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LAW REFORM COMMITTEE

Inquiry into alternative dispute resolution

Melbourne — 11 February 2008

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Mr S. Quinn, manager, Greensborough Family Relationship Centre.

The CHAIR — Shane Quinn, thank you very much for coming to the committee to give evidence on this reference. We have half an hour. I need to remind you before we begin that any remarks that you make in this hearing are subject to the Parliamentary Committees Act, which gives you parliamentary privilege. It means you are protected against anything you might say to which somebody might take offence, but if you say the same things outside this hearing you will not be afforded that same protection. Hansard is taking down the conversation and you will receive a copy of that afterwards and you will be able to make some small changes, to check for accuracy and so forth. We will turn it over to you and have some time for questions at the end.

Overheads shown.

Mr QUINN — Thank you. I will run through my PowerPoint presentation now and will answer your questions at the end. I guess you might have heard some of the points I am going to talk about from other witnesses here today, but I will put my perspective on that.

I am the manager of the Greensborough Family Relationship Centre, which started in July 2007. Prior to that I was the manager of the Darwin Family Relationship Centre for the year from 2006 to 2007. So I have been involved with the set-up of the first 15 centres by the attorneys-general, and then proceeded on to the private one in Victoria. So that is my background and experience.

Since we have been in operation for seven months I guess I can report on things to this stage, but there may be things I am not able to help with such as evaluation and some of the things we are keen to achieve in the coming months and years. The particular Greensborough Family Relationship Centre is a lead agency of Relationships Australia. It is a consortium also involving Berry Street Victoria and Centacare Family Services. So of the 40 FRCs in operation around the country at the moment, they are all made up of different consortium partners. Nationally we follow an operational framework as developed by the attorneys-general. That identifies the services that we provide, but there are some slight variations in the models so I will point that out as we go in terms of the way services are actually started up. The family relationship centres coincide with the legislative reforms of the Family Law (Amendment) Act in 2006. There is quite a bit of money that is being put into these centres — \$400 million federally over the next three years, and that started in the middle of 2006 so we are just over halfway through that cycle. There will be 65 family relationship centres nationally. There has also been some money put towards early intervention services such as counselling and things like group work, through the family relationship service programs that have been in operation over a number of years, so that has been bolstered as well.

Currently we have four Victorian centres in the first rollout of the first year; six in the second — which I am a part of in Greensborough — and there will be five to come in the middle of this year, so there will 15 in Victoria alone. Probably the main service as part of this rollout is the family relationship advice line, which sits over and above all the family relationship centres; so it is the access point for anybody who is trying to find their local services across the country. I have listed their opening times on the overheads. People have access to information officers first, and then if it relates to a parenting issue they will be put through to a parenting adviser. Also they have got access to legal advisers and all the staff of the centres have access to legal advisers as well.

All the centres come under family relationships online, so in other words www.familyrelationships.gov.au, so people can access information about the centres through that website, so it is a single point of entry.

The main three aims of the family relationship centres is that it is the first point of contact for all families through all stages of their relationships, intact through to those that might be separating; strengthening family relationships; help in identifying their needs; and giving access to information and appropriate referrals. We are very much the first gateway point, if you like, through to a range of services, community, government and non-government organisations. For families who have separated, it assists parents to make workable arrangements that reflect the best interests of their children.

Just to talk a little bit about the act itself: the government is looking at a cultural shift from litigation of children's issues to shared or cooperative parenting to change the way that people think about family breakdowns, and improving outcomes for children and supporting parents when agreeing what is best for children.

Probably one of the key points which most people have probably heard about through the launch of these centres is that after July, a person applying to the court for a parenting order will not be able to do so without attending family dispute resolution and providing a certificate from the family dispute resolution practitioner, except in certain

situations which I will talk about. An FDR will be mandatory before making application to the court for a parenting order. In that respect it is compulsory.

Through that process a certificate may be issued after presenting to the family relationship centre and the certificate will say one of the following, 'The other party did not attend; the family dispute resolution provider decided that your case was not appropriate for family dispute resolution; you did attend and did make a genuine effort; or, you did attend and did not make a genuine effort.'. There are some exceptions to that compulsory FDR. I think I sent around some purple brochures which are the compulsory dispute resolution, put out by the Attorney-General, which outline all of the exceptions as well, to that.

I actually have one of those certificates. I am not sure if that might be of use or not, but I can certainly pass that across. Our line is, it is an example, and also just a document that has come from 60CC of the Family Law Act about what is in the best interests of children, which is one of the statements we work through with people.

The services that are offered — and I will talk through these in a bit more depth as I go through the slides — are information referral, assessment, family dispute resolution, indigenous advisers, outreach and community education — come from the operational framework of the Attorney-General in stating what we need to provide as far as running these services.

The staff are client services officers who are generally our admin staff, family relationship advisers who predominately do intake and assessment — but they are known by a number of different names at different centres, such as family relationship officers — family dispute resolution practitioners, who used to be known as mediators and that is the same term that is used by all centres. There are 10 of the 40 FRCs to this point being funded specifically for indigenous advisers, all centres are encouraged to engage with the indigenous community but certain services, particularly in areas of high indigenous population, are funded for that work. There are also community development and education officers.

I will just run through those points of that hub I was talking about. We have a role in information resources and referrals, so we are that gateway through to providing information to the community about a range of services that are offered because we certainly do not offer all services. We do not provide counselling, we do not provide ongoing therapeutic group work. We have one-off sort of information sessions, and we have a range of information provided at our centre of the different community services that are around that provide that. We also provide computer access and people can come in and use the computer.

The term 'warm referrals' is talking about making assisted referrals to people to make sure that they actually get to centres and are not lost along the way. We also do a community reference group where we engage stakeholders, between 10 and 20 of the main key agencies in the community, to be part of providing input to our service. We meet on a quarterly basis, some FRCs run on a bimonthly basis, agencies like Centrelink, Child Support Agency, and as I just mentioned our partner agencies involves the councils.

This framework is probably sometimes a little bit hard to read but I guess I will talk about each of those points in the next few slides. The little blue lines on the slides mention the referral pathways all the way through this. That is to indicate that referrals could be made at any point through this and often are, while somebody might be proceeding through our service. They may be through assessment doing some work that prepares them for the family dispute resolution down the track, so they might not be in a space to actually do that at the moment. It might be a recent separation and they might be dealing with a lot of grief. It gives them the time and some extra support to be able to move through these different stages. I can certainly come back to this slide too.

I refer to the slide headed 'Duty'. Someone will either walk into the service or phone, predominantly it has been phone contacts for us, and I think that is fairly consistent across the country. It is about a 15 to 30 minute service when we screen each person individually for those issues there: family violence, child abuse et cetera. We look at the history of the conflict and if the person is suitable at that stage, we engage the other party. We refer to the people as party 1, the initiating party. You can get the contact details for party 2, then we will offer letters of invitation to that party. We offer a 14-day letter, if there is no contact we will offer another 7-day letter, and if there is no contact and party 1 wants to proceed to court to get assistance when there are issues, we would offer a certificate, being the first one, that the other party declined, or they might refuse to attend.

For the information sessions held after that it is not compulsory but we certainly encourage all people to attend. Because there has been so much information that has come out with the Family Law changes it gives people an

opportunity to hear what some of those are, to focus on those issues of parenting and how to deal with conflict and prepares them for that first assessment session, so they are doing a bit of work and doing a bit of thinking to get their head around what they are coming up to. As you can see there, that is just the different information that is provided.

The assessment is a 1-hour, individual session with each party. Again, we are informing on the FDR process, looking at their suitability and willingness for FDR and how to perhaps negotiate and look at different options. Information is given about legal services and advice. We have got a lawyers list of all the different lawyers from pretty much the city outwards where there is the north-eastern corridor, of all the centres that are there — the community legal centres and legal aid commission — and people can access legal support through that time because we cannot offer legal advice.

For the actual family dispute resolution session, if both parties are both willing and have the capacity to participate, they come to that joint session. There are 3 hours provided free and often what we do is to have one session of say, 90 minutes and then another one scheduled for two weeks later when they can have a look at the discussions that they have had and the agreements that they have come up with. There are 6 hours if interpreters are involved and that is all free, and all the points that I have mentioned before that time — the information sessions and the assessments — are all free as well.

The fees that apply after that time is the fee scale of the lead agency, which in our case would be Relationships Australia, but there are a few exceptions. If you are a health care cardholder or a government benefit cardholder, they are exempt, and also those with financial difficulties.

The family dispute resolution moves through those points there. There may be an agreement or a parenting plan that is constructed, and we ask the persons to go away and consult with their legal people, if they need to, to check the plans and to encourage people to get it made into consent orders as well.

Child-inclusive practice is also offered and it can be offered before the family dispute resolution session or afterwards, and it is looking at the suitability of the children, their maturity and their ability to make decisions generally; I guess children aged 5 and upwards who might be able to provide their views on what is going on in the situation with the separation. We need the parent's consent, obviously, to do that and the CC — being the child consultant, one of our staff members who is trained in that area — works with the family dispute resolution practitioner to deliver feedback to parents.

There is a lot of evidence cited about the effects of parental conflict on the child's development. The Attorney-General's department is providing training for all staff at the FRCs. Our staff are doing that in February in Melbourne to be able to be child consultants or at least understand the processes when we are referring to that.

As far as access to services is concerned, there are a number of different things that occur. The indigenous advisers whom I mentioned have a main aim to provide advice on family relationship matters concerning indigenous people and providing access for people to the FRCs, but also community agencies to skill them up on their understanding about what family relationship centres do. It has a dual role in that respect. Some of those people are mediators, some are being trained up at the moment, but a lot work in the way that their community works too, which does not always need them to be trained as a formal mediator for them to understand the cultural issues that are going on in that community.

In community development education work, as I mentioned before, we have got a full time position which is quite an exciting position and a very large scale job, I think, in terms of rolling out the broader sort of campaigns, I guess, of the primary prevention end of our work, rather than the end scale where people have actually separated. It is actually informing people of these centres, that they can get support early on, and it is working with a number of different community agencies to develop protocols about how we refer; and that is probably one of the biggest issues in referral to make sure that we have strong protocols with different agencies to ensure that people do make it to that agency.

We are all required to provide outreach services within our communities, whether we be based at another local community — and we all have fairly big geographic areas as you can see from the slides, so we try to identify those areas where there might be some gaps and provide services through that.

Telephone dispute resolution is also provided. Relationships Australia in Queensland and RA in New South Wales, won the tender in, I think, the middle of last year, to provide that service nationally and people can get access through the family relationships advice line. It is for people who are predominantly child support clients but also geographically they are located a fair way from our FRCs

The CHAIR — Just to interrupt you, we are about 20 minutes into our 30 minutes that we have allocated, and we want to ask you a couple of questions.

Mr QUINN — I have only two to go, I think. Multi-party conferencing is the idea that while we have party 1 and party 2, we certainly have party 3 and party 4; how do we sit in often a small room with people who are often from different cultural backgrounds and is that really conducive to getting those people in the centre? Often it probably is not. So there is a lot of work to do around that.

On the accreditation of services, there is a register that you may be aware of on the website. Everyone needs to be accredited as far as FDRPS is concerned. You can find information there. It is not just FRCs that do this as you heard from an agency earlier but by any private provider that can meet those requirements.

With future issues, this is a very large-scale roll-out from the government. We are already a year and a half into it — we are seven months into it at our service. There is a lot of developmental work to do with the courts, lawyers, other FRCs which we are progressing well with, and there is a lot of goodwill in the field. We have met quite a few times on a national scale, and we are meeting again in March, which will be our second annual meeting. With the family relationships service programs, we have established links with them so people actually get to those services and do not all just stay within FRCs.

There is a lot more to do in terms of certificates and child-inclusive practice, family violence. Most of our clients present with family violence issues and the indigenous model of FDR really needs to be developed. Staff recruitment and retention is a big issue because it is a very difficult environment and is changing all the time. We have built these services up from scratch, and it is a very big change to the service system, so it does take its toll on people. To get skilled and find experienced mediators is difficult. When the new five FRCs start up I am sure people will move on to those, so we will be looking for more staff.

The CHAIR — We have 10 minutes to go. To start it off, you mentioned in your presentation that it is compulsory for parties to attend dispute resolution forums prior to starting legal proceedings. What is the reaction of the parties involved to that?

Mr QUINN — It is a bit of both. Some people are quite keen to stay out of the courts because they have been involved with them for so long. Some have exhausted all their funds and resources, so it is not really an avenue they can pursue any further, so they are happy to come to our centre, which is free. On the other hand, it is positive and negative. A lot of people do not like to be told what to do, and they are upset when it comes across in that way. So I guess we spend a lot of time on the wording of our invitation letters to try to make it friendly to people in terms of engaging them.

A lot of people do not understand what the process is. People are very understanding of the court process if they go through that way, but they often say, 'What are these places?', 'What am I meant to do?' or, 'Who are you?'. So there is a lot of explaining to do in that respect at the start, just telling people what these changes are and that is where the sessions are good.

The CHAIR — Is that making sure that you fashion the letters properly in the overtures to people to attend working groups?

Mr QUINN — It is getting better, but there is constant revision over 18 months.

The CHAIR — What are the factors that make it better?

Mr QUINN — Sending the letters is good although people do not read a lot; it is about keeping it to a minimum. We used to telephone people which was a little bit of cold-calling, if you like, to try to engage people, and I do not think that is the way to go. The compulsory dispute resolution brochures are quite good.

Mr CLARK — Of the mediations you have done and that have been compulsory for the parties, can you tell us what proportion are proving successful in terms of the parties agreeing not to go to court and of those where

you have to issue a certificate for them to go to court? Can you give us a rough breakdown of what proportions fall into the four heads of the certificate that you mentioned?

Mr QUINN — I was thinking of that before. I have not done any formal evaluation of that. I think if I could go through that model, about 30 per cent to 40 per cent actually proceed through to joint mediation, so we are not so much losing people, but wherever people are in the process — mind you we have only been open for seven months and it can take three or four months to proceed through this process all going well if both parties participate, but if they do not you might take five or six months.

I think we have a few people who are still in the system at the assessment stage but not all people are going to proceed through to the joint mediation. I guess from there, with probably about a third or so, or more, we are actually seeing parenting plans; or up to a half where parenting plans are generated, but as to their success, we do not always see that because we ask them to get it checked and to go away and get it checked by the lawyers, so we do not always see the feedback, but we do see the ones where they do not get made into consent orders and they do come back. We have a number of people representing even within that short space. So things have not worked.

They can present up to three times in two years, so I guess we have a number already presenting twice. People might even have a current parenting order and a few months later, within two months, they are coming to see us because it is not working or they were not happy with it and try to put a new parenting plan in order. It can be a very quick turnaround time. I think that is something to focus on in the future. The last question was about?

Mr CLARK — When you have to issue a certificate what is the breakdown of those?

Mr QUINN — Most people are responding to our letter's engagement, which is positive and I think that has got better since our early days when we were calling by phone, so I think that is one good thing. I could not give you the exact figures but a number of people do not attend and a number claim the exemptions, but very few do that. Many people are not aware of that avenue.

We do not have many of the last category — that is, 'have attended but did not make a genuine effort'. It is difficult to determine. For those proceeding through, most make a genuine effort, but sometimes people can be disgruntled because they feel the other party did not make a genuine effort. People can still be positional and given a certificate. It does not mean they have to agree.

Mr BROOKS — What are the training and accreditation requirements for the people who will handle these cases?

Mr QUINN — It is prescribed as a family dispute resolution practitioner in the family law regulations which is about having an appropriate degree, diploma or other appropriate qualifications of three years law, social science backgrounds or backgrounds in conflict management, social sciences. We have two family lawyers, about three or four psychologists, three social workers and other family therapists who make up the team.

The family dispute resolution practitioners need to meet the accreditation and the Attorney-General monitors that. There are two stages. The Attorney-General's Department and Community Services and Health Industry Skills Council, and they are both put in together — a diploma in family dispute resolution which is being rolled out towards the end of this year. It is an interim arrangement at the moment through these three years. People will either have to meet some of the competency they have with earlier experience or they will need to go through the full vocational graduate diploma. That will be in place by the middle of 2009, these interim arrangements will lapse with that accreditation. For family relationship advisers, we ask that people have a background in diplomas, degrees and experience in community services.

The CHAIR — We have a couple of minutes left. Do you think that the family dispute resolution mandatory pre-litigation model could be applied to resolve other kinds of disputes?

Mr QUINN — Certainly. I think we all know what the courts do for people in terms of how it bogs things down and the costs involved in that. It could be of a diversionary nature or providing other options for people, certainly.

The CHAIR — Do you have many examples of the things that you think may lend themselves to resolve better than others for this kind of process?

Mr QUINN — I think the relationship we have with the community sector is important, because there are so many other issues that need to be dealt often for people who are presenting in these cases that they can get assistance with, so I think that being part of Relationships Australia and various mediation centres means we have a huge avenue to actually direct people to those other services. So I think the partnership in that way provides that. Not that lawyers and other people involved in this area do not, but we are very much connected — they are our services. I think it is the blend of the community with the court/legal type spheres coming together — and I think the FRC is a very good example of that, of how we are working together to provide the best service that we can for people. That is probably the main example, particularly in things like family violence.

The other people I forgot to mention in our team are three from domestic violence services who have actually been working in those fields, and I have got 10 years working in alcohol and drug services — so we are able to screen for a whole range of things like mental health, drug and alcohol issues and referrals to GPs, which really assists people with what is going on for them.

The CHAIR — Are you familiar with the work of family relationship centres? Sorry, I meant to say: the Family Law Council recommended that family relationship centres offer collaborative practice as an option to clients.

Mr QUINN — I guess on that point we are actually not able to have lawyers as part of our process at the moment. The FRSP services have always been able to, and I am aware that they have not really done much in that respect. The other important thing that we do is have a lawyers forum every quarter. Kew Relationships Australia has been running one for about 10 years, where we invite all those lawyers from the northern region. We have run that twice. We have had 11 lawyers participate each time. We try to engage them and bring them into our services.

We have had four lawyers sit in on our information sessions to see what we do. So it is really trying to engage them. I think the collaborative law-type idea obviously would need to be discussed between the government and the legal practices in terms of how that could be done because it would be a bit of a change from what has been done to this point, but I certainly think there are some areas to look at in how we work together because we are meant to be a system that is quite connected.

The CHAIR — Thank you very much.

Mr QUINN — Can I just leave you with some documents? One is from the Australian Institute of Family Studies. It is probably the best diagram I have seen for the last year in terms of saying where we are all located. I will also leave you with some brochures about the information sessions that we run.

The CHAIR — Can I just ask you one more thing: if people are not satisfied with the service that you give, what are the complaint mechanisms?

Mr QUINN — They can discuss that with either the staff member or me as the manager; or thirdly, with the local state representative of FHCSIA, the family and community services and indigenous affairs representative. So we have all of those different things happening. We have had a few different complaints at times. I think a lot of it is about the newness of the service through our establishment phase and also through certificates — people not understanding what they are about and feeling that they were unjustly dealt with. I think the main complaints have been around those issues so far.

The CHAIR — There were other questions that we had. If you would be open to Kerry or Kate contacting you and following up some of those?

Mr QUINN — Yes, that would probably be much easier.

The CHAIR — As I said earlier, you will receive a copy of the Hansard transcript and your response to that would be good. Thank you very much.

Witness withdrew.