significant others, past and present experience, and inner and outer reality. The therapy aims to explore individual and interpersonal factors which have an impact on current relationships and functioning, to provide insight into genetic and unconscious factors from past conflicts, and to help individuals function more freely and authentically in terms of emotions and thoughts.

Reconciliation: The re-commencement of a severed relationship.

Residence: Previously referred to as 'custody' and changed to reflect more focus on the child and less emphasis on the parent(s). For the purposes of this Resource Manual, 'residence' may be defined as the place where the child/ren live(s).

Restraining Orders: Many states have different procedures and names for orders made which relate to domestic violence issues. Orders issued in a domestic violence case may include, but are not restricted to:

- that the restrained person shall not contact, attack, strike, threaten, assault, telephone or otherwise disturb the peace of the protected person
- that the restrained person shall immediately move from the residence shared with the protected person

- that the restrained person shall remain a prescribed distance away from the protected person, the protected person's residence, and the protected person's place of employment, and
- that the restrained person is ordered to participate in such treatment and or counselling as directed by the court and to return to court with proof of completion of such a Program.

Other people, such as children and other family members who reside in the same residence, may be included with the protected person so as to reduce the potential for harm by the restrained person.

Stakeholder: A person who is acknowledged by either of the primary clients or the children as having an emotional, cultural, spiritual or physical investment in terms of the dispute resolution process.

Supervision: A process by which practitioners are required to rigorously self-evaluate their practice in a formal and structured setting with a skilled Supervisor (or person who is able to distinguish practice issues).

Strategic therapy: A form of family therapy developed within the scope of family systems theory. The distinguishing features of this therapy include:

- Treating the problem like a game where the rules are mal-adaptive, and
- Designing novel and often unusual strategies in order to challenge family rules.

Systems Theory: A theory which defines the individual in terms of mutual intra/interactional experiences. Derived from biology, general systems theory assumes that the individual is a product of interrelationships between and among component systems.

Transitions course (Unifam): An information session of three and a half hours which addresses parents' beliefs about their children's needs before, during and after separation and which shows parents how they can aid children's adjustment by means of the adults' management of conflict.

Therapeutic alliance: Establishing a relationship between client and counsellor enabling both parties to actively work towards change. This concept is sometimes referred to as therapeutic relationship.

Glossary for Child Representatives

Some of the terms used in this context are explained below:

Amicus curiae, is a friend of the court who may be given leave to appear before a court to make submissions on questions of fact and law. The amicus requires leave to appear, and the parties to a proceeding can prevent appearance by objecting to leave being granted.

Best interests of the child, when used in this report, carries the meaning previously given to the term 'welfare of the child' in the Family Law Act.

Best interests' representation when used in this report, means a relationship between a child and their representative that allows for action to be taken based on the assessment of the representative of what is in the child's best interests. See direct representation.

Child, in this report, means a person under the age of 18 years.

Child Representative is the title to be inserted in the *Family Law Act 1975* by the *Family Law Act 2003*. This title is used throughout this report. Child Representative replaces the term *Separate Representative* which was based on a reference in the *Family Law Act 1975*. In this report, the child representative has the role of assisting the court in its determination of what orders to make in the best interests of the child. The child representative is not a party in the proceeding.

Direct representation when used in this report, means a relationship between a child and their representative that requires action to be taken only on the instructions of the child. See Best interests' representation.

Family Court means the Family Court of Australia and the Family Court of Western Australia.

Guardian ad litem is the title given to a person appointed to defend an action or other proceeding on behalf of a child on the basis that the child is a person within a category of person, assumed to be under a legal disability and thus incompetent to instruct a lawyer or to manage the conduct of a proceeding themselves.

Next friend is the title used to describe the person in whose name an action is brought on behalf of a child. Usually the next friend is a relative of the child.

Parent, whenever used in this report, includes a guardian or other person or persons responsible for the care of the child.

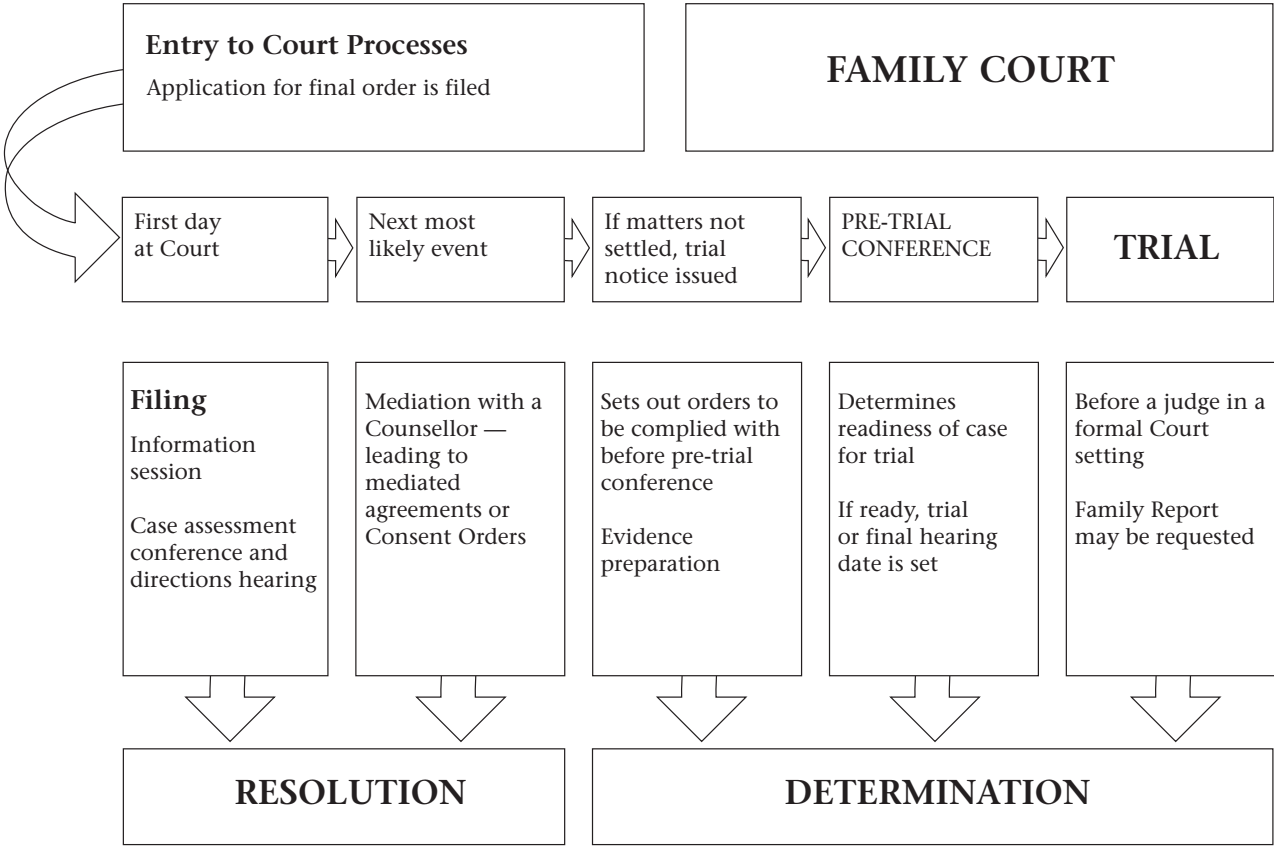
Primary Dispute Resolution Child Representative is the title proposed to distinguish child representatives from persons appointed to assist children through the dispute resolution process prior to a court hearing. A primary dispute resolution child representative may or may not be a lawyer. If a case proceeds to trial it may or may not be the same person who is appointed the child representative.

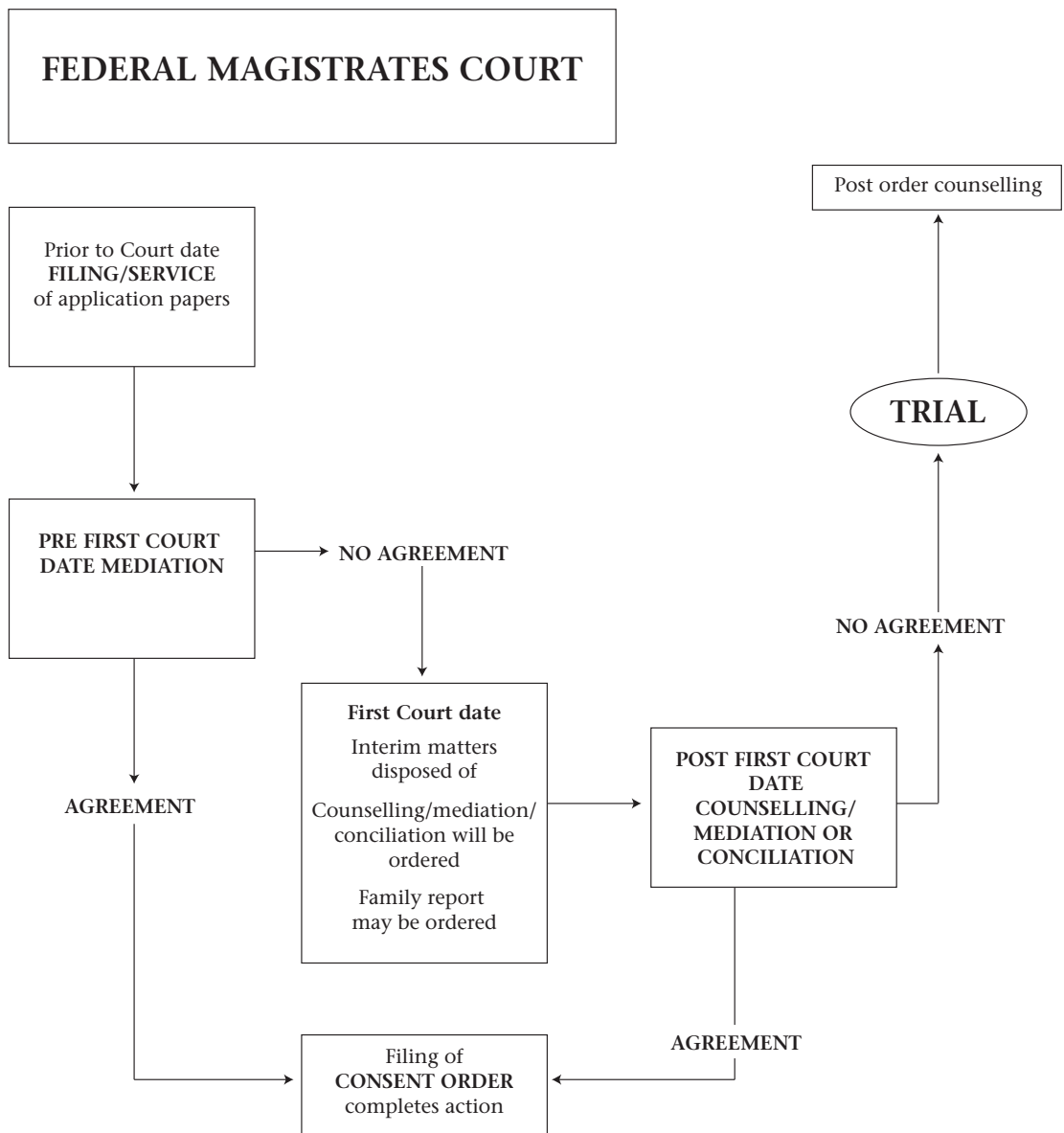
Separate representative/separate legal representative — ‘Separate representative’ was the title given to the lawyer who represented a child in family law proceedings under the *Family Law Act 1975*.

Welfare of the child, when used in this report, carries the meaning previously given to the term under the *Family Law Act 1975*. The term, best interests of the child, which replaced welfare of the child in the Family Law Act following passage of the *Family Law Reform Act 1995* has, for the purposes of this report, a similar meaning.

APPENDIX 5

Flowcharts for the Family Court and Federal Magistrates Court





APPENDIX 6

Postscript

Selected comments from Program participants

'The Program was a lifeline... and helped me to get to a point where we are friends now.' (Resident parent)

'It's really, really, really good. It's something I really need. It's helped to get some issues from the past off my chest. I'd never have thought that I could work them out. And the courses have been really good too.' (Resident mother, 28)

'I think you have a tremendously difficult job to do. Sitting in a room with two different people—different personalities, different ideas and different needs. I was thinking about this last night, and I don't know how you do it! You do it really well.' (Resident mother, 29)

Case studies

B & R family

Referral agreed by the parents and their solicitors. The non-resident mother, who had not seen her daughter for a year, was requesting contact. The resident father wanted supervised contact for the mother with her four-year-old daughter. Individual counselling was undertaken for both parents. It was the Program assessment that supervised contact was unnecessary (no protective or parenting concerns). Note that the father was very resistant to unsupervised contact. He was advised to discuss the Program assessment/proposal with his solicitor. He then agreed to the initial Program case management plan. A one off session was arranged for mother and daughter in the office with the Program worker present.

Contact was re-established using the Children's contact service for changeovers. Contact for the mother was increased from three hours unsupervised contact over time. At the conclusion of the Program involvement the parents were self-managing changeovers and working towards the mother having overnight visits.

S Family

Parents agreed to Program involvement to assist in their use of Children's contact service. The parents have a high level of conflict and involve the children with their complaints. Both parents have attended counselling sessions, and the children have been interviewed as well. Both parents attended the five-week education course. The parents often seek advice by phone and the Program is asked to pass messages on to the other parent. The resident mother sought an extension of her current restraint order. The non-resident father was aggrieved by this application in part due to the difficulties this may impose regarding his talking directly to the children's mother about issues regarding the children's welfare.

The parents agreed to attend mediation with a view to working out strategies to better self-manage their contact arrangements and share information pertaining to the children's welfare. Following the mediation the parents have negotiated contact arrangements outside the legal orders, met to discuss the children's welfare and are considering whether they still require the use of the Children's contact service for changeover.

H & H family

Resident mother requested assistance in arranging contact for her daughters aged eight and eleven years with their non-resident father. The children had not had face to face contact with their father for one year. The father attended an interview with his *de facto* partner. Following this there was a domestic dispute and he and his *de facto* partner separated. There then was no contact with the father for several weeks. They reconciled and he attended another interview. The children were interviewed following the second interview with the father. The children were keen to see their father but indicated a preference that contact be supervised to start with. The children are very concerned that their father would drink during contact visits. They gave an account

of witnessing a serious assault of their mother by their father after he had been drinking.

In view of the children's wishes and concerns, the Program recommended to the parents that contact start off as supervised, despite the mother's willingness for contact to be unsupervised.

The father stated he did not have a drinking problem but agreed not to drink before or while he has the children. Both parents agreed to initial supervised contact. One supervised visit using the Children's Contact Service took place and the children were subsequently happy to allow contact to be unsupervised. The family continued to use the centre for changeover and the father attended the next education group.

D & S family

Parents separated when their child, now nine years, was two. The father did not pursue contact initially but had been seeking contact through the court system for about two years. Solicitors referred the matter to the Program.

Counselling was undertaken with both parents and with the child. The child had some anxiety regarding seeing his non-resident father. However, it was the Program assessment that these concerns could be addressed and a trial period of contact was recommended.

APPENDIX 7

Evaluation

Entity	What could be measured or reported about the entity?	Why is data about the entity relevant?	When during the Program would this data be measured?	Quantitative/Qualitative?
<i>Post Divorce litigation about contact</i>	Whether the clients have been involved in litigation about contact arrangements	Three of the original objectives of the Program related to reduced litigation about contact	'Baseline' data recorded at intake and then further data taken at follow-up	Quantitative
<i>Agreement making</i>	Agreements about contact, residence and/or parenting arrangements	Relates to three of original objectives of the Program	Closure Follow-up	Quantitative
<i>Child Support payments</i>	Whether the clients are payee/payer and with what frequency this takes place	There is a relationship between payment of child support and adherence to contact arrangements	Intake Follow-up	Quantitative However data might be useful for qualitative (demographics re clients)
<i>Level of non-contact by parents</i>	Contravention of agreed contact arrangements by residential and non-residential parents	Interesting to know what effect Program has on adherence to agreed contact arrangements	Intake and follow-up	Quantitative

Entity	What could be measured or reported about the entity?	Why is data about the entity relevant?	When during the Program would this data be measured?	Quantitative/Qualitative?
<i>Children's adjustment to divorce</i>	<ol style="list-style-type: none"> 1. Child's perception of conflict, including conflict around contact 2. Psychological variables, including externalising and internalising behaviours 3. Others' perception of child's adjustment 4. Parents' awareness of children's point of view 5. Child health / medical variables 6. Post-divorce attitudes/beliefs/ of children, including attitudes to resident and non-resident parent 7. Reaction of children to brain washing/bad mouthing by parents 8. Reportage of verbatim children's reactions to the Program, and participation in it 9. Questions about what were the most useful / least useful parts of the Program 	<p>This entity relates to one of the objectives of the Program — these variables probably differ for children/youth of different ages</p>	<p>Intake and follow-up</p>	<p>Quantitative and qualitative</p>

Entity	What could be measured or reported about the entity?	Why is data about the entity relevant?	When during the Program would this data be measured?	Quantitative/Qualitative?
<i>Legal support</i>	Level of legal representation	AGD has been interested in obtaining this information	Intake and follow-up	Quantitative and qualitative
<i>Doing other FRSP type courses</i>	Level of subsequent/ simultaneous participation in counselling, mediation, men's groups etc	Research suggests 'divorce education' is useful for people subsequently undertaking mediation	Follow-up	Qualitative
<i>Satisfaction with the service</i>	Assessment of benefit obtained from participation in Program Questions about 'what were the strengths/ weaknesses of the Program?'	Basic measure undertaken in all post separation parenting education research	Closure Follow-up	Quantitative Qualitative
<i>Client stories</i>	Narrative report of client's time in the Program	Stories often powerfully detail how Program can change lives	Closure Follow-up	Qualitative
<i>Children's direct / indirect involvement in the Program</i>	Number in Children's groups Number in child care Number providing information back to adults	Provides information about ratio of children to adults Provides information about adults that require child care Provides information about children 'feeding back' to adults	During the entire Program	Qualitative
<i>Intake procedures</i>	Assessment of potential participants prior to starting in Program Case complexity Establishment of case management procedures	Demonstrates how referrals are checked as to their suitability for participating in Program.	Intake	Qualitative

Entity	What could be measured or reported about the entity?	Why is data about the entity relevant?	When during the Program would this data be measured?	Quantitative/ Qualitative?
<i>Session length</i>	How many sessions Over what period they are held Length of each session	To describe the Program To ascertain what is the desired/optimal length of the Program	Throughout the course of the program. Changes in the session length should be noted.	Qualitative
<i>Program costs</i>	Budget projections Annual financial reports	Obtaining details of Program costs Ascertaining cost effectiveness.	Before and after each financial reporting period	Quantitative
<i>Content of Programs</i>	Conceptual/theoretical foundation of content Subjects covered: <ul style="list-style-type: none"> • Information presentation/ Skills Acquisition/ Dealing with emotional issues • Teaching/ Learning style: (lectures, handouts, videos, discussion, workbooks, self assessment tools, skills building, self awareness activities, role play) • Program materials and their origin • Design — who was responsible for modifying/adapting Program content • Level and type of interaction in classes • Class size • Class make up (M/F; Resident/ Non-resident) • Attendance rate (ie drop out rate) 	Compare with what is covered in similar Programs and to gather information about the comparative effectiveness of different Program styles	During the course of the pilot	Qualitative

Entity	What could be measured or reported about the entity?	Why is data about the entity relevant?	When during the Program would this data be measured?	Quantitative/Qualitative?
<i>Presenter qualifications</i>	Educational background experience and training of those delivering the Program at each of the sites	Compare with similar courses delivered elsewhere	During the program	Qualitative
<i>Attendance policy</i>	Whether clients have been mandated to attend, or whether they attend voluntarily. Client belief about attendance policy.	Description of client profile Ascertain whether the Program is more effective for particular types of clients Ascertain whether participation in the Program changes clients' beliefs about compulsory/non-compulsory nature of Program	During the course of the pilot	Qualitative Quantitative
<i>Roles of resident and non-resident parents</i>	Responsibilities of both roles (resident and non-resident parent)	Useful to know whether each parent thinks their roles change after participation in the pilot	Intake Closure	Qualitative Quantitative
<i>Parents' knowledge and skills acquisition</i>	Knowledge about 'contact — resident /non-resident issues' Communication skills Conflict resolution skills Parental skills, and problem solving skills	Directly relevant to the Program objective, ie the 'improved ability of parents to take into account the children's best interests'	Intake Follow-up	Quantitative Qualitative

Entity	What could be measured or reported about the entity?	Why is data about the entity relevant?	When during the Program would this data be measured?	Quantitative/Qualitative?
<i>Participant variables</i>	Length of relationship Language background Age of parents Age of children Socio-economic status Education background Time since separation Time since the initial Court hearing	Provides demographic profile of those participating in the Program	Intake	Qualitative and quantitative (to a small extent)
<i>Relationship with courts and other relevant bodies</i>	Level of liaison Level of referral	Provides information about relationship between Program organisations and courts (Family, Federal Magistrates), and sites and other relationship type services	During the course of the Program	Qualitative
<i>Perspective of the stakeholders in legal system about the Program</i>	Strengths/weaknesses of Program from: Solicitors Judges/Registrars/Magistrates Court counsellors Court registry staff	Shows whether the main referral source (ie legal system) is onsite and willing to refer clients to these type of services	During the course of the Program	Qualitative

