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YOUR REF: 09/28158

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REPLY TO:

REFER TO: George Turnbull
(08) 9261 6307

18 March 2011

Ms Toni Pirani
Assistant Secretary
Family Law Branch
Attorney-General's Department
Access to Justice Division
3-5 National Circuit
BARTON ACT 2600

Dear Ms Pirani

CHILDREN'S CONTACT SERVICES

I refer to your letter of 11 January 2011 and the enclosed Children's Contact Services – Consultation Paper.

I **attach** the National Legal Aid Family Law Working Group's response in relation to that paper as requested.

Yours sincerely

George Turnbull

MEMBER

FAMILY LAW SYSTEMS REFERENCE GROUP

CHILDREN'S CONTACT SERVICES - CONSULTATION PAPER

NLA response

- 1. *Could the changeover function be offered in other types of family relationship services, for example, Family Relationship Centres? What would the minimum requirements be to manage issues around safety and to ensure integration with other complementary support services in the community?***

The more safe services that are available to provide contact services the better.

If the change-over function is to be offered in other types of family relationship services, such as Family Relationship Centres (FRCs), then appropriate arrangements would need to be put in place. Such arrangements would include facilities such as separate car parks, child care, and separate entrances and exits. Criteria for suitability, appropriate safety guidelines, and safety plans would need to be developed. Staff conducting supervised changeover should be properly trained and made aware of all safety issues and concerns.

A supervised changeover at an FRC may impact upon the relationships between parents and FRCs who are seen as impartial in the dispute between the parents. There could be problems with FRCs being used as contact centres in terms of a possible perception of impartiality by either the parent who has the supervised time or the other parent. There is the potential for their experience of the FDR to colour their view of the contact service. Separate staff, would go some way to addressing this issue.

NLA would support any integrated approach to supervised changeover to ensure that the parties can move to self management. Such integrated services might include counselling services, men's behavioural change programs, parenting skills programs and other courses provided by various services.

- 2. *What other strategies might be employed to minimise waiting times in Children's Contact Services?***

The impact of long waiting lists is felt by the legal aid client group because they are not in a position to pay privately for supervision and therefore must sometimes wait for many months for time to commence to see their children.

It is suggested that the following strategies could be put in place to minimise wait times:

- i) More Child Contact Service funding directed to appropriately located safe services available when required. Services are sometimes not near public transport. Users, and many Legal Aid Commission clients, have no option but to rely on public transport. There is a high demand for services on weekends and school holidays.
- ii) More vigorous questioning by the courts and lawyers about whether supervised contact centres are appropriate and whether there are appropriate alternative supervisors such as family members or friends. It is often the case that Orders are made which provide for family or friends to supervise pending a contact centre. The reason for the move to a contact centre is often so that the centre can provide a report to the court about the progress of time spent. However, there may more appropriate means by which that information can be provided to the court rather than requiring parties to attend a contact centre solely for the purpose of enabling a report to the court from the contact centre.
- iii) Some centres are prepared to conduct intake sessions prior to court orders being made for supervised contact. This assists in significantly minimising the waiting times although this practice is not universal. If as proposed later standardised protocols were introduced this could be considered and included.

3. *Given the high demand for Children's Contact Services, should access to services be prioritised? If so, how might this be achieved?*

Whilst it might be appropriate for there to be prioritisation of services for child contact services so as to reduce waiting times, there are concerns about how this would be achieved.

Concerns include what matters would be prioritised and on what the basis. Careful consideration needs to be given to what is prioritised so that it is fair to the parties and most importantly the children. It is suggested that further consultation about this particular issue should occur and be broadly based and extensive. Suggested relevant matters include whether the matter is before a court, the nature and time frame of the supervision sought, the degree of parental conflict, the ages of the children, and the children's relationship with the other parent/child with whom the visits would occur, the recommendations of any independent experts or treating experts about the appropriate arrangements for children and the effects if these cannot be met. There should be consistency in the application of prioritisation criteria.

There is also a concern that contact centres may be making an assessment of evidence which has yet to be tested by the court. It may be that they decline to provide supervised time on the basis of the evidence that is later found not to be factually based and that a child has missed out on time with their parent. It is not the role of a contact centre to be a judge or assessor of evidence in the matter.

4. *Is there a need for the development of a standardised set of protocols for client acceptance and withdrawal of services? What might some of the circumstances warranting exclusion be?*

There is a need for a standardised set of protocols for client acceptance and withdrawal of services for children's contact services.

Commission representatives believe that there are different policies across centres and these policies are not always generally known to the Courts and legal professionals. It has been the experience that specific centres have been provided for in Orders to supervise only to discover that they will not accept the parties. This causes unnecessary delays for children and parties. A standardised set of protocols across all centres would mean that it is known to all and appropriate planning and orders can be made to reduce delays and to better utilise the centres.

NLA would be concerned about a general exclusion policy. If the Court has made the Order being aware of the circumstances then the time should proceed unless there are exceptional circumstances. Such circumstances maybe allegations of sexual abuse or violence directed to the child.

5. *Under what circumstances should supervised visitation be discontinued? When might ongoing (long-term) supervised contact be appropriate?*

NLA's view that it is appropriate to cease supervised time when there has been violence or intimidation towards staff of the contact centre. It might also be appropriate to cease/suspend services where a user of the service repeatedly fails to comply with the service's policies/protocols i.e. not complying with staff directions etc. This might fall short of threats, violence or intimidation but might make continuing use of the service problematic.

It would also be appropriate to cease/suspend services when concerning behaviours are displayed at the supervised contact by both the children and the parents such as

possible grooming behaviours or prolonged inappropriate questioning by the parent; and / or the child is displaying extreme distress and stress around the supervised time over a significant period. Services should not automatically be withdrawn eg on the basis that the child has refused to go to the parent on a number of occasions.

The court should be advised of the likelihood of services being withdrawn due to the behaviours observed.

There should be some measures put in place so that when time is proceeding well it can move easily into a less structured supervised time environment therefore freeing up the services to provide contact services to those families who are most in need.

It should be made clear to parties that there is a limited time for those supervised contact visits. This may impact upon the courts so that matters are brought back before a judicial officer more quickly.

Long term supervision may be appropriate in circumstances where a parent has mental health issues, intellectual disability or an acquired brain injury. These are circumstances where the parent's condition is unlikely to improve significantly and the time spent with the child or children needs to be supervised.

It may be appropriate to set up separate contact centres which deal specifically with parties with such conditions where there is an explicit expectation that there will be long term supervised time. In those circumstances staff would need to be appropriately trained in mental health issues/intellectual disability/ acquired brain injury issues. The benefit of this would be the provision of ongoing monitoring and in the event that there is deterioration in one of the parents that could be notified to the other party.

6. *Should there be a parallel service for those clients who are willing to pay the full cost of service in order to gain access to Children's Contact Services with minimum waiting times?*

The possibility of having paid services in parallel with unpaid services may result in a system with first and second class services, or the perception of such. It might also place pressure on clients to accept paid supervision when the clients are not in a position to really afford such services.

There are already private supervisors available in the community who provide paid services which are unregulated, unaccountable and of varying quality. We suggest that it would be preferable for paid services for supervised time to occur at contact centres where it is regulated and appropriate protocols are in place.

We do not believe that the introduction of fees for contact centres would necessarily have a large impact on waiting times as the majority of parents waiting for supervised time are unlikely to be able to afford to pay.

7. *Are guidelines required for other referral sources to provide guidance on appropriate referral processes?*

It would be beneficial for there to be guidelines for other referral services and it would also provide information on where contact centres receive their referrals.

8. *What role should Children's Contact Services play in providing an assessment to the Court to inform decisions about parenting matters?*

Contact centres should provide written reports to the court in relation to the supervised time, and be available to give evidence to the court if needed. However, such reports should involve only factual descriptions of incidents and behaviours occurring during time spent.

All staff should be aware of obligations to give evidence if subpoenaed and should provide information to Independent Children's Lawyers and separate representatives so that if matters of concern are occurring these can be brought to the attention of the ICL who may relist the matter.

Some difficulty in obtaining reports has been experienced in some locations. Additional funding may be required for some/all contact centres to enable them to provide those reports.

Funding to legal aid service providers should enable Commissions to obtain reports for their clients if payment for such reports is required.

It would also be helpful for the children's contact services to be in a position to provide a verbal report to the Family Report writer in addition to the ICL, particularly following interim orders to assist the writer in their recommendations where records cannot be

subpoenaed in time, or have already been subpoenaed some time prior, or by reason of inability to pay for a report.

9. *What format should information provided to referral sources take? Is training for Children's Contact Service employees in factual report writing needed?*

Information provided to referral services should be in writing. It should be factual only. The information should be provided to the referral agencies and to the parents so there is no impact on impartiality of the contact service.

It is suggested that there is currently variety in content and quality between contact services in relation to report writing, and that it would be beneficial for there to be a standard across all contact centres. Training should be provided to contact service employees in factual report writing to support such an aim.

10. *Is there is a need for further opportunities to provide feedback to the Court where parties have been ordered to attend Children's Contact Services?*

Feedback is provided to the courts by reports and in giving evidence if required. However, it appears that contact centres are not specifically funded to provide reports or attend court which results in difficulties in obtaining reports and court attendance for legally aided clients in some locations.

One option may be for a less formalised process where contact centres keep the court and the ICL informed of the situation in relation to the supervised time. A less formalised process may involve an assessment of the time spent and the matter being brought back to court earlier to enable the time to be ceased or for the parties to move towards self management.

11. *Are there any other aspects of Children's Contact Service delivery that would benefit from the development of standardised protocols?*

Consistent guidelines for early identification of families not suitable would be helpful. Standardisation of fees for reports would also assist. Currently, there is significant diversity in fees as well as the availability and content of reports, factual or otherwise.

12. *Would the establishment of a mandatory accreditation system or minimum qualification requirements for Children's Contact Services staff help assure quality and professional services to families?*

It is suggested that quality measurement and training standards be established and maintained for child contact centres. It is Commission experience that there is a variance in quality across the sector and this issue would be assisted by training and accreditation. However, while it is important that there be a mandatory accreditation system, such a system should not be so onerous that it adversely affects services.

13. *To what extent does the design and location of Children's Contact Services impact upon the capacity to provide services? What impact, if any, does the physical environment impact on children's experience and wellbeing?*

It is important that the design and location of the children's contact centre have appropriate safety measures for the parties. There need to be separate entrances and exits, and the capacity to monitor and record both.

There also need to be age appropriate environments for the children to enjoy their time with the other parent. There should be a yard for the children to play outside and an appropriate play room with some areas for the children to spend quieter time with their parent. The capacity to engage in a range of activities which make the visit more natural should be available.

The location of contact centres should be easily accessible by car and public transport.

14. *What research issues should be prioritised to help improve the effectiveness, appropriateness and efficiency of Children's Contact Services?*

- The impact of long term supervision of contact on children;
- The impact on children of allowing supervised time at the interim stage of proceedings and then an order for no time being made in final orders;
- Consequences of supervision on parental dispute outcomes and the impact upon the subsequent relationship between the parent and the child.
- A study involving a risk/benefit assessment of whether it is more or less detrimental to children to delay visits with a parent after a break in time to ensure that any arrangement is appropriate and sustainable as opposed to prioritising time between child and parent at all costs and at any stage of the proceedings.