Family Law Council

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Sent by email to:

legcon.sen@aph.gov.au

Submission on the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011

The Family Law Council (the Council) is pleased to make a submission on the FAMILY LAW LEGISLATION AMENDMENT (FAMILY VIOLENCE AND OTHER MEASURES) BILL 2011 (Attachment A). The function and composition of the Council is set out in Attachment B.

I would be happy to provide further information about the content of the submission should this be required.

Yours sincerely

Associate Professor Helen Rhoades

Chairperson

3-5 National Circuit, Barton ACT 2600 Tel: (02) 6141 6666 Fax: (02) 6141 5452
www.ag.gov.au/flc

Family Law Council

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INTRODUCTION

1. The Family Law Council welcomes the release of the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011 (the Family Violence Bill), and commends the Australian Government for taking this important step towards addressing the problems identified by the recent research evaluations of Part VII of the Family Law act and enhancing the protection of children and family members from family violence.

2. The Bill is welcome acknowledgement of recent research and other reports which highlight that the family law system responds inadequately to family violence and child abuse. The reports suggest that misperceptions of the law and system failures have discouraged families from seeking the support and assistance of practitioners and the courts to protect children and themselves from physical and psychological harm. Family violence and child abuse have a deleterious effect on children, families and the community. These problems present in a variety of forms, are often concealed, and are especially harmful to child development and wellbeing.

3. Council supports the policy direction of the Family Violence Bill and believes that the proposed reforms are a positive step towards bring about positive change in the way that the family law system responds to vulnerable families. The Family Violence Bill sends an important message to those using the family law system to prioritise the safety of children when making parenting arrangements. In particular, the proposed amendments will make it easier for family law professionals to emphasise the centrality of safety to children's care arrangements, and challenge clients who mistakenly believe the law provides parents with a 'right' to equal time with their children.[1]

4. While supporting the substance of the reforms, Council considers that the protective capacity of Part VII of the Family Law Act could be strengthened by further legislative measures to improve children's safety and wellbeing and promote safe parenting arrangements. There are aspects of the recent research and recommendations for reform that are not addressed by the Family Violence Bill and which Council considers necessary to safeguard children's wellbeing. Council also recommends the adoption of non-legislative reforms to support the proposed amendments and ensure their effectiveness, including a comprehensive risk assessment framework and a common knowledge base of information to guide

[1] Kaspiew et al, *Evaluation of the 2006 family law reforms, Summary Report*, 2009, p 12-13.

professionals working in the family law system in developing appropriate arrangements for children.

5. This submission is set out in three parts. Part 1 provides a summary of Council's recommendations to strengthen the Government's response to the various reports released in 2010 concerning the family law system, family violence and children's wellbeing. Part 2 comments on specific provisions proposed in the Family Violence Bill. Part 3 provides comment on other issues relevant to child safety in the family law system for Government's consideration. These include both legislative and non-legislative reforms.

6. In making this submission, Council draws on its 2009 report to the Attorney-General, *Improving responses to family violence in the family law system: An advice on the intersection of family violence and family law issues* (Family Violence Report), as well as other reports including the *Evaluation of the 2006 family law reforms* by the Australian Institute of Family Studies (the AIFS Evaluation Report), Professor Richard Chisholm's *Family Courts Violence Review* (the Chisholm Report) and the joint report by the Australian Law Reform Commission (ALRC) and New South Wales Law Reform Commission (NSWLRC), *Family Violence – A National Legal Response* (the ALRC/NSWLR Report). Council also draws on research in *Shared Care Parenting Arrangements since the 2006 Family Law Reforms* by the Social Policy Research Centre of the University of New South Wales, and *Post-separation parenting arrangements and developmental outcomes for infants and children* by Jennifer McIntosh, Bruce Smyth, Margaret Kelaher, Yvonne Wills and Caroline Long.

7. Council commends the Australian Government for taking action to promote child safety in the family law system through amendments to the *Family Law Act 1975,* and is pleased to provide a submission on this important legislative reform**.**

PART 1 – SUMMARY OF RECOMMENDATIONS

Council recommends that the Government:

- Simplify section 60CC by removing the separation of factors into two tiers to create a single list of factors in which the safety of children is listed as the first consideration and given priority.
- Consider further measures to address the problems identified with the interaction between the 'best interests' considerations and other provisions in the Family Law Act that deal with time spent with the child and each of the child's parent. Such measures may include:
    - providing guidance about the circumstances in which shared care-time is not appropriate for children in Part VII,
    - adding a consideration to the list of factors in section 60CC that requires the courts to consider 'the nature and level of conflict between the parents',
    - amending the Family Law Act to require the courts to have regard to the impact of family violence on the victim parent when considering what parenting arrangements are in the child's best interests.
- Remove the word 'serious' from the proposed definition of child abuse.
- Extend paragraph 60CC(3)(k) of the Family Law Act to expressly include a reference to past family violence orders.
- Institute an education campaign to accompany the implementation of the reforms.
- Give consideration to adopting the following recommendations from the Family Violence Report, the Chisholm Report and the ALRC/NSWLRC Report:
    - establishing a common knowledge base about family violence for use by all professionals in the family law system (Family Law Council, Recommendation 2),
    - enhancing awareness and facilitating the use of this knowledge base through government funded dissemination programs and cross disciplinary training (Family Law Council, Recommendation 4),
    - facilitating information sharing strategies, such as that recommended by the ALRC/NSWLRC that the family courts and state and territory magistrates courts, police, and relevant government agencies should develop protocols for the exchange of information in relation to family violence matters, and that the parties to such protocols should receive regular training to ensure that the arrangements are effectively implemented. (ALRC/NSWLRC, Recommendation 30.16),
    - the provision of specialist family violence judges (ALRC/NSWLRC, Recommendation 32.1), and

- establishing a system of court-based risk identification and assessment that applies to all parenting cases and reflects the evidence base and the best screening tools used in family dispute resolution services (Chisholm Report, p 6).

PART 2 – COMMENTS ON THE FAMILY VIOLENCE BILL

8. This part of Council's submission considers individual provisions of the Family Violence Bill.

Introduction

9. Council supports the expanded definition of definition of *family violence*, which provides a general characterisation of the relevant behaviour followed by a non-exhaustive list of examples of the ways in which that behaviour can be manifested as recommended by Council in its *Family Violence Report* and by the Australian and NSW Law Reform Commissions in 2010. Council also supports the recognition of children's exposure to family violence as a form of child abuse (Item 8).

10. Council supports the Government's initiatives to improve the types of evidence that come before the courts to enable the courts to determine appropriate parenting arrangements for children. As noted in the *Family Violence Report*, Council believes it is imperative the courts are made aware, as early as possible in the proceedings, of allegations of abuse and family violence regarded by a litigant as relevant to the determination of what is in a child's best interests.[2]

11. Council supports Item 29 of the Family Violence Bill, which would require parties to family law proceedings who allege family violence to file a Notice of Child Abuse of Family Violence with the court. Council notes that this Item would largely implement Recommendation 10 of the Council's *Family Violence Report* that section 67Z of the Family Law Act be amended to require a party to parenting proceedings to file a Notice of Family Violence in all cases in which a party claims family violence is a factor to which the court should have regard in determining a parenting case.

12. Council supports Item 21 of the Family Violence Bill which proposes new provisions to impose obligations on parties to family law proceedings to tell the court if a care order under a child welfare law is in place for the child and if the child is or has been the subject of a notification to, or investigation by, a child welfare authority.

13. Council welcomes the repeal of the 'friendly parent' provisions which are identified as paragraph 60(CC)(3)(c) and subsection 60CC(4)(b). Council, in its

[2] Family Law Council, *Improving responses to family violence in the family law system: An advice on the intersection of family violence and family law issues*, Commonwealth of Australia, 2010, p 69.

Family Violence Report, recommended that Government consider legislative amendments to paragraph 60CC(4)(b).[3] As noted in Council's *Family Violence Report* and the AIFS Evaluation Report, there are tensions between the 'friendly parent' provisions and issues of family violence and child abuse.[4] Most notably, there is considerable concern that a vulnerable parent may elect not to disclose family violence or child abuse for fear of being considered an 'unfriendly parent'.[5]

14. Council also supports the amended section 60CC(3)(c). Consideration of matters in this section, such as the extent to which a parent has taken the opportunity to send time with a child, that were formerly located in section 60CC(4)(a), are an important part of the decisional process and their inclusion in the main part of the 'additional best interests' checklist is a positive step.

15. Council supports Item 36 of the Family Violence Bill which would amend section 117 of the Family Law Act to provide immunity from cost orders to child welfare authorities and officers of the State, Territory or Commonwealth who intervene in proceedings under the Family Law Act at the request of the courts and act in good faith in relation to those proceedings.

16. Council supports the repeal of section 117AB in Item 37 of the Family Violence Bill. Section 117AB provides for cost orders to be made where a party knowingly makes a false allegation or statement, and, by implication, false denial. As Council noted in its *Family Violence Report*, there is no evidence that this section has achieved its purpose in relation to false allegations of family violence.[6] While Council recommended a legislative amendment or an education campaign to remedy the challenges created by s 117AB, Council welcomes the direction the Government has chosen in relation to this provision.

Prioritising the Safety of Children

Prioritising safety in the two primary considerations

17. Council notes the inclusion of Item 17 which would require the courts to give certain priority to the primary considerations that are applied when determining a child's best interests in relation to children's matters. While Council supports modification to section 60CC of the Family Law Act, it considers that the

[3] Ibid, p 18.
[4] Ibid, p 87; Kaspiew et al above n 1, p 250.
[5] Chisholm, R. *Family Courts Violence Review*, 2009, p 18.
[6] Ibid, p 72.

Government's aims could be better achieved by taking a different approach to guiding the courts in determining the child's best interests.

18. Section 60CC of the Family Law Act provides a 'checklist' of matters to be considered by the courts when determining the child's best interests. As a result of the amendments to the Family Law Act in 2006, the checklist of relevant matters is divided into two tiers. Subsection 60CC(2) sets out two primary considerations, while subsection 60CC(3) sets out a further list of additional considerations. The two primary considerations are the 'benefit to the child of having a meaningful relationship with both parents' (paragraph 60CC(2)(a)) and 'the need to protect the child from physical or psychological harm from being subjected to, or exposed to, abuse, neglect or family violence' (paragraph 60CC(2)(b)).

19. The recent research reports indicate that this framework has complicated the decision-making process, making the law more time-consuming for judges to apply and more difficult for the community to understand.[7] It has also contributed to a misperception about the relative importance of the two primary considerations within the community, and led to the development of arrangements in which parental involvement with children has been emphasised at the expense of protection for family members.[8] The Chisholm Report also suggests that the elevation of the primary considerations has fuelled the idea that cases fall into 'two basic types', namely 'the ordinary case, and the case involving violence or abuse'.[9]

20. In its *Family Violence Report*, Council noted the public misperceptions and how they have contributed to the production of parenting arrangements that may not be in the best interests of the child.[10] Council suggested the need to prioritise children's safety over other factors.

21. The Consultation Paper notes tensions between the primary considerations where concerns about family violence and child abuse are present. Item 17 proposes to amend section 60CC of the Family Law Act to provide 'clear legislative guidance to the courts' to prioritise child safety over the child's right to a meaningful relationship with both parents where family violence and child abuse are of concern. Council supports the aim of this initiative.

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[7] Kaspiew et al above n 1 pp 335-336; Chisholm, above n 5, pp 125 and 127.
[8] Kaspiew et al above n 1, p 235.
[9] Chisholm, above n 5, p128.
[10] Family Law Council, above n 2, p 88.

22. However, Council notes that Item 17 is confined to dealing with inconsistency in applying the primary considerations. This proposal assumes that the core failing of section 60CC is the relative weighting given by the courts to the primary considerations. Council considers this fails to recognise the broader problems associated with the two-tiered construction of section 60CC identified in the research reports. In Council's view, the addition of proposed subsection 60CC(2A) will not be adequate to challenge the present misperceptions of the law, and may add a further level of complexity to the process of decision-making.

23. Council is of the view that consideration should be given to simplifying section 60CC by removing the division of the best interests factors into two tiers, as recommended by the Chisholm Report**,** to create a single list of factors in which the safety of children is listed as the first consideration and given priority**.**

24. Council also notes that Item 17 does not address the interaction between the primary considerations and other provisions in the Family Law Act that deal with time spent with the child and each of the child's parent. The AIFS Evaluation found that parents with safety concerns who had settled arrangements after the 2006 reforms were no less likely than other parents to have a shared care-time arrangement.[11] The recent reports also note that the primary considerations have contributed to a view that the court is required to order a shared care-time arrangement unless there is family violence,[12] and suggest that the law has created expectations of shared care-time which have placed pressure on mothers with safety concerns to agree to 'unsafe arrangements'.[13]

25. The recent research indicates that shared care of children is contra-indicated where risks to children's wellbeing such as parental mental health or drug misuse concerns,[14] or high ongoing parental conflict,[15] are present. The research also indicates that family violence can affect the parenting capacity of a caregiver who

[11] Ibid, p 233.
[12] Chisholm, R above n 5, p 9.
[13] Kaspiew et al above n 1, p 246.
[14] L. Bromfield, A. Lamont, R. Parker, and B. and Horsfall, *Issues of safety and wellbeing of children in families with multiple and complex problems* (National Child Protection Clearinghouse, Issues Paper No. 33, 2010).
[15] J. McIntosh, B. Smyth, M. Kelaher, Y. Wills and C. Long, *Post-separation parenting arrangements and developmental outcomes for infants and children*, 2010, pp 10-11.

has been the victim of violence, necessitating measures to support their security following separation.[16]

26. Council's view is that the provisions of Part VII should be further amended to recognise these findings and address the problems identified with the interaction between the best interests considerations and other provisions in the Family Law Act that deal with time spent with the child and each of the child's parent. Such measures may include:

- providing (research-based) guidance about the circumstances in which shared care-time is not appropriate for children in section 65DAA,
- including a requirement that the court consider 'the nature and level of conflict between the parents' in section 60CC, and
- amending the Family Law Act to require the courts to have regard to the impact of family violence on the victim parent when considering what parenting arrangements are in the child's best interests.

Identifying 'Abuse' of a Child

27. Council is concerned about the use of the word 'serious' in the proposed definition of child abuse, as this could imply that some child abuse and neglect is not serious. This is not consistent with the evidence about child development outcomes. Council is also concerned that advisers and litigants will be required to make a subjective judgement as to whether such issues are serious or not. This is not where responsibility for such judgements should lie. Further, a benchmark may be established whereby only 'serious' issues are litigated and others slip through the net. Council therefore recommends that the word 'serious' be removed from the proposed definition of child abuse.

Strengthening Adviser Obligations

28. Items 22-24 of the Family Violence Bill would introduce new obligations on advisers concerning the best interests of the child. Council supports the aim of these proposals, which will require legal practitioners and family dispute resolution practitioners, among others, to encourage clients to prioritise the child's safety from physical or psychological harm when this is not consistent with the child having a meaningful relationship with both parents.

[16] S. Holt, H. Buckley, and S. Whelan, 'The impact of exposure to domestic violence on children and young people: A review of the literature' (2008) 32 *Child Abuse and Neglect* 797; C. Humphreys and R. Thiara, 'Readiness to change: mother-child relationship and domestic violence intervention' (2010) 40 *British Journal of Social Work.*

29. However, for the reasons given above in relation to proposed subsection 60CC(2A), Council's view is that the proposed 3-step approach to this advice is overly complicated and may confuse clients. A central message of the recent evaluation reports was that advisers have found the 2006 reforms 'complex and difficult to apply', and that their key principles are 'hard for lay people to understand'.[17] The AIFS Evaluation indicates that this complexity has made it more difficult for advisers, especially legal practitioners, to achieve developmentally appropriate arrangements for children's care.

30. Council recommends enactment of a less complicated formulation of the proposed obligation, which would require advisers to inform clients that the child's safety should be their highest priority when settling parenting arrangements.

Bringing Evidence of Violence and Abuse to Court

Courts must ask about family violence and abuse

31. Council supports Item 32 of the Family Violence Bill which would require the courts to make inquiries of the parties to proceedings about family violence and whether the child who is the subject of the proceedings has been, or is at risk of being, subjected to, or exposed to, abuse neglect or family violence. Council understands this proposed provision would require courts to make verbal inquiries of the parties rather than simply requiring parties to complete a form.

32. Council notes that this Item may have resourcing implications for the courts. In Less Adversarial Trial (LAT) procedures, judges of the Family Court of Australia speak directly to the parties to determine the important issues in the case. In doing so, judges make inquiries about family violence and child abuse as a matter of course. Council notes that Federal Magistrates, who have busy duty lists, may find that the requirement to ask about family violence and child abuse in every case before them gives rise to additional time pressures.

33. Council also notes that the effective application of this provision will depend on the knowledge, training and skills of the particular judicial officer regarding family violence. As Council recommended in its *Family Violence Report*, the government should aim to develop a common knowledge base on this topic for use by all family law professionals, including judicial officers, and facilitate the use of this knowledge base through cross disciplinary training programs.[18]

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[17] Kaspiew et al above n 1, pp 335-336; Chisholm, above n 5, pp 335-336.

[18] Recommendations 2 and 4, Family Law Council, above n 2.

Family Violence Orders

34. Council supports Item 19 of the Family Violence Bill which proposes to replace paragraph 60CC(3)(k) with a simpler paragraph providing that the court must consider any family violence order that applies to the child or a member of the child's family. This provision removes the unnecessary distinction between particular types of orders and would enable the courts to consider all relevant matters in determining the best interests of the child. Council is aware of the history of this provision and arguments that family violence orders are used to gain a strategic advantage in family law proceedings. However, evidence of family violence orders is relevant in determining safe parenting arrangements for the child.

35. Council notes that Item 19 would apply only to current family violence orders. Council is of the view that all family violence orders relating to the relationship between family members are relevant to determining appropriate and safe parenting arrangements. It is important when assessing future risk that the court is able to consider all of the relevant information about the history of the parents' relationship, including past family violence orders. Therefore, Council recommends that the proposed provision be extended to all family violence orders, including past orders. Council notes concerns of opponents to paragraph 60CC(3)(k), namely that family violence orders are made with the sole purpose being raised in family court proceedings. However, Council considers that the family courts are more than able to 'look behind' the orders to consider the evidence and determine the relevance of any family violence order as it relates to the proceedings.

36. Council notes that the ALRC/NSWLRC Report recommended that paragraph 60CC(3)(k) be amended to provide that a court, when determining the best interests of the child, must consider evidence of family violence given, or findings made, in relevant family violence protection order proceedings.[19] The ALRC/NSWLRC Report suggests that the types of evidence could include affidavit or oral evidence from the victim, statements from police or other witnesses, doctors' reports or information provided by a child protection agency, and transcripts of magistrates court proceedings, where available. Council notes that family courts already have discretion to receive these into evidence. For example, subsection 69ZX(3) of the Family Law Act permits the court to receive into evidence the transcript of evidence in any other proceedings in the court, another court or tribunal. Section 91 and subsection 92(2) of the *Evidence Act 1995* (Cth) also operate

[19] Recommendation 17-1, Australian Law Reform Commission and New South Wales Law Reform Commission, 2010, p 29.

to allow certain court decisions to be admitted in family law proceedings for fact-finding purposes.

37. Adopting the ALRC/NSWLRC Report recommendation would mean that the consideration of all of the evidence in given in family violence orders proceedings, rather than the relevant evidence, would be mandatory. This would have serious implications on the courts as the courts would be required to consider all evidence with respect to one element of the best interests consideration. This would be a significant time burden for the courts. It would also create costs for parties to obtain the evidence required to meet the requirements. For this reason Council does not favour adoption of the ALRC/NSWLRC recommendation.

PART 3 – OTHER ISSUES FOR THE AUSTRALIAN GOVERNMENT'S CONSIDERATION

Recommendations and Evidence That the Family Violence Bill Does Not Address but Should

38. Council notes that the proposed reforms are predicated on a strong evidence base. While Council supports the proposed legislative direction regarding family violence and child abuse, Council believes that other reforms are required to address the concerns for children's safety and wellbeing.

39. The evidence on which the proposed reforms are based demonstrates that children's wellbeing is affected by parental behaviours that sit outside family violence and child abuse contexts. For example, the Social Policy Research Centre found that children's well-being is optimised where parents are able to cooperate about arrangements for their children and there is little conflict between them.[20] Dr Jennifer McIntosh et al recommended that the legislation should aim to ensure children are raised in safe and psychologically healthy relationships by removing the requirement to consider equal time as the starting point for decision-making about parenting arrangements and enacting instead a legislative provision that links the attainment of the child's best interests to arrangements that 'will maximally support each child within their unique developmental context'.[21]

40. Council considers that these findings should be incorporated into the Family Law Act, and that without their inclusion the Family Law Act will continue to send a misleading message to parents (namely, that shared care time arrangements are suitable for children as long as there are no concerns about family violence or child abuse) and impede the ability of the courts and advisers to secure psychologically healthy care arrangements for children who are not affected by violence or abuse.

41. Council also notes the AIFS Evaluation finding that inappropriate shared care arrangements have been made in circumstances where a parent has genuine safety concerns for the child.[22] As noted above (at paragraph 40), Council supports proposed Item 32 of the Family Violence Bill, which will require judicial officers to ask the parties about the risks of family violence or child abuse. Council considers that this proposal should be supported by the inclusion in section 60CC of a

[20] Social Policy Research Centre, 2010.
[21] J. McIntosh et al, above n 15, pp. 10-11.
[22] Kaspiew et al above n 1, pp. 233 & 246.

paragraph that requires the courts to consider 'any concerns that a parent has for the child's safety', as indicated by the AIFS Report.

Practice, Procedure and Professional Development Changes to Support the Reforms

42. Council believes that legislative amendments must be supported by non-legislative measures to ensure the effectiveness of the proposed reforms. Both Council's *Family Violence Report* and the Chisholm Report make a number of recommendations for professional development and procedural reforms which Council believes should be adopted to assist in the effective implementation of legislative amendments. These include:

- establishing a common knowledge base about family violence for use by all professionals in the family law system (Family Law Council, Recommendation 2),

- enhancing awareness and facilitating the use of this knowledge base through government funded dissemination programs and cross disciplinary training (Family Law Council, Recommendation 4),

- establishing a system of court-based risk identification and assessment that applies to all parenting cases and reflects the evidence base and the best screening tools used in family dispute resolution services (Chisholm Report, p. 6).

43. In addition, the ALRC/NSWLRC Report made practice-based recommendations which Council believes are valuable. These are:

- facilitation of information sharing strategies, such as that recommended by the ALRC/NSWLRC that the family courts and state and territory magistrates courts, police, and relevant government agencies should develop protocols for the exchange of information in relation to family violence matters, and that the parties to such protocols should receive regular training to ensure that the arrangements are effectively implemented (ALRC/NSWLRC, Rec. 30.16), and

- the provision of specialist family violence judges (ALRC/NSWLRC, Rec. 32.1).

44. Council further recommends that the Government institute an education campaign to accompany the introduction of the Family Violence Bill into Parliament and implementation of the reforms. An education campaign could also be used to

educate the Australian public about current misunderstandings of the Family Law Act, including the widespread perception that each parent now has a 'starting right' to equal time (50/50) with children.[23] This campaign could also inform the community about provisions that are currently underutilised, such as subsection 60CC(4).

[23] Family Law Council, above n 2, p 9.

CONCLUSION

45. Council endorses the Australian Government's efforts to promote safer parenting arrangements through the legislative measures proposed in the Family Violence Bill. In this submission, Council recommends the Senate Committee consider further amendments to Part VII of the Family Law Act to strengthen these efforts and recommends that the legislative reforms be complemented by non-legislative measures that will help to promote child safety and bring about a broader community awareness of the importance of safe parenting on child welfare and development.

Functions of the Family Law Council

The Family Law Council is a statutory authority which was established by section 115 of the *Family Law Act 1975*. The functions of the Council are set out in subsection 115(3) of the Act as follows.

> It is the function of the Council to advise and make recommendations to the Attorney-General, either of its own motion or upon request made to it by the Attorney-General, concerning:
> (a) the working of this Act and other legislation relating to family law;
> (b) the working of legal aid in relation to family law; and
> (c) any other matters relating to family law.

The Council may provide advice and recommendations either on its own motion or at the request of the Attorney-General.

Membership of the Family Law Council

Associate Professor Helen Rhoades (Chairperson)

Ms Nicky Davies

Mr Clive Price

Federal Magistrate Kevin Lapthorn

Justice Garry Watts

Dr Rae Kaspiew

Mr Jeremy Culshaw

The following agencies have observer status on the Council (with names of observers):

Australian Law Reform Commission – Professor Rosalind Croucher

Child Support Agency – Ms Yvonne Marsh

Family Court of Australia – Ms Angela Filippello

Family Court of Western Australia – Magistrate Annette Andrews

Family Law Section of the Law Council of Australia – Ms Amanda Parkin

Family Relationship Services Australia (FRSA) – Ms Samantha Page

Federal Magistrates Court – Ms Adele Byrne