

# Family Relationship Centres: Implications for **Separating Families**

Allie Bailey

In this article, Allie, who works as a trainer at DVIRC, shares her concerns about the new changes to the Family Law system. This article is based on a paper presented at the 2005 conference for the National Council for Single Mothers and Their Children in Adelaide.

As part of the package of Family Law system reforms, the federal government plans to open 65 Family Relationship Centres across Australia. These centres will be run by existing community services. They will provide a whole range of services, including pre-marital, marital and post-separation advice, information and referrals.

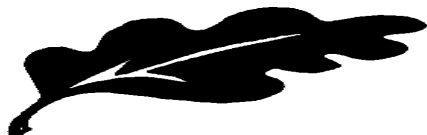
The centres will do more than just provide advice; one of the key aims of the centres will be to help the client to 'consider whether the relationship can be kept together' (Australian Government Attorney-General's Department 2005). The decision of whether to stay in or leave a relationship should be a choice. It should not be driven by the belief of some members of government that unhappy couples should try harder to stay together, rather than separate. I don't have a problem with families having access to support services – but the aims of the new services are inherently conservative, and for women who are wanting to leave violent or abusive relationships, they will have significant consequences.

I have to say too, that I think there are many ways the government could be supporting two-parent families that might reduce rates of separation – such as family-friendly work practices, affordable and available child care, adequate welfare

payments, and creating a culture of encouraging men to share parenting responsibilities. But that's another issue...

I want to focus on the consequences of these reforms on women and children affected by family violence, but I would also make the point that for sole parents everywhere, these reforms will change our lives. As discussed here, the family law reforms will require that all families consider equal shared parenting, including a starting point of parenting time shared 50/50, as an ideal parenting arrangement. It is disturbing that we are moving away from developing parenting plans that start with what might best suit our children, towards ones that are about fathers' rights. Sole parents, mainly women, are facing a systematic shift that disadvantages them through changes to industrial relations laws, tax and welfare, child support, and now family law. One-parent families are clearly not the 1950s, white picket fence ideal that John Howard wants to encourage.

All separating families will be required to attend a Family Relationship Centre before being able to use the Family Court. This is a key part of the government's agenda – to move us away from the court, and an adversarial system, to one that is about mediation. There are potentially useful things about providing us with other forms of resolution if they enable parents to focus on the interests of children, and to minimise conflict, stress and acrimony.



## **But what will these Family Relationship Centres do for women and children leaving violent relationships?**

If you were to believe the current information about Family Relationship Centres, victims of violence will not be required to attend these services other than to inform them that they are experiencing violence, and to get a certificate of attendance or referrals to support services. They could then take the matter straight to court. Screening is supposed to remove any families from the dispute resolution process where safety remains an ongoing concern.

But there are some serious problems with this. We know from Australian and international research that screening doesn't actually identify all cases of domestic violence. In fact, the government's own research, undertaken by Keys Young, found that nearly two-thirds of families studied experienced violence but only one-third reported it to mediators (Keys Young 1996). We know that women are extremely reluctant to tell someone that they are or have been in an abusive relationship. They are afraid, they feel ashamed and many get dreadful responses when they do tell someone.

I know through my work in training with professionals that many of them, like people in the community generally, do not understand family violence or the importance of believing and supporting the victim. Their understanding tends to be steeped in the common beliefs and myths of the community at large.

What this and other research tells us is that it takes specialised training and experience to talk to women about family violence. In order to be able to effectively 'screen out' clients with current or past abuse, staff of the Family Relationship Centres will need to be very skilled in recognising indicators, asking questions about violence, responding to disclosures and making appropriate referrals. The

Family Relationship Centres are due to open this year, but at this stage the government is yet to develop or deliver specific training in domestic violence and related competencies for staff at these centres.



Not only is it already very difficult for a victim to tell someone about violence, but this will become even harder once the family law changes go through. The legislation will introduce a test of reasonableness to determine the truth about allegations of family violence (even though research shows that women rarely make these up)<sup>1</sup>. Costs will be ordered against parents who 'knowingly' make a false allegation about violence. It will also introduce the 'friendly parent' provision, which requires consideration of a parent's 'willingness to facilitate a relationship with the other parent'<sup>2</sup>. This means that if you allege violence but are unable to prove it, or are resistant to handing over your child to spend half their time with an abusive parent, then residency may be awarded to the other parent. Again, research has repeatedly shown that it is difficult to get evidence to prove domestic violence – that's the nature of it. Women are prevented from getting medical attention, they are abused behind closed doors with curtains drawn, and historically, professionals often have failed to notice or to respond to abuse when they see it. So the bar to establish that domestic violence has occurred will be raised, and the penalties for not being able

---

<sup>1</sup> The proposed change is that 'family violence' means conduct that causes a family member 'reasonably to fear for, or to be reasonably apprehensive about... [their] well-being or safety'. According to the Federal Government, 'this amendment will help to address concerns that false allegations of family violence are being made in family law proceedings, even where a fear of violence is far fetched or fanciful' (Australian Government 2005).

<sup>2</sup> From the *Family Law Amendment (Shared Parental Responsibility) Bill 2005* which was introduced into the House of Representatives on 8 December 2005.

## Family Relationship Centres

to prove it will be increased.... which makes me wonder why any woman would disclose abuse?

### **So let's imagine that some families are not screened out of dispute resolution ...**

The purpose of these Family Relationship Centres is to provide dispute resolution as soon as possible after separation to assist families to develop parenting plans. While this sounds well intentioned, anyone who has ended a relationship would know that the period immediately following separation is not when most people are at their most reasonable or rational. It's probably the time where people are *least* able to develop a shared parenting plan. For families where there is violence this is the time where women and children are most vulnerable to increased violence and indeed, murder (Jaffe, Lemon and Poisson 2003; Kaye, Stubbs and Tolmie 2003). When a violent partner has lost a central mechanism for control, the abuse is likely to escalate. So safety is a huge concern at this time; but as yet, there is scant mention of how the Family Relationship Centres will deal with safety issues.

Let's imagine that a woman has left an abusive relationship – she knows that if she discloses the abuse she might not be able to prove it, and although she doesn't want to see her children living with a violent father, she does want them to see their dad safely. She can't afford to go to court, and she likes the idea of using a less formal process to obtain a resolution.

These centres are designed to use a model of mediation that relies on both parties being equally able to negotiate. But in violent relationships both parties are NOT equal. Violence is about attempts to control and dominate another person. Many women and children living with this learn to be compliant and they expend a great deal of energy trying to avoid violent

episodes. More generally, women are expected to be conciliatory and often taught to put the needs of others first. For women who are terrified of their partners, there is little chance that they can equally negotiate. But because these reforms assume that cases of family violence will be screened out, there has been no development of a model of dispute resolution that attempts to work with these families to try to re-balance the power differential that is created by violence.

There are models for mediation that attempt to do this. In the main these require the mediator to take a highly structured and interventionist approach to avoid colluding with the violent client, and to encourage the victim to speak her mind by being safe and feeling safe. In order to do this, extra resources are required: using two mediators, having short sessions with frequent breaks, keeping the clients in separate rooms, and most importantly, having legal representation for each party.

But it is very clear from consultations with government that one of the explicit aims of the new reforms is to exclude lawyers from this process. In fact, the recent information about Family Relationship Centres states that 'Family Relationship Centres will not provide legal advice to clients and clients will not be legally represented in sessions conducted at the Centres. The intention is to move away from an adversarial approach to parenting after separation.... Centres should not be placed at sites that would indicate a strong link to the adversarial system, such as adjacent to or within courts or legal services' (Australian Government Attorney-General's Department 2005). Parenting advisors at the centres will not provide legal advice, and legal representatives will not be allowed into sessions, although advisors can refer clients to legal services.

Another possible option for a model of mediation that specifically addresses violence would involve collaboration between a mediation service and a domestic violence service. Within this approach, the domestic violence worker would provide support to the victim throughout the entire process, from making the initial decision to participate, the mediation session, and afterwards. This model also requires the commitment and resources to provide specialised mediation for victims of violence.

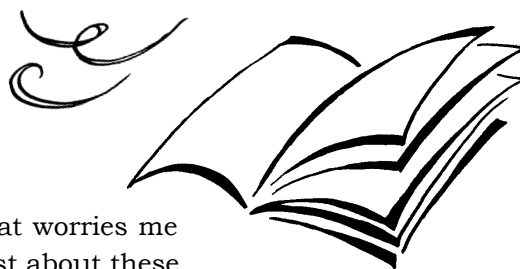
### **What is the likely outcome of attending these centres?**

After both parents have attended group information sessions and used their three free hours of dispute resolution, they are expected to come out with a parenting plan which sets out the arrangements for care and decision-making regarding the children. In this session they are advised that they must consider a parenting plan that starts with the ideal of 50/50 time. This advice will be given even though almost no expert submission made to the government during the law reform consultation process argued that this was practical or suitable for most children or parents - because workplaces, our tax system, Centrelink and child care do not tend to support parents who share parenting, when together or separated<sup>3</sup>.

Even if a woman is able to move the discussion away from equally shared parenting time, she will still be required to develop a plan that includes equal shared parental responsibility. This means that both parents share decisions about things relating to children, including schools, health, travel etc. For a woman trying to leave an abusive relationship, this ongoing contact with a violent ex-partner is dangerous, leaving him ongoing opportunities to harass, threaten and control her and the children.

---

<sup>3</sup> Research shows that that equal time is not the preferred option for most families, nor is it workable for many. See for example, Smyth (2004).



What worries me most about these changes is that behind these requirements to consider equally shared time and responsibility are *children*. While the best interests of children are meant to remain the focus, these reforms place tremendous weight on the rights of parents, and are the result of intense lobbying by fathers' rights groups. In all the documents I've read and in all the consultations and public hearings I've attended, the voice of children, and particularly the voice of children who have been harmed by violence, is absent.

Like any relationship, a separation does not mean an ending, it means a change. Violence does not stop when a relationship is over, and the fear and threat and reality of abuse continues. We know from research that men who are violent towards their partners are often authoritarian, self-centered and unlikely to be child focussed post-separation. When compared to non-violent parents, perpetrators of family violence are more likely to become angry with their children and use smacking; to be controlling; and to be less consistent in their parenting. Many studies indicate that violent parents are several times more likely than non-violent parents to physically abuse their children (Harne 2004; Bancroft and Silverman 2002). Children, like adults, remember hurt, and experience the trauma of abuse. We must develop a system that listens to children, and can understand that a violent dad is NOT better than no dad. For their relationships with their parents to be a positive experience for children, they must feel safe and be safe.

But we live at a time when the dominant message is that every child must have a father. Many mothers, including sole and lesbian parents, who have happy, healthy

## Family Relationship Centres

children and networks of friends and family find this offensive. It's not the absence of fathers that makes for a traumatic life, it is poverty and exhaustion and a lack of community support for one-parent families.

Mothers are in the difficult position of having to protect their children while these law reforms undermine their capacity to do so. Mothers have not led these reforms – perhaps we have been too busy parenting and working to lobby politicians! But we must make noise now, because the attitudes embedded in these and other changes will not create better outcomes post-separation, or lead to happy, safe children. I hope that we can renew our energy and bravery to start speaking, to make noise, and to improve these laws.

### References:

- Australian Government (2005) *Response To The Recommendations Of The House Of Representatives Standing Committee On Legal And Constitutional Affairs (The Committee) On The Family Law Amendment (Shared Parental Responsibility) Bill 2005 (The Bill)* 8 December 2005, Commonwealth Attorney-General's Department website, Canberra, [www.ag.gov.au](http://www.ag.gov.au)
- Australian Government Attorney-General's Department (2005) *Family Relationship Centres – Information paper Revised 22 December 2005*, Commonwealth Attorney-General's Department, Canberra
- Bancroft, L. and Silverman, J. (2002) *The Batterer As Parent: addressing the impact of domestic violence on family dynamics*, Sage Publications, Thousand Oaks, Ca, p.44
- Jaffe, P., Lemon, N., and Poisson, S. (2003) *Child Custody and Domestic Violence*, Sage Publications, Thousand Oaks, California.
- Kaye, M., Stubbs, J. and Tolmie, J. (2003) 'Negotiating Child Residence and Contact Arrangements Against A Background of Domestic Violence', *Research Report*, No. 1, Griffith University, June 2003.
- Keys Young (1996) *Research/Evaluation of Family Mediation Practice and the Issue of Violence Final Report*, Commonwealth Attorney-General's Department, Canberra
- Smyth (ed.) (2004) *Parent-Child Contact and Post-Separation Parenting Arrangements*, Australian Institute of Family Studies Research Report No. 9, Melbourne.

**For further information about family law changes see DVIRC's website <http://www.dvirc.org.au/UpdateHub/FamilyLawReform.htm>**

### Discussion Paper on Sexual Abuse Reviewed in *Australian Social Work*

DVIRC's Discussion Paper, *What is Child Sexual Abuse? Rethinking what we know* by Jenni Southwell (2003) was reviewed in the June 2005 edition of the journal *Australian Social Work*.



Reviewer Carolyn Cousins from Violence, Abuse and Neglect Services, Central Coast Health in Gosford wrote:

*This discussion paper explores a range of views and is somewhat unique in its willingness to question. It is easy to read and encourages reflection, with the reader invited to engage in dialogue through a written response to the author. It is certainly worth reading for those working in sexual assault or with children and families generally, and particularly those practitioners interested in the construction of meaning that the subsequent effects on practice.*

*'It is intended to be reflective and succeeds in prompting the reader to ponder – I found myself applying the concepts and referring to them for some time afterward and not just in a child sexual abuse context.'*

This Discussion Paper isolates and interrogates some of the dominant frameworks of meaning that surround child sexual abuse, and points to how particular frameworks enable us to see and respond to certain dimensions of the problem, while obscuring others from our view. The paper compares and contrasts the child protection provisions of three different pieces of legislation which are used to protect children who have been sexually abused in Victoria. It raises concerns about the adequacy of current approaches to protecting children.

**The Discussion Paper is available for purchase from DVIRC for \$20 per copy. Contact DVIRC on 9486 9866 or email [dvirc@dvirc.org.au](mailto:dvirc@dvirc.org.au)**