

Family Law In-House Practice 2010-11

The Commission's family lawyers, at its Adelaide and Regional Offices, provide advice and representation to people who qualify for legal aid in family law matters. The practice also provides specialist advice on child support through the Child Support Unit and, through its Duty Lawyer service, assists unrepresented parties at all sitting days of the Family Law Courts. In addition, the Family Dispute Resolution Unit and the Commission's Child and Family Counsellors provide family law conferencing and general family dispute resolution services to clients.



Graham Russell, Manager, Family Law Practice Division

Changes to the family law system

There were again a number of important changes to the family law system in the past year. While the proposed merger of the Family Court and the Federal Magistrates Court has not yet taken place, the Courts have continued to operate as one administrative entity in a large number of areas. Over 90% of all applications are now filed in the Federal Magistrates Court, which during the year celebrated its 10th anniversary. The Family Court continues to hear the most complex cases including those cases where allegations of sexual abuse or serious physical abuse have been made. These cases are heard by the Court under its Magellan Case Management System.

There were significant changes to the Court filing fees structure during the year which impacted upon clients of the Commission. All clients now have to pay

a filing fee when they lodge applications in court, even if they are lodging consent orders. There is a process for parties to apply for a deferral of payment in certain cases and a reduction in the amount paid if a party is in receipt of legal aid or is unable to pay the fee in full. These changes are to be reviewed at the end of the financial year.

The Attorney-General also introduced legislation to amend the children's provisions of the Family Law Act following a number of enquiries and reports into the impact of the shared parenting amendments of 2006. The legislation seeks to place greater emphasis on the safety of parties and the protection of children and if passed will impact significantly on a majority of our client's cases, which frequently include allegations of family violence.

Child Support Unit

The Commission continues to provide specialist advice and representation to clients with respect to child support matters through its specialist Child Support Unit.

The Unit provides legal advice in all child support related areas however the majority of casework in this area involves establishing the parentage of children, which then allows the carer of those children to access the child

Family Law In-House Practice 2010-11

support system, and applications under the Family Law Act by adult children who require continued financial support from their parents because of their continued study past the age of 18 years or because they have a physical or mental disability which limits their ability to obtain paid employment.

In this latter area, the Child Support Unit has developed a strong, on-going relationship with the South Australian Public Trustee which is empowered to act as Litigation Guardian in cases where an adult child's disability has prevented him or her from giving instructions.

The Child Support Unit has explored some innovative ways of communicating with clients and promoting its services in 2010-11. In recognition of the increasing reluctance of many clients to answer calls from a private number, CSU staff were given the means to contact clients by text message directly from their computers. This has assisted staff to stay in touch with clients for whom traditional means of communication are increasingly irrelevant.

In response to the need to engage with clients who use the internet to identify and contact services, the CSU launched a Facebook profile in April 2011. This is in line with a recommendation in the Client Survey 2008-10. The Facebook wall has

been used to promote the services of the CSU and the Commission generally, and clients are able to contact the Unit by confidential email. The response has been encouraging with an increase in the number of callers saying they learnt about the service from the internet.

Family Dispute Resolution Unit

The Commission's Family Dispute Resolution Unit conducts a lawyer assisted dispute resolution service in family law matters. This Family Law Conferencing program complements and fits between the services offered by community based mediation organisations, such as the Family Relationship Centres, and the Family Law Courts. The program particularly assists clients who have complex issues and whose matters require the support and advice of legal representation in the negotiation process.

There has been continued growth in the number of conferences convened by the program, with an increasing number of matters being referred to the Unit by the Family Law Courts. An on-going referral pathway between the Courts and the Family Dispute Resolution Unit enables timely and reliable scheduling of conferences.

Notwithstanding the more complex nature of the matters conferenced by the Unit, the percentage of settled and partially settled conferences remains steady at about 85% of matters.

Community Education

Members of the Family Law Practice Division were active in providing community education services to many organisations. Independent Children's Lawyers have continued to present at the TAFE Interagency Course to staff of SAPOL and Families SA about their role and its inter-relationship with these agencies and the Courts. The Section also assists in the provision of Commission programmes such as the monthly Family Law Information Sessions held at TAFE and beamed to many country areas by video-conferencing, and the Commission's Law for Community Workers Course.

South Australian Family Pathways Network

The Commission is represented on the Steering Committee and remains an active member of the SA Family Pathways Network, which comprises the major organisations in the family law system in South Australia.

During the year, the Network established a regular newsletter and expanded its service directories which detail family law services (legal and non-legal) available to clients of the family law system and which are distributed widely each school term. A co-operative venture with the Barwon South FLPN has resulted in a two-state conference being held in May (one day at Mt Gambier, the second day at Portland). The conference was

Family Law In-House Practice 2010-11

held over two days, and examined the similarities and differences clients face in the Green Triangle region of south-east South Australia and western Victoria.

The Network also commenced production of a short film, supported by funding from the SA Film Corporation. The film is based on an aboriginal dreamtime story and promotes the concept of 'child focus' and the availability of family relationship centres.

Family Law Casework

As part of its co-operative approach to family law, the Commission has entered into an agreement, in partnership with community legal centres, to provide legal services to each of the five Family Relationship Centres in South Australia. A Commission family lawyer principally provides legal advice services to FRC clients who are referred for this purpose as part of their intake procedures and at other times during the course of mediations conducted by the FRC as well as after agreements have been reached. This innovation has built on the existing good relationships the Commission has with the FRCs and we have worked co-operatively to ascertain how referrals can best take place and how our services can best be used.

The Commission has continued to have a family lawyer outposted to the Adelaide office of the Aboriginal Legal Rights Movement to provide family law

assistance services to Aboriginal persons who either attend at ALRM seeking legal assistance or who are referred through the Commission. The outposted lawyer's workload principally consists of seeing advice clients who are referred directly from ALRM and acting for clients as a casework lawyer pursuant to a Commission grant of legal aid. As our lawyer is an accredited Independent Children's Lawyer this work also includes appointments as an ICL where there is an aboriginal child involved in court proceedings.

This collaboration has worked for the benefit of both organisations. As our lawyer is 'embedded' at ALRM we have been involved in ALRM functions, training days and important events for Aboriginal clients e.g. NAIDOC Week, Sorry Day and is a ready reference for clients who need specialist family law assistance. The Commission lawyers have benefited from the perspective our lawyer has been able to bring to the practice as a whole.

The Section also continued its program of assisting other sections within the Commission in understanding our practice of family law. In the past, secretarial staff and advisers from the Access Services programme have been involved in visits to the Court to see its operation. This year we recognised the importance of the Commission's Records Section and ran a programme over a number of months when staff spent time

at the Courts with our lawyers observing the courts in action and meeting court staff and family law identities. We then held a half-day training session about 'the life of a family law file' and they attended one of the Section's regular meetings. This was successful in ensuring that the family lawyers and Records staff got to know each other personally and had an understanding of each others' roles at the Commission particularly and in the family law system generally.

Independent Children's Lawyers

In 2010-11 the Commission made 301 Independent Children's Lawyers appointments. This compared with 371 appointments for the previous financial year.

While the number of filings in the Family Law Courts has continued to decrease during this financial year possibly as a result of the emphasis on dispute resolution processes, it is clear that the number of difficult matters proceeding through the court system has not reduced.

The Commission has continued to honour all ICL orders made by the courts.

In line with the restructuring of the Family Law Courts, almost all of the appointments have been ordered by the Federal Magistrates Court. The exceptions are typically ICL orders made by the Family Court as part of its Magellan Project. This case management system

Family Law In-House Practice 2010-11

provides special procedures for cases where there have been allegations of sexual abuse or serious physical abuse. At the present time, there are about 50 Magellan matters at various stages in the Court's system.

Family Law Duty Lawyer

The Commission has two Duty Lawyers who are based at the Family Law Courts and are present at the court each sitting day to assist unrepresented parties by providing a range of services to enable these clients to manage their appearances in court and receive assistance in making applications for legal aid or being referred to private family law practitioners or other community services, as appropriate.

In addition, the Family Courts Duty Lawyers have assisted in other aspects of the section's practice, including community presentations and support for lawyers during times of leave and are valuable resource to the Commission and the Courts.

Liaison

The Family Law Practice Division has continued its regular liaison with other sections of the Commission dealing with family law issues as well as with external organisations.

External liaison involved the following organisations—

- Interstate legal aid commissions—the Family Law Working Group and Dispute Resolution Working Group.
- The Family Law Courts—regular meetings with Judges, Federal Magistrates and Court staff, representation on a number of the Courts committees e.g. the Family Court's Community Reference Panel.
- Child Support—the Child Support Agency, South Australian Stakeholders Engagement Group.
- Family Dispute Resolution providers—Family Relationship Centres and other community based service providers.
- Other organisations—the Aboriginal Legal Rights Movement, community legal centres, Grandparents FOR Grandchildren.
- The Law Society—through Family Law Section membership and representation on committees.
- The SA Pathways Network—a collaboration of the major service providers in the area of family law.