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# Evaluation of a pilot of legally assisted and supported family dispute resolution in family violence cases

Final report

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## Executive summary

Evidence of the prevalence of a history of past and/or current family violence among separated parents, and the presence of ongoing safety concerns for themselves and their children as a result of ongoing contact with the other parent, has created an impetus for the family law system to find more effective ways of dealing with families affected by family violence.

In July 2009, the Federal Government announced funding for a pilot program to provide assistance, including family dispute resolution (FDR), to such families. Subsequently, Women's Legal Service Brisbane (and other consultants) were funded by the Attorney-General's Department (AGD) to develop a model for coordinated family dispute resolution (CFDR). CFDR is a service for separated families who need assistance to resolve parenting disputes where there has been a history of past and/or current family violence. It is being implemented in five sites/lead agencies across Australia: Perth (Legal Aid Western Australia), Brisbane (Telephone Dispute Resolution Service [TDRS], run by Relationships Australia Queensland), Newcastle (Interrelate), Western Sydney (Unifam) and Hobart (Relationships Australia Tasmania). TDRS made adaptations to the model to accommodate its telephone-based service.

The pilot commenced operation at most sites in the final quarter of 2010. Implementation in one location (Brisbane) was delayed until mid-2011 to allow time to finalise the composition of the partnership.

CFDR is a process where parents are assisted with post-separation parenting arrangements where family violence has occurred in the relationship. The process involves a case manager/family dispute resolution practitioner (FDRP), a specialist family violence professional (SFVP) for the person assessed to be the "predominant victim" in the language of the model, a men's support professional (MSP) for the person assessed to be the "predominant aggressor" (when they are male),<sup>a</sup> a legal advisor for each party and a second FDRP. Child consultants are part of the professional team and may be called upon to feed into case management decisions. Child-inclusive practice may be applied in particular cases, but only one location applied it frequently and a second infrequently. Specialised risk assessment and management takes place throughout the process, which unfolds over several steps involving screening, intake and assessment, preparation for mediation, mediation (up to four or more sessions) and post-mediation follow-up.

The process is applied in a multi-agency, multidisciplinary setting and it aims to provide a safe, non-adversarial and child-sensitive means for parents to sort out their post-separation parenting disputes. The level of support provided to parents is intensive, and this is a key means by which the process attempts to keep children and parties safe and ensure that power imbalances resulting from family violence do not impede parents' ability to participate effectively.

This report sets out the findings of an evaluation of the CFDR process that has been funded by the Attorney-General's Department. The evaluation was based on a mixed-method approach involving several different data collections. These were:

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a As explained further in 3.1.2, the party assessed as the "predominant aggressor" was male in 89% of cases and female in 5%; the determination was missing or uncertain in 6% of cases. Given the ethical issues that arise in dealing with participants from groups that contain small numbers (see further discussion in Chapter 1), the particularity of the experience of male "predominant victims" and female "predominant aggressors" is not explicitly explored in this report. However, where data were collected from individuals in these groups, it is reflected in relevant parts of the discussion.

- a study based on case file data from the entire cohort of CFDR files up to 30 June 2012 ( $n = 126$ ), and a sample of comparison group files ( $n = 247$ ) drawn from services run by each of the lead partners where CFDR services were not offered;
- a qualitative study based on interviews with professionals working in the pilot ( $n = 37$ ) in the early stages of implementation, and a second study comprising interviews with professionals ( $n = 33$ ) near the end of the evaluation data collection period (April–June 2012);
- mixed-profession focus groups (participants:  $n = 37$ ), conducted between August and November 2011;
- an online survey of professionals, conducted in June–July 2012 ( $n = 88$ , with a response rate of 68%);
- interviews with parents who received the CFDR services and progressed to mediation, conducted as eligible parents became available ( $n = 29$ ). An online survey was also available to parents; however, the smaller-than-expected number of pilot cases meant very small numbers of people were eligible to complete the survey. Therefore, the evaluation team focused on conducting interviews with as many parents as possible and incorporated data from the seven completed online surveys in the analysis of the qualitative data; and
- requests for information (conducted via discussions with location coordinators) that examined how the model was adapted and implemented in each location.

Members of the evaluation team also attended the training provided prior to CFDR implementation and the follow-up training provided mid-way through the implementation period. A member of the research team was an observer on the National Steering Committee, which met quarterly throughout the evaluation period. Intensive liaison between the research team and location coordinators took place throughout the evaluation period for the purpose of informing the developing methodology and monitoring the progress of the pilot. Consultation on the evaluation methodology was ongoing throughout the evaluation period as well.

The CFDR process implemented in the pilot is at the cutting edge of family law practice for a number of reasons. It involves the conscious application of mediation where there has been a history of past and/or current family violence. It also involves collaborative multidisciplinary practice in a multi-agency setting, with the nature of the collaboration being clinical rather than at the level of referral and support.

The evaluation findings underline the complexities involved in practice in this context. These complexities are evident in several ways, including the logistics of coordinating contact between clients and multiple professionals in several locations. The client group is also very complex, with substantial proportions of the cases involving not only family violence, but mental health issues and substance addiction also. The challenges associated with interdisciplinary practice in family law are also well-recognised (Moloney, Kaspiew, De Maio, Deblaquiere, & Horsfall, 2011; Rhoades, Astor, Sanson, & O'Connor, 2008) and these are heightened when family violence is a uniform feature of the caseload.

The evaluation findings indicate that the challenges in establishing and maintaining collaborative relationships between each of the partners in the five locations were often significant. In each location, tensions of varying kinds arose to varying extents, but in most cases they were resolved and did not impair the functioning of the CFDR process. In one location, tensions were evident and unresolved to such an extent that the constellation of the partnership changed in April 2012. Evaluation evidence indicates that the tensions in the partnership in that location affected the quality of the service provided to clients. In a second location, differing views on the application of child-

inclusive practice between the lead organisation and a partner organisation led to protracted discussions and negotiations between these organisations that appeared to be bearing fruit as the evaluation was coming to end. There was no evidence from the evaluation data (from parents and professionals) that this issue had affected the service provided to clients at that location.

From the time the pilot commenced operation in late 2010, to the close of data collection for the evaluation on 31 August 2012, the five pilot sites collectively completed 126 cases: 27 of these cases reached mediation. Of these cases, mediation resulted in a partial agreement in relation to parenting issues for 13 cases (48%) and full resolution in 10 cases (37%).<sup>b</sup> The rest exited at various points and for varying reasons.<sup>c</sup>

A significant proportion (49%) of the pilot files were single-party cases, reflecting situations in which the second party in a matter refused to engage with the processes instigated by the first party's contact with the CFDR service, or were ultimately not invited because of safety concerns. Single-party cases made up 31% of the comparison group sample. While the evaluation data indicate that CFDR cases overall involve particularly complex dynamics, single-party cases were more likely to involve a previous history of involvement with child protection departments (15% cf. 6%). Single-party cases received significantly more support in the CFDR process than single-party cases in the comparison group: 86% of comparison group cases received no service beyond intake processes, as against 19% of CFDR cases. Just over half of the CFDR single-party cases received multiple services as a result of their engagement with the process, compared with 1% of comparison group cases. In practice, the focus of CFDR is wider than dispute resolution: the proportion of single-party-only cases and the level of service they receive highlights the wider role of CFDR as a support and referral mechanism.

The evaluation data demonstrate that practice in CFDR is very complex. Risk management is an active and time-consuming process, with risks escalating and abating as clients move through the process, for varying reasons and with different triggers. Family violence is a very challenging area of practice, due to the professional and client dynamics involved. It is clear that the professionals in CFDR play an active part in guiding clients through the process, and collaborative practice is critical to the efficacy with which they do this. Most of the professionals involved in the evaluation were very enthusiastic about the need for a CFDR-type service in the family law system and were positive about the capacity of CFDR to meet client needs. This was true of many professionals' views, even in locations where the partnerships encountered difficulties.

The parents interviewed were also mostly positive about the process, with some exceptions. Most valued the support they received from either the SFVP or the MSP and were also appreciative of access to free legal advice. It is clear that the potential for predominant victims to experience emotional trauma through the application of mediation against a background of family violence should not be underestimated. Clinical decisions about its application should be carefully made, and face-to-face mediation as a first preference in this context is questionable.

Many of the cases in the pilot sample had multiple mediation sessions (nearly three-quarters of cases), and these cases were less likely than comparison group cases to emerge from mediation without any issues agreed. The mediation experiences of the parents interviewed for the evaluation were mixed, with some parents reporting that they felt emotionally unsafe in the process. These reports mostly, but not entirely, emanated from the location where there were serious problems in the partnership.

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<sup>b</sup> In a further 3 cases that reached mediation, no agreement was reached. This information was missing in one other case.

<sup>c</sup> Chapter 4 further describes the trajectories and exit points for clients in the CFDR program.

Where mediation sessions are handled carefully, the data from parents indicate that the process can be safe and can empower parents to make appropriate arrangements for their children. Some parents reported coming out of the process with workable agreements and an improved capacity to communicate with their ex-partners.

Children in the CFDR group were less likely to be in shared care than those in the comparison group. They were also more likely to have changeover arrangements that mitigated the need for contact between the two parents.

# 1 Introduction

## 1.1 Overview and background

In July 2009, the Federal Government announced funding for a pilot program to provide assistance to parents, including family dispute resolution (FDR),<sup>1</sup> to manage post-separation parenting disputes where there has been a history of violence. Subsequently, in consultation with the Attorney-General's Department (AGD), Women's Legal Service Inc. (WLS) Brisbane (and other consultants) developed a model for coordinated family dispute resolution (CFDR) for use in the pilot.

The AIFS Evaluation of the 2006 Family Law Reforms (AIFS Evaluation) (Kaspiew et al., 2009) has demonstrated that a history of violence is common among separated parents, with 26% of mothers and 17% of fathers reporting physical hurt prior to separation, and 36% of mothers and 35% of fathers reporting emotional abuse before or during separation. Significant proportions of separated parents are concerned about safety risks to themselves or their children as a result of ongoing contact with the other parent, with 21% of mothers and 17% of fathers reporting such concerns (Kaspiew et al., 2009; Qu & Weston, 2011).

It is well established that the conduct of family dispute resolution involves particular challenges where there has been alleged past and/or current family violence. A fundamental question relates to the capacity of either or both parties to participate in the process effectively, given that a history of violence may result in a power imbalance between the victim and the perpetrator (Astor & Chinkin, 2002, Australian Law Reform Commission [ALRC] & NSW Law Reform Commission [NSWLRC], 2010). For alleged victims, such a power imbalance may compromise their capacity to advocate for themselves and their children in FDR for a range of reasons, including the fear-based power dynamics of the relationship. In relation to alleged perpetrators, fundamental pre-conditions for participation in FDR—namely “honesty, the desire to settle the dispute, and some capacity for compromise”—may not be part of their behavioural “repertoire” in the context of their relationship with the alleged victim (ALRC & NSWLRC, 2010, p. 991).

Further, the conduct of FDR may expose the victim to further risks to their physical safety or psychological wellbeing, especially if they are requested to be in close physical proximity to the perpetrator. For such reasons, screening for past and/or current family violence is a core part of intake and assessment procedures for FDR, and a variety of techniques—including co-mediation, shuttle mediation and mediation via teleconference—may be applied in FDR practice. These techniques are of particular importance, given that findings of the AIFS Evaluation (Kaspiew et al., 2009) showed that a high proportion of separated parents who report family violence are accepted into FDR.<sup>2</sup> It was found that an agreement was struck in 35% of cases where physical hurt prior to separation was reported and in 38% of cases involving emotional abuse before or during separation, compared with 47% of cases where no violence was reported. Certificates, which may be issued under *Family Law Act 1975* (Cth) (*FLA*) s 60I to provide evidence that the parties have been considered for FDR and considered

<sup>1</sup> “Family dispute resolution” is the name applied to mediation-type processes under the *Family Law Act 1975* s 10F. Our choice of terminology in this report is guided by readability and we therefore use both terms: “FDR” and “mediation” as appropriate.

<sup>2</sup> Parents who either “contacted or used counselling, mediation or FDR” were a little more likely to report that they had experienced physical violence from their partner (65%) than to report experiencing emotional abuse alone (60%), and much less likely to report not experiencing violence at all (33%). See Kaspiew et al. (2009) for further details.

unsuitable or have attempted FDR without resolution,<sup>3</sup> were issued to just 10% of the no-violence group, compared with 26% of those who reported physical hurt and 22% of those who reported emotional abuse.

Beyond the complexities involved in screening, assessing capacity and applying FDR processes in the context of past and/or current family violence, a core issue is the way in which agreements made in FDR protect the interests of the children. The AIFS Evaluation (Kaspiew et al., 2009) indicated that the system as a whole has some way to go in this regard, with evidence that shared care arrangements (35–65% nights split between parents) are marginally more common among families where there has been family violence and/or there are ongoing safety concerns than among families without such concerns. The AIFS Evaluation evidence indicates that families with safety concerns are more likely than other families to rely on FDR services, lawyers and courts to make such arrangements.

## 1.2 *The CFDR model*

### 1.2.1 Overview

The CFDR model is intended to ensure that both processes and outcomes of dispute resolution respond appropriately to any alleged past and/or current family violence (WLS, 2010). The model is being piloted in five locations across Australia. One organisation in each location is responsible for coordinating a partnership involving other organisations with particular expertise: Legal Aid Western Australia (Perth), Telephone Dispute Resolution Service (TDRS) run by Relationships Australia Queensland (Brisbane), Interrelate (Newcastle), Unifam (Western Sydney) and Relationships Australia Tasmania (Hobart). The organisations in each partnership include:

- a service providing FDR (including professionals who are accredited FDR practitioners and, if appropriate, qualified “child practitioners”);<sup>4</sup>
- a specialist domestic violence service;
- a men’s service; and
- legal services able to provide legal assistance and advice to each party.<sup>5</sup>

The model is based on the involvement of professionals from different disciplines “working together collaboratively and in a non-hierarchical manner” (WLS, 2010, p. 3) in a four-phase process during which risk assessment and case management are continuously and actively pursued:

- Phase 1: Intake, involving specialist risk assessment and the development of a safety plan.
- Phase 2: Preparation of the parties for FDR (including each party obtaining legal advice in two separate sessions, attending three communication sessions, and

<sup>3</sup> *FLA* s 60I(8) sets out five grounds for issuing a certificate—ss(a): one person attended FDR but the other party did not; ss(aa): the FDR practitioner considered it would be inappropriate to conduct FDR under the Family Law (Family Dispute Resolution Practitioners) Regulations 2008 (Cth); ss(b): the parties attended FDR and made a genuine attempt to resolve the dispute; ss(c): the parties attended FDR but one of more of the parties involved did not make a genuine effort to resolve the dispute; and ss(d): the parties commenced FDR but the practitioner considered it would not be appropriate to continue.

<sup>4</sup> “Child consultant” is a term commonly used in the field, and “child practitioner” is the term used in the CFDR model. In this report, we use both terms: the former term primarily, and the latter term when explaining the operation of the CFDR model.

<sup>5</sup> At least two legal partners were engaged to provide legal advice to parents in each location, to avoid conflict of interest issues arising for CFDR lawyers. The CFDR Model was not developed with delivery solely by telephone in mind. TDRS made adaptations to the model to accommodate its telephone-based service at the request of the AGD.

attending a CFDR mediation preparation workshop), and a CFDR-specific intake process in which the CFDR practitioner (in consultation with the other professionals) assesses the readiness and capacity of the parties to engage in CFDR.

- Phase 3: Participation in CFDR, usually applying a co-mediation model, with a legal and possibly a non-legal advocate present for each client.
- Phase 4: Follow-up at between 1–3 and 9–10 months after completion of CFDR.

See Figure 1.1 for a diagrammatic view of the model (reproduced from WLS, 2010).

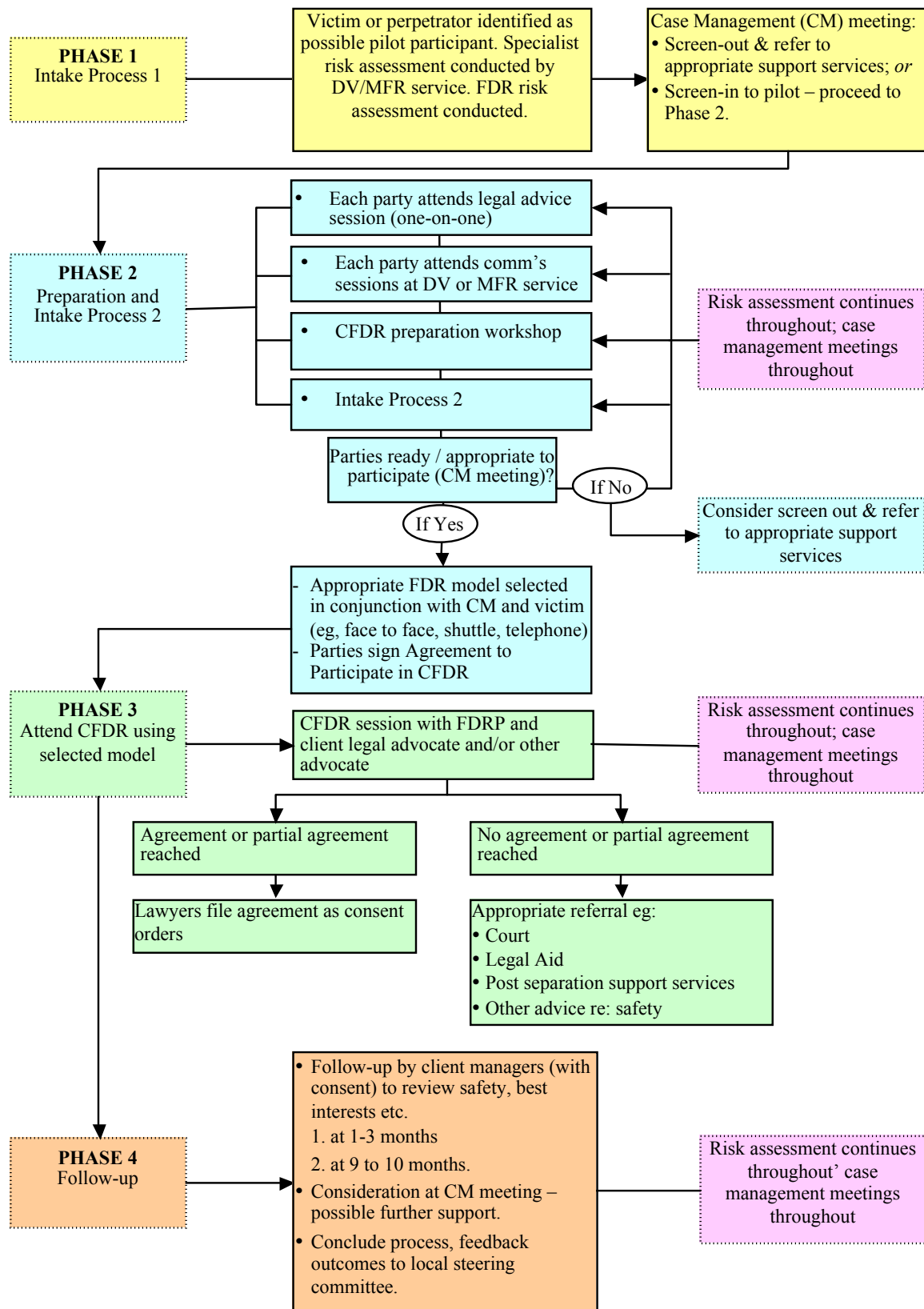


Figure 1.1 The CFDR model



## 1.2.2 Professional responsibilities

CFDR is a case-managed process. FDR practitioners (FDRPs) are responsible for organising the case management meetings, including managing meeting logistics. All the professionals involved in the CFDR process, with the possible exceptions of lawyers, are present at the case management meetings.

FDRPs may be involved in a partial intake assessment at Phase 1, which is followed by the specialised risk assessment. The decision as to whether the parties involved in a matter are ready to undertake CFDR at Phase 2 is the responsibility of the FDRP, although this decision is made in consultation with the other professionals involved.

In collaboration with the men's services, the domestic violence (DV) service has primary responsibility for intake and the initial specialist risk assessment, and ongoing risk assessment, noting all professionals will have a role in ongoing risk assessment. Risk assessment is the responsibility of the men's service when the perpetrator is female. The specialist family violence professional (SFVP) and men's support professional (MSP) are the liaison point for other professionals who have any concerns about safety. The DV and men's services are "client managers" for their own clients throughout the process, including the post-CFDR follow-up in Phase 4.

Key decisions are made collaboratively at weekly case management meetings. These may include:

- acceptance into the pilot;
- whether child consultants will be involved;
- whether reports to child protection authorities or police should be made;
- whether families should be referred out of the pilot;
- whether the parties in each matter are ready to participate in CFDR and consequent strategies if they are not (i.e., further preparation, or referral out of the pilot);
- the particular model of CFDR to be applied (e.g., co-mediation, shuttle etc.); and
- whether agreements should be embodied in parenting plans or consent orders.

Case management meetings involve the professional from the DV and men's services, the FDRPs and the child consultant (where appropriate). The model envisages legal professionals may be involved in case management meetings. However, as the practice evolved, this was not the case. The reason for this practice was a concern to protect confidentiality of the legal professional–client relationship and to exercise care in information flow (see further discussion in Chapter 6).

## 1.2.3 Referrals

Referrals into the pilot program may be made by the specialist DV or men's services, the participating FDR provider, the participating Community Legal Services or Women's Legal Service, local relationship services including Family Relationship Centres (FRCs), legal practitioners, legal services, the Federal Magistrates Court, or Family Court of Australia. However, if the referral to the CFDR is considered to be inappropriate by the SFVP, MSP or FDRP, clients are referred to other appropriate support and legal services.

## 1.2.4 Pilot objectives

According to the WLS (2010), the CFDR model embodies "a flexible and adaptable approach that aims to respond to the particular and individual needs of each family involved in it" (p. 3), with these objectives:

1. In families where there is past or current family violence, and where the family is assessed as suitable to participate, CFDR aims to achieve safe and sustainable post-separation parenting outcomes for children and their families.
2. Issues of emotional and physical safety and risk for all participants, but in particular for victims of family violence and their children, are kept central to and underpin all CFDR roles, decision-making and processes.
3. All professionals involved in the CFDR model have a responsibility to make issues of safety and risk central to their professional practice.
4. In meeting “the best interests of the child” in families where there is past or current family violence, CFDR aims to:
  - a. address issues of safety and risk, especially for the victims of family violence and their children; and
  - b. achieve arrangements that protect the emotional and physical safety of the child in the short and long term, consistent with the *Family Law Act*.
5. All the professionals involved will practice, as far as possible, aspects of a coordinated community response (CCR) to family violence outlined in the model (WLS, 2010).

## 1.2.5 Particular issues

### *Family violence*

Assessments in relation to family violence are based on a “predominant aggressor” model, meaning that “in each matter, the context and pattern of the violence is examined” (WLS, 2010, p. 16). Such assessments are the responsibility of the SFVPs and MSPs. While the CFDR model is based on the view that women are predominantly the victims of family violence, it also acknowledges that men may be victims and women may be perpetrators. As noted above, where a woman is assessed as the predominant aggressor, the men’s service takes primary responsibility for risk assessment.<sup>6</sup> While perpetrator accountability is an objective of CFDR, the model stops short of adopting an expectation that perpetrators in the process will explicitly accept responsibility for their actions. Rather, “at a minimum, in CFDR a perpetrator will be required to acknowledge by their participation in CFDR that concerns about family violence are relevant to future arrangements for their children” (WLS, 2010, p. 16).

### *Child involvement*

Decisions about involving children in the process will be made in case management meetings in consultation with a “child practitioner” who has extensive clinical experience in working with children and domestic violence. Such practitioners may be invited to attend case management meetings where this is considered necessary. Three possible approaches are envisaged, depending on the case management decision made. The child consultant may:

- not meet with the child at all and only provide specialist advice to the case management meeting on the basis of the circumstances of the family or information

<sup>6</sup> As explained further in 3.1.2, the party assessed as the predominant aggressor was male in 89% of cases, female in 5% and the determination was missing or uncertain in 6% of cases. Given the ethical issues that arise in dealing with participants from groups that contain small numbers, the particularities of the experiences of male predominant victims and female predominant aggressors are not explicitly explored in this report. However, where data were collected from individuals in these groups, it is reflected in relevant parts of the discussion.

provided by the professionals involved (including risk assessments), and their clinical experience and understanding of children and child development;

- informally meet with and observe the child; or
- formally interview and/or meet with the child.

In making decisions in this area, a range of considerations are to be balanced in any individual case, including issues concerning safety, the maturity of the child and the extent to which they have expressed a desire to be consulted, and the potential implications of consulting the child in the context of the violence alleged to have occurred. Where a child consultant meets with a child, formally or informally, the decision about how to provide feedback to the parents will be made at a case management meeting.

### *Confidentiality and information sharing*

Potentially, issues relating to confidentiality and admissibility of statements made in CFDR processes are governed by legislative and ethical obligations arising out of four sets of client/professional relationships:

- client–SFVPs/MSPs;
- client–lawyers;
- client–FDRP; and
- client (child)–child consultants.

Provisions regarding confidentiality in FDR processes are set out in the *FLA* ss 10H and 10J. According to the WLS (2010), the entry point of a client into CFDR determines the extent to which these provisions regarding confidentiality and admissibility apply in any particular case. These provisions will apply immediately to any matter that is assessed by an FDRP at initial intake, even after the person is referred to the SFVP or MSP for specialist risk assessment. Where intake occurs via a DV or men’s service, these provisions do not apply. The ethical obligations pertaining to professionals are further discussed in Chapters 5 and 6.

### *Governance and monitoring*

A single National Steering Committee and individual local steering committees in each pilot location are responsible for monitoring, reviewing and refining all policies, practices and resources in relation to the model in order to be responsive to identified needs and to ensure unintended consequences are identified and addressed. Key stakeholder groups are represented on the steering committees. The organisational partnerships in each pilot location are governed by individual partnership agreements.

## *1.3 Pilot evaluation methodology*

Initially, the pilot was funded to operate in five locations for the 18 months to 30 April 2012. The evaluation proposal that was originally agreed upon with the AGD covered six studies (Studies 1 to 6, described in sections 1.3.1–1.3.6), with a final evaluation report to be delivered on 4 December 2011. The evaluation timeline was initially extended to April 2012 due to a delay in the implementation of the pilot program in the five locations. Following an announcement by the former Attorney-General of the extension of the pilot program until April 2013, AIFS submitted an updated proposal that included a revised methodology and timeline, which was accepted by the AGD. Under this revised proposal, two additional components were added to the evaluation (Studies 7a and 7b described in section 1.3.7), and the scope of Studies 4, 5 and 6 was extended to take advantage of the extension of the pilot to collect data from a greater number of

cases and from professionals who had gained considerably more experience in working in the pilot. As a result, the timeline for the delivery of the final evaluation report was extended until December 2012.

The evaluation methodology comprised a mixed-method design based on quantitative and qualitative studies. Two studies canvassed the perspectives of clients, four studies explored the views of professionals involved in delivering services as part of the pilot, and a further study collected case management data from location coordinators. These studies were designed to examine the following core evaluation questions:

- Is the safety of children, parents and professionals adequately maintained in the pilot program processes?
- Is the safety of children and parents adequately maintained in the arrangements produced as a result of the application of the model?
- Are the outcomes reached in the pilot consistent with the best interests of the children?
- Do the processes applied in the pilot adequately address power imbalances between the parents?
- What challenges and advantages arise from the interdisciplinary nature of the model?

The AIFS Ethics Committee approved each of the evaluation studies. No incidents occurred during the studies that required reporting to the AIFS Ethics Committee. The nature of this research, and the involvement of professional participants working with family violence and parent participants presenting with past and/or current family violence, raised significant ethical complexities for the research team, mirroring the complexities experienced by the professionals working in the pilot. This complexity was heightened by the nature of the program and participants and involved:

- the need to ensure that data from a potentially vulnerable population, who may have experienced significant levels of trauma, were collected sensitively without causing further trauma;
- the need to be vigilant about the possibility that information disclosed in interviews may trigger a reporting obligation if a participant or their child was revealed to be at risk of harm or abuse; and
- the need to maintain the confidentiality of a relatively confined group of professional and parent participants and report data in a way that means no participant who provided information on a confidential basis could be identified.

Several strategies were adopted in order to address these complexities. Special training on family violence was arranged for the research team (and other selected AIFS staff). All members of the research team attended a one-day intensive workshop on conducting qualitative interviewing in situations where there is past and/or current family violence. The training was conducted by Dr Claire Ralfs, Director of the Australian Institute of Family Relations and Deputy CEO of Relationships Australia South Australia. This workshop was held at AIFS in Melbourne and was specifically organised to ensure interviewers were adequately prepared to undertake parent interviews in this study.

An intensive level of supervision and debriefing occurred as the data collections proceeded, especially for the interviews and surveys involving parents (see sections 1.3.5 and 1.3.6 for a description of the specific methodology adopted). In preparation for the interviews, arrangements were made for one of three registered psychologists employed by AIFS to be available in case significant levels of distress or difficulty emerged during the interviews. The availability of the participants' CFDR support persons was also ascertained generally and taken into account when arranging the timing of interviews, in case their support was needed. After most parent interviews, the research team would debrief and discuss whether any reportable information had been disclosed and whether

the interviewer had handled sensitive issues appropriately. The debriefing also addressed any distress or concern that arose for the interviewer.

In a significant proportion of parent interviews, emotional distress on the part of the participant was evident. In anticipation of this, the research team developed protocols for responding appropriately to distress and other issues relating to CFDR case management. In order to equip interviewers to respond appropriately, a range of potential responses was identified in the protocols. The interviewer identified the appropriate strategy to adopt as the interview or survey proceeded and this was subsequently reviewed with other team members to determine whether further follow-up was necessary. In four cases, the team re-contacted a parent following an interview or telephone survey to follow up on matters relating to referrals and/or to gently remind them that they could contact their service or support professional if they felt they needed additional support or services. In one case, with the parent's specific permission, AIFS contacted their case manager in relation to the resolution of an issue in their case.

In order to maintain confidentiality, significant care has been taken to ensure data are used in a way that maintains the anonymity of the informant. In some instances, findings are presented in a way that reflects high-level conclusions without detailed discussion of the data. This approach was adopted to avoid breaching confidentiality. This concern also informed the selection and presentation of quotations used in this report. Particular care has been taken to ensure that the identity of parent and professional participants cannot be gleaned from the quotations. In a very few instances express consent was obtained to use an identifying quote from a professional participant. In accordance with ethics requirements, all interview transcripts were de-identified and the original transcripts and recordings destroyed.

A further noteworthy feature of the approach adopted for this evaluation is the collaborative nature of the design and implementation of the methodology. As outlined below, consultation with the pilot partners occurred in relation to most data collection instruments, and the advice of professionals was sought in relation to the development of some aspects of the methodology. AIFS researchers also attended the initial and follow-up training sessions in each location to gain insight into the dynamics apparent in each location. Regular informal contact between the research team and the location coordinators also took place to inform the implementation of the methodology.

### **1.3.1 Study 1: Interviews with professionals**

The first component of the evaluation involved gathering information on the early operation of the pilot from the perspective of the professionals at each of the five locations, using individual (or occasionally small-group), semi-structured interviews. This methodology allowed detailed and open-ended exploration of key issues and provided a basis for early insights into the progress of the pilot. Findings from this study also informed the development of the other studies in the evaluation.

A semi-structured interview schedule was developed and comments sought from other AIFS researchers, the AGD and, on their recommendation, from WLS Brisbane (the developer of the CFDR model). The interview instrument was updated to incorporate their feedback.

The main topic areas covered in the interview with the professionals were: the professionals' level of involvement in the CFDR program; their experiences working with clients and with other professionals in the CFDR model; their views on how effective the program had been in assisting clients; and whether changes were necessary to improve the model.

Professionals from each of the five professional groups working in the program in each location—FDRPs, lawyers, SFVPs, MSPs and child consultants—were invited to participate in this study via an invitation letter that was distributed to all professionals working in the pilot. Additional material—including an information sheet about the evaluation, the general question topic areas and the consent form—was also distributed at the same time.

Location coordinators provided a list of CFDR professionals in their partnership and/or distributed the study invitation and helped arrange one-on-one (or occasionally two-person) interview appointments. Professionals were also invited to contact AIFS directly, and additional interviews were arranged as required.

Interviews were conducted by a team member in person in Hobart, Newcastle, Perth and Western Sydney over a 1–3 day period in May and June 2011. Due to various issues, including adjustments being made to the CFDR model to accommodate Brisbane's Telephone Dispute Resolution Service, the TDRS finalised its partnership arrangements and implemented the pilot some time after the other locations.<sup>7</sup> As a result, AIFS was requested to delay data collection in this location by the AGD. This location commenced the pilot in June 2011 and interviews for this study were completed in December 2011. Interviews for the Brisbane location were conducted by telephone at a time convenient for the professional being interviewed.

The original target sample was 25 participants. In total, 37 interviews involving professionals from all disciplinary groups involved in the partnership in each of the five locations were achieved. With the exception of child consultants, at least one professional from each disciplinary group, including the location coordinator, was interviewed in each location. Two pilot locations advised us at this time that they were not intending to use a child consultant (Brisbane) or had not yet appointed one to the partnership (Newcastle). A least one child consultant was interviewed in the other three locations.

### 1.3.2 Study 2: Mixed-profession focus groups

The second component of the evaluation involved conducting mixed-profession focus groups, comprising participants from each profession at each location, to enable exploration of the key evaluation themes in a context where similarities and differences in professional perspectives and practices were able to be examined.

Focus group questions were developed and comments sought from other AIFS researchers, the AGD and the WLS Brisbane. The focus group instrument was updated to incorporate their feedback.

The main topic areas covered in the focus groups with professionals were:

- each professional's practice expertise and whether they had had prior professional relationships with their CFDR partners;
- their views on the model, in practice, and its strengths and weaknesses;
- their reflections on the advantages and disadvantages for clients in the program; and
- whether changes were necessary to improve the model.

Professionals from each of the five professional groups in each location—FDRPs, lawyers, women's SFVPs, MSPs and child consultants (where they were involved in the program)—were invited to participate in this study via an invitation letter. Additional

<sup>7</sup> Consequently, the data collected from the Brisbane location is at an earlier stage than the other four locations. In Brisbane, one CFDR case had proceeded to mediation at the closure of data collection for the evaluation. Given the very limited data at this location in relation to the mediation phase, no firm conclusions can be drawn about the efficacy of this mode of delivery for CFDR.

material—including an information sheet about the evaluation and a consent form—was also distributed to all professionals in the program.

The focus group discussions were arranged with the help of each location coordinator and were held in each of the five locations in August to November 2011. Four focus groups were conducted in person at the location site. The focus group at the Brisbane location was conducted via teleconference since this particular pilot location is offering the program by telephone, and professionals involved in that location were situated in Queensland and Western Australia.

The original target sample was 30–50 professionals. In total, 37 professionals participated in this study. One focus group was conducted in each location, with between 6 and 8 participants from most disciplinary groups involved in the partnership participating in each location. In one location, no SFVP participated as they were unable to attend on the day, and a child consultant participated in a focus group at only one of the locations.

### 1.3.3 Study 3: Professionals Survey

This study involved an online survey taking approximately 30 minutes, which all professionals involved in the pilot were invited to complete. In addition to basic demographic data, the survey used structured questions to examine professionals' views about the main aspects of the pilot. Survey questions covered professional background and experience, CFDR-specific training received, client engagement, and professional relationships over time and during each phase of the model. This allowed quantitative data on key issues to be collected to complement the insights generated through the qualitative methods. Relevant questions from previous AIFS surveys were also incorporated to enable comparative analyses to be undertaken.

Further, the professionals were encouraged to respond to open-ended questions that asked them to give their views on:

- positive aspects of the pilot;
- negative aspects of the pilot; and
- any areas where the pilot could be improved.

A draft survey instrument was developed and extensive consultation undertaken, with comments sought from other AIFS researchers, the AGD and the WLS Brisbane. The survey instrument was updated to incorporate their feedback.

The survey was programmed in LimeSurvey. Minor changes to the wording of a few questions and the survey instructions were made based on pilot testing of the online instrument by the evaluation team initially, and by eight AIFS staff members not involved in the evaluation during a final round of pilot testing.

Leading up to the commencement of the survey, the research team constructed an updated email list of all professionals involved in the pilot from information supplied by location coordinators in the five pilot locations. Location coordinators and other professionals were regularly emailed to advise them of the timing of the survey and other aspects of the evaluation.

The timing of the Professionals Survey was designed to maximise the potential sample size and the depth of experience of participants. The Professionals Survey went live on 4 June 2012. All professionals involved in the pilot received an invitation email containing a personalised link to the secure AIFS website hosting the survey. Three reminder emails were sent during June and early July, and follow-up phone calls were made where those contact details were available, to increase survey response rates. A very small number of professionals completed the survey by phone if they preferred that method or if they

were having difficulty with the online survey. In total, across all locations and disciplinary groups, 129 professionals were invited to complete the survey.

The survey was closed on 31 July 2012, with 88 surveys completed—an overall response rate of 68%.

### 1.3.4 Study 4: Process and outcomes data collection—Pilot and comparison cases

There were two components for Study 4. Part 1 of Study 4 involved data collection of the processes and outcomes for all cases in the pilot by the location coordinator in each of the five locations. Part 2 of Study 4 collected similar data from a comparison group of cases *not* handled in the pilot, in order to allow comparative analyses to be undertaken. At each of the five locations, comparison group cases were selected from other files with a similar circumstantial profile open at that service or a sister service that would have been eligible for CFDR services had the pilot been fully rolled out. A case profile form was designed to collect basic, de-identified information on the outcomes of the pilot, including:

- basic demographic information on the parties and the children;
- basic information about what happened in the matter (e.g., outcomes of screening processes and progress through the phases of the CFDR model);
- what the substantive outcome of the process was; and
- the status of the matter when follow-up by the case manager or other professional occurred (e.g., arrangements still in place, arrangements different to that agreed on as a result of pilot, further action initiated).

An extensive consultation with the AGD, the WLS Brisbane, location coordinators and other professionals involved in the pilot was undertaken over a number of months in designing a comprehensive case profile form for both the CFDR and comparison groups.

Paper forms for both Part 1 and Part 2 of Study 4 were distributed to location coordinators in late March 2011, with data collection by each location commencing immediately.

The original target sample was 50 comparison case profile forms and 100 CFDR pilot case profile forms from each location.

In order to enable sufficient time within the project timeline for data analysis, the closing dates for data collection for the comparison group case profile forms was set as 31 May 2012, and for the CFDR pilot case profile forms as 30 June 2012. As fewer cases than expected had completed the pilot by that time, we extended the date for submission of finalised Phase 4 CFDR group case profile forms until 31 August 2012 to maximise the number of completed cases. In total, 247 comparison case profile forms were received, comprising 50 each from four locations and 47 from one location. By 30 June, 126 CFDR pilot case profile forms had been received, and a further 16 Phase 4 follow-ups from the sample of 126 CFDR cases were completed by 31 August. The CFDR pilot sample ranged from 13 cases in one location to 37 cases in another location. It should also be noted that only completed CFDR cases were considered for inclusion in Study 4. At 30 June, there were 53 additional ongoing CFDR cases (i.e., cases in Phases 1, 2 or 3).

An intensive quality assurance process was undertaken, with data entry checked and verified throughout the period of data collection to ensure that the dataset was of a high quality and as complete as possible.



The interpretation of what characterised a Phase 4 case varied by location and in a small number of cases Phase 4 follow-ups occurred when only interim arrangements had been negotiated in Phase 3, or when clients had exited at Phase 2 with no agreement.

Similarly, there was variability in determining whether a case was characterised as either Phase 1 or Phase 2 across the locations; sometimes even within the locations. This was primarily due to the non-linear nature of the model in practice, where clients received services before Phase 1 was complete.

An additional component of Study 4 collected information on 94 cases that were eligible but did not proceed into the pilot. Information on the party that did not proceed, whether they were a predominant victim or predominant aggressor, and the reason for not proceeding, was reported by location coordinators on a selection of these cases. As such, these data do not represent every case that did not proceed into the pilot.

### 1.3.5 Study 5: Qualitative study of parent experiences

This study examined the experiences of parents in the pilot through in-depth one-on-one interviews. The topics covered included parents' experiences of the different professional services received in the pilot, the parenting outcomes achieved, the wellbeing of the parents and their children, and what changed for them as a result of receiving the CFDR services.

A semi-structured interview schedule covering the key themes in the pilot evaluation was developed and comments sought from other AIFS researchers, the AGD and the WLS Brisbane. The interview instrument was updated to incorporate their feedback.

The recruitment protocol was developed in consultation with location coordinators in each of the five pilot locations. The case manager/location coordinator informed parents of the evaluation during their participation in the pilot, which was an important preparatory step in helping to increase the likelihood of parents participating in an interview. When a case seemed likely to advance to Phase 3, or during Phase 3, eligible parents were given a prepared information sheet explaining the evaluation and this particular study.

Initially, all parents who were considered sufficiently resilient by the case manager/location coordinator and who had completed Phase 3 of the Pilot (i.e., completed their mediations in the CFDR program) were invited to participate. However, due to the smaller than expected number of CFDR cases finishing Phase 3, we extended our sample to include parents who were sufficiently resilient and who had attended at least one CFDR mediation in Phase 3 of the program.

Eligible parents were asked by the case manager/location coordinator if they would be interested in talking about their experience in the pilot with a professional who was evaluating the program. If they agreed, parents could either give consent for their telephone number to be passed on to the research team so they could be contacted to schedule a telephone interview time, or they could choose to call the research team directly via the contact details on the information sheet. Participation in an interview was completely voluntary. Case managers/location coordinators were expressly asked not to invite parents to participate if they assessed them to be at risk of a high level of emotional or psychological distress (see 1.3 for further discussion of relevant ethical issues). All other parents who had attended at least one CFDR mediation were invited to participate in an interview. Parents who were interviewed in this study were offered a \$25 voucher redeemable at a major supermarket to thank them for their participation.

Parent interviews commenced in September 2011 and participation closed on 31 August 2012. Telephone interviews with parents were conducted by a team member

experienced in conducting qualitative research interviews in the family law area. Parents could choose to be interviewed by a female or a male interviewer.

In the original methodology, this study aimed to recruit 20 parents. This number was increased to 30 parents following the extension of the pilot program and the variation to the methodology in February 2012. In total, 34 parent contacts were received, with the majority being telephone contacts obtained, with the parents' permission, through each of the five locations. A minority of interviews came about through parents directly contacting the research team. A total of 29 interviews—15 female parents and 14 male parents—were achieved. The 29 interviews comprise 24 interviews achieved from the 27 pilot cases reaching mediation (44% of parents in the evaluation sample), plus 5 further interviews with parents who attended a mediation after 30 June 2012, when collection of data for Study 4 had been completed. Parents assessed, on the basis of the data collected, to be predominant aggressors and predominant victims from both genders were interviewed in this study. Of the five parent contacts that did not result in interviews, four parents initially agreed but then decided not to go ahead with an interview and the fifth parent was not contactable.

### 1.3.6 Study 6: Quantitative study of parent experiences

This study examined the experiences of parents through a 20–25 minute online and telephone survey. The survey was designed to cover key themes of the pilot evaluation and gain insights into:

- parents' involvement in the CFDR program;
- how helpful the received services were;
- how effectively professionals work together in the pilot;
- the outcomes achieved; and
- parents' experience of safety while participating in the pilot.

While the majority of questions were specifically developed for this study, relevant questions from previous AIFS surveys were included to enable comparative analyses to be undertaken. Open-ended questions were provided at points throughout the survey, where parents could provide any further information on issues of importance to their specific situation.

A draft survey instrument was developed and extensive consultation undertaken, with comments sought from other AIFS researchers, the AGD and the WLS Brisbane. In addition, feedback on some questions was sought from some location coordinators, MSPs and the WLS Brisbane regarding gender-specific language, to ensure questions were appropriately and sensitively worded. The survey instrument was updated to incorporate feedback.

The survey was programmed in LimeSurvey. Minor changes to the wording of a few questions and survey instructions were made based on pilot testing of the online instrument by the evaluation team initially, and by 12 AIFS staff members not involved in the evaluation during a final round of pilot testing. The front and end web pages of the survey contained advice for parents if they felt they needed further support.

Similar to Study 5—the other evaluation study involving parents—the recruitment protocol was developed in consultation with location coordinators in each of the five pilot locations and occurred with the help of the case manager/location coordinator, who informed parents of the evaluation during their participation in the pilot. Again, this was an important preparatory step in helping to increase the likelihood of parents participating in an interview.

Initially, it was intended that data would be collected via a telephone survey. However, as the pilot rollout had been slower than originally anticipated, it was decided to offer participants the choice of completing the survey either online or by telephone. This change to the methodology was intended to ensure that survey response rates were maximised. Initially, only parents who were sufficiently resilient and who had reached at least Phase 2 and been screened out of the pilot were invited to do the survey. This recruitment strategy was adopted to maximise the number of interviews of parents in Phase 3 in Study 5. Single-party cases that had received legal and/or support services were also eligible to be considered to participate in the survey.

When a case advanced to Phase 2, the case manager/location coordinator gave eligible parents a prepared information sheet explaining the evaluation and this particular study. Parents could then elect to either do the survey online (an access token and web details were contained in the information sheet) or they could contact the research team to do the survey over the phone with them. As with Study 6, case managers/location coordinators were asked not to invite parents to participate whom they assessed to be at risk of a high level of emotional or psychological distress. The survey was completely voluntary and anonymous.

The online survey went into the field on 17 January 2012.

A limited initial response in the first 4 months that the survey was open led to an adjustment of the recruitment strategy in mid-May 2012 to include an option for parents to give permission for their contact details to be passed to the research team, who then followed up with them to do the survey over the phone. Seven contact details were received and three phone surveys achieved with this method.

The survey remained open until 3 September 2012. The target sample for this study was up to 100 parents who had received services in the pilot and who exited during or after Phase 2. Seven responses in total were received: four were from parents completing the survey online and three from telephone surveys completed after the change to the methodology. The initial recruitment strategy would have been a viable option had the expected number of cases in the pilot been achieved. The research team made a decision that further interviews would provide higher quality data, given the small survey numbers, and concentrated their efforts instead on achieving a maximum number of interviews. Parents from all five locations participated in either this study and/or an interview in Study 5. Location coordinators were very supportive of the parent studies and encouraged parents to participate in either the interview or survey. The research team made every effort to gain parents' participation and were available at a time convenient to the parent to conduct a survey (including evenings and weekends). Due to the small sample size, the parent survey data were analysed alongside the parent interviews to protect the anonymity of participants and to generate meaningful results.

### **1.3.7 Study 7: Interviews with professionals**

In response to the extended evaluation period, this additional study was added to the methodology. Study 7 comprised two components—follow-up interviews with professionals on their views about the pilot, and requests for information from location coordinators regarding any additional adaptations or training relating to the CFDR process.

Study 7a was a follow-up interview study of professionals, using individual (or occasionally small-group), semi-structured telephone interviews. This study was conducted in order to gain insights into the operation of the pilot from professionals who had had the opportunity to experience completed cases (covering matters

pertaining to parents who had either completed the CFDR or were referred out of the pilot) over a greater period of time.

Professionals participating in Study 7a were asked for their views based on their experiences working in the pilot over the past 18 months in these areas: the advantages and disadvantages of the CFDR model for parents and children, the sustainability and safety of outcomes achieved, and the challenges and benefits of working in the interdisciplinary CFDR model.

A semi-structured interview schedule was developed, and comments sought from other AIFS researchers, the AGD and the WLS Brisbane, and the interview instrument was updated to incorporate their feedback.

The research team used the email contact list constructed for Study 3 to invite all professionals involved in the pilot to contact the research team if they wanted to be interviewed for this final study. This email also included an information sheet about the evaluation, the general question topic areas and the consent form. Our aim was to interview at least one professional from each disciplinary group in each location. The professionals were very responsive and we followed up with reminder emails as required, and in a few instances requested specific professionals to participate in an interview. However, all evaluation studies were voluntary and we were mindful of the large number of studies in which the professionals had been asked to take part during the evaluation.

Telephone interviews were conducted by team members from late April until the end of June 2011.

The target sample was 25 participants. In total, 33 interviews involving professionals in each of the five locations were achieved. With the exception of child consultants, at least one professional from each disciplinary group and the location coordinator were interviewed in each location. At least one child consultant was interviewed in two locations, two locations did not have child consultants involved in the pilot, and no child consultants volunteered for interview in this study at the final location.

Study 7b involved a request for information (RFI) to each of the location coordinators regarding:

- adaptations to the model;
- additional training that had been undertaken, and;
- any other innovations/activities that had been implemented.

Location coordinators were kept abreast of the evaluation through regular email updates, and the request for information had been foreshadowed well ahead of time. The target sample was five responses to the requests for information. An email invitation was sent in early April. Between late April to early July 2012, requests for information took place by telephone between each of the location coordinators and a member of the research team.

## 1.4 *Summary*

This report presents the findings of an evaluation of a cutting-edge, multidisciplinary, multi-agency pilot program designed to meet the needs of families who need to negotiate parenting arrangements where there has been past and/or current family violence.

The pilot program has been designed to fill a service gap in the family law system. Empirical evidence has clearly established that a history of family violence is more common than not among separated couples. Such families are the core user group of

family law system services, including FDR, which is frequently applied where there has been a history of family violence and there may be concerns about the safety of a parent and/or children as a result of ongoing contact with the other parent.

The evaluation findings are based on a mixed-method approach involving case-file data and surveys and interviews with professionals and clients.

## **1.5    *Structure of the report***

Chapter 2 provides an overview of the CFDR model and how it is envisaged to operate. That chapter also describes the partnerships in each of the five pilot locations and examines the organisational and operational context within which the CFDR pilot is being implemented. Chapter 3 focuses on the client profiles of both the CFDR and comparison groups and the characteristics of CFDR cases. Chapter 4 further explores processes and outcomes in the CFDR and comparison group processes, primarily based on insights from the case profile data collection. Chapter 5 considers the issues that arise in working with family violence in the CFDR pilot, including risk assessment and professionals' ability to address key issues in relation to family violence. Chapter 6 focuses on the logistical aspects of collaboration in the multi-agency context of CFDR and discusses some of the factors influencing collaboration in the pilot; in particular, focusing on a detailed discussion of a central but complex issue in the pilot: information-sharing. Chapter 7 examines the preparation phases of CFDR and then sets out findings on how FDR is conducted. Discussion on the fairness of the process and the sustainability of outcomes is also included. Chapter 8 explores issues concerning child focus in the CFDR model. Finally, Chapter 9 summarises the key evaluation findings and conclusions.

## 2 Implementation of the pilot

This chapter examines the organisational and operational context within which the CFDR pilot is being implemented. The material described here draws heavily on data collected as part of the request for information with location coordinators (Study 7b), and these data are occasionally complemented by results from the professionals survey (Study 3). The chapter begins with a description of the composition of the partnerships in each of the five pilot locations, followed by findings in relation to partnership functioning. A range of operational issues concerning the implementation and adaptations made to the CFDR model are then discussed.

### 2.1 *Partnership structure and composition*

Considerable diversity is apparent in the structure of the partnerships in the pilot and the extent to which links between the various partner agencies had been established prior to the pilot. Four of the five lead agencies are organisations in the family relationship service sector (Interrelate Family Centres in Newcastle, Unifam in Western Sydney, Relationships Australia [RA] in Tasmania, and Relationships Australia in Queensland). The fifth partnership, in Perth, is led by Legal Aid Western Australia. The lead agency in the Queensland partnership is the Telephone Dispute Resolution Service (TDRS), which provides a telephone-based service.

Table 2.1 shows the individual services and organisations in each partnership. As the same organisation can provide multiple services within a partnership, we have shown both the number of organisations providing services and the number of unique organisations in each partnership. For example, in Brisbane, there are four organisations within the partnership providing five services (RA QLD provides family dispute resolution practitioners (FDRPs) through both the TDRS and family violence services).

In three partnerships, links between the lead agency and most of the partner agencies were well established. In one case, this was due to the geographically limited nature of the area served by the partnership. In the other instances, this in part arose because some partner organisations were auspiced by the lead organisation. In Brisbane, three of the partner organisations had pre-established working relationships: TDRS in Brisbane, Culshaw Miller Lawyers in Perth (which also provides telephone legal advice services for Family Relationships Advice Line), and Domestic and Family Violence Prevention Service in Toowoomba. In most locations, legal professionals and FDRPs from partnerships involving Family Relationships Centres (FRCs), Community Legal Centres and Legal Aid Commissions reported some level of familiarity due to the FRC–Legal Assistance Services Partnership Program. Several professionals commented that this familiarity meant that working relationships in the CFDR pilot were more quickly and easily established. In each location, the inter-agency relationships that were less well established tended to be those between the specialist domestic violence (DV) and men's agencies and the FDRPs and legal agencies, though there were some exceptions to this.

Client eligibility for the CFDR program was determined by each location using the CFDR model framework and their own appropriateness for CFDR assessment criteria. In one location, an additional eligibility criterion was applied, with at least one party in the case required to be financially eligible for Legal Aid assistance.

**Table 2.1 Partnership organisations in the CFDR pilot**

Coordinating organisation (location)	FDRPs	Legal services	Family violence services	Men's services	Child consultants	No. of orgs in each location	No. of unique orgs in each partner-ship
<b>Telephone Dispute Resolution Service</b> (Brisbane; Relationships Australia Queensland)	Telephone Dispute Resolution Service (Relationships Australia Queensland)	Culshaw Miller Lawyers; <sup>a</sup> Caxton Legal Centre	Domestic & Family Violence Prevention Service Toowoomba (Relationships Australia Queensland)	DVConnect	NA		
No. of services	1	2	1	1	–	5	4
<b>Relationships Australia Tasmania</b> (Hobart)	Relationships Australia Tasmania	Women's Legal Service Tasmania; <sup>b</sup> Hobart Community Legal Service; Legal Aid Tasmania <sup>c</sup>	SHE Inc. (Support Help and Empowerment Inc.); <sup>b</sup> Centacare Tasmania <sup>c</sup>	TassieMale Program (Relationships Australia Tasmania)	Hobart FRC (Relationships Australia Tasmania)		
No. of services	1	3	2	1	1	8	6
<b>Interrelate Family Centres Newcastle</b> (Newcastle)	Interrelate Family Centres Newcastle	Hunter Community Legal Centre; Central Community Legal Centre	Newcastle Family Support Service	Relationships Australia Newcastle	Newcastle FRC (Interrelate Family Centres Newcastle)		
No. of services	1	2	1	1	1	6	5
<b>Legal Aid WA</b> (Perth)	Legal Aid WA; Midland FRC (Centrecare WA); Joondalup FRC <sup>d</sup> & Mandurah FRC <sup>d</sup> (Anglicare WA); Perth FRC <sup>d</sup> (Relationships Australia WA); Gosnells Community Legal Centre <sup>d</sup>	Legal Aid WA; Fremantle Community Legal Centre; Gosnells Community Legal Centre; Southern Communities Advocacy Legal Education Services (SCALES); Sussex Street Community Law Service; Women's Law Centre of WA; Aboriginal Legal Service WA <sup>d,e</sup>	Legal Aid WA; Centrecare WA; Relationships Australia WA; Women's Health and Family Services; Anglicare WA <sup>d</sup>	Centrecare WA; Communicare Breathing Space; Relationships Australia WA; Anglicare WA <sup>d</sup>	Relationships Australia WA; Anglicare WA; Legal Aid WA <sup>d</sup>		
No. of services	6	8	5	4	3	26	13
<b>Uniting Care Unifam</b> (Western Sydney)	Uniting Care Unifam	South West Sydney Legal Centre; Macquarie Legal Centre	South West Sydney Legal Centre; Macquarie Legal Centre	Uniting Care Unifam	Uniting Care Unifam		
No. of services	1	2	2	1	1	7	3

Notes: Auspicing organisations are shown in brackets, where relevant. <sup>a</sup> Previously called Marks and Sands Legal Service. <sup>b</sup> Providing services until May 2012. <sup>c</sup> Providing services from June 2012. <sup>d</sup> Contracted as service provision partners but no CFDR services delivered at close of date collection. <sup>e</sup> Providing services from July 2012.

## 2.2 *Partnership functioning*

As noted at the outset, as a multi-agency, multidisciplinary process dealing with matters involving family violence and family law, the CFDR pilot is at the cutting edge of service delivery in this area. It is well-recognised that multidisciplinary practice in the family law area raises particular challenges, as do multi-agency partnerships. McDonald and Rosier (2011), observed that “collaboration can be a very challenging process precisely because it is a highly intense way of working—requiring new ways of thinking, behaviour and ways of operating” (p. 3). Working with clients affected by family violence brings yet another set of challenges (see chapter 5). In this context, it is not surprising that tensions arose, to varying extents and in varying ways, within at least three of the CFDR partnerships. In at least two locations, the data generated through the evaluation team’s engagement with professionals indicated the tensions were quite significant. In one location, Hobart, the tensions resulted in a change in the constellation of the partnership, with two of the partners being replaced by other agencies.<sup>8</sup> In another location, Perth, attempts to resolve the difficulties revolving around the application of child-inclusive practice (CIP) continued throughout the evaluation period and appeared to have borne fruit toward the end. In other locations, tensions of less significant scale and duration arose and were dealt with as the working partnerships progressed.

All of the professionals and organisations involved in the partnership in Hobart demonstrated enthusiasm for and commitment to the pilot. This commitment to the value of the process was maintained by all professionals, but there was also general agreement that the partnership had become significantly strained. It is clear from data generated from multiple perspectives in the evaluation studies that difficulties emerged early on, but the first rounds of data collection for the evaluation indicated that efforts were being made to resolve the difficulties, and there was some optimism that these efforts would be successful. As it transpired, the issues remained unresolved and in April 2012 two organisations exited the partnership. The Hobart location continued to offer CFDR, and brought two new partners on board to provide the required pilot services.<sup>9</sup>

Interviews with professionals involved in the CFDR pilot in Hobart revealed differing views on the cause of the breakdown in professional relationships in that location. The findings set out in this section are based on analysis of the data generated through the evaluation methodology outlined in the preceding chapter. It is beyond the scope of a research-based exercise to make factual findings where conflicting perceptions are involved. Difficulties were not evident in all individual relationships between agencies, and indeed some particularly good examples of inter-professional collaboration emerged from Hobart. However, the evidence demonstrates that, overall, core relationships between some agencies became unworkable. The following conclusions are evident on the basis of the data:

- the relationships between two of the partner organisations and the coordinating partner had become unworkable;
- there was evidence of a lack of professional trust and respect among some of the partners;
- significant efforts were made to resolve issues that caused difficulties from the early stages of the partnership, however, the efforts did not in the end produce results; and

<sup>8</sup> Professionals from both the original and replacement agencies were given the opportunity to participate in the data collections in Studies 3 and 7.

<sup>9</sup> The question of how the partnership change affected clients was not examined in the evaluation, as none of the parents who had received services from the new partner services were available to participate in an interview or a survey during the data collection period.



- data from clients indicate that these issues had an effect on the efficacy of the service delivered to some. However, there were also positive experiences reported by clients about aspects of the process.

The AIFS evaluation team's interpretation of the data indicates that the following issues played a role in the difficulties that unfolded in the partnership:

- different organisational frameworks placed restrictions on the level of service provided by some organisations;
- professional understandings of practice frameworks and operating models were under-developed among some professionals and agencies in the partnership;
- there were differences in clinical assessments in relation to the nature and effects of family violence in particular cases, and the implications of this for parenting arrangements;
- there were differing levels of expertise in family law and family violence among the partners; and
- issues that became evident early on were not susceptible to effective resolution. This meant that positions on a number of issues became entrenched and the difficulties exacerbated.

The data obtained from parents involved in the Hobart CFDR service indicate that the issues in the partnership had an effect on them. Parents from the Hobart location were more likely to be ambivalent or negative about some aspects of the CFDR process than in other locations. In particular, fewer parents indicated finding the FDR process positive. However, all clients interviewed from Hobart reported being satisfied with the support they received from their men's support professional (MSP), specialist family violence professional (SFVP) and women's lawyer. Responses in relation to other professionals were more mixed. No parent data were available from the period after the composition of the partnership changed.

In relation to Perth, the tension in the partnership arose from the position taken by the lead agency, Western Australia Legal Aid, that child-inclusive practice (CIP) would be applied on a case-by-case basis. This is consistent with the approach set out in the model and adopted in other locations. One partner agency disagreed with this position. It is also evident that this partner was concerned, for a range of reasons, by the fact that the lead agency was a legal organisation rather than a community-based organisation. Efforts to resolve these issues continued throughout the evaluation period and appeared close to a breakthrough at the time this report was being written. There was no evidence from the evaluation data collections that this had an effect on the service provided to clients or that the CFDR service provided in Western Australia was any more or less effective than that provided in Western Sydney, Newcastle or Brisbane.

In relation to other locations, a few professionals expressed concerns in interviews with AIFS regarding a range of issues. These related to different philosophies in relation to family violence (see Chapter 5), different levels of professional competence, and differences in disciplinary approaches in relation to practice. Most of these concerns were minor and were resolved through further discussion. There was no evidence that these issues had had an effect on clients.

## 2.3 *Governance, oversight and practice support*

This section outlines the governance structures in place for monitoring and supporting the implementation of the pilot. These mechanisms were established at both national and local levels.

A National Steering Committee—comprising representatives of the AGD, the management levels of the coordinating organisations, and observers from AIFS and the Family Court of Australia—met quarterly. At these meetings, information about implementation and policy issues was exchanged and regular updates on the progress of the evaluation were provided.

At site level, a local steering committee (LSC) was convened at each of the pilot locations. LSC membership generally involved a high-level representative such as a manager of each of the partner services, the location coordinator, and possibly a director from the lead agency. External LSC members varied across the locations to include representatives from the local courts, Legal Aid, DV services, other community agencies providing similar services, and other agencies that have been linked into the CFDR pilot as the program has unfolded, such as Centrelink.

Each location held LSC meetings regularly at about two-month intervals, with the location coordinator providing an update on the pilot.

Four locations reported the LSC meetings to be well attended, and that they were successful in providing a forum that operated in a supportive and constructive way to provide an advisory and oversighting body that was used to resolve practice issues and develop broader conceptual thinking.

In one of these locations, discussion of issues concerning adequate information exchange and whether all CFDR partners were operating within the CFDR model led to the establishment of additional practice meetings in 2011, with outcomes being followed up and fine-tuned within the LSC. Other issues discussed included the addenda and providing services to incarcerated clients. One location noted the usefulness of having different perspectives offered by the external representatives as a way to help move beyond normal modes of thinking.

In the fifth location, the LSC had not operated as effectively as in the other locations due to partnership difficulties. In this location, the LSC was not always well attended by managerial representatives from partner services, which made decision-making more difficult and resulted in matters not being discussed within the LSC. There was also a reticence to discuss partnership difficulties with external LSC representatives present. Additional practice meetings were subsequently convened to provide a space for in-depth discussion of practice issues among professionals working in the pilot at this location (see also section 2.8.3). It is reported that the LSC at this location largely became redundant as separate partners' meetings were specifically convened to resolve partnership issues.

Two managers noted the benefits of having an LSC. These were valued for sharing information between agencies and “a good way to communicate changes and developments in the program” [Manager and SFVP, Professionals Survey].

An additional mechanism for exchanging practice information at a national level was through teleconferences between location coordinators. These were established very early in the implementation of the pilot and occurred at regular intervals. All location coordinators reported finding them an invaluable forum for discussion throughout the pilot. Held in an informal manner every 6–8 weeks and well attended by location coordinators throughout the pilot, a key to the effectiveness of this forum was the informal manner in which they were held and the way in which the location coordinators were prepared to engage in frank discussion and willingly share their knowledge and support.

Initially, the location coordinator teleconferences provided an opportunity for developing a better understanding of the model, and this quickly developed into affirming exchange of ideas and practical tips throughout the pilot.

A number of the location coordinators mentioned that being the coordinator of such an innovative program, which is constantly breaking new ground and where delivery requires constant juggling of multiple components, is a somewhat lonely job and that these teleconferences evolved into a strong and supportive network that provided a unique opportunity to support and learn from each other. The exchange of information was instrumental in shifting ideas in different locations on a number of occasions. Examples included:

- the increase in referrals in Hobart following the co-location of the pilot to the FRC influenced other locations in adapting their approach to training and relationship building with FRCs (e.g., Perth instigated more regular contact and visits to partner FRCs);
- the implementation of CIP in Western Sydney deepened other locations' understandings of how they could implement CIP in their locations; and
- discussion of logistics affirmed the need for greater administration support and, in Brisbane, discussions of how mediations were being undertaken assisted them in conducting their first mediation.

## 2.4 Training

The CFDR model noted the importance of providing specific training to build on the skills and experience of the professionals involved, with the aim of building a shared knowledge of the CFDR model and philosophy (see, WLS, 2010).

The initial training was delivered over three days in each location, by Ms Libby Watson and Mr Jon Graham of the Institute of Family Practice (IFP), between late 2010 and early 2011. A member of the AIFS research team attended the training at each location.<sup>10</sup> The training manual was based on the CFDR model developed by WLS Brisbane and covered eight main topic areas: an overview of the CFDR model; CFDR professionals' respective roles in the model; case management in CFDR, children in CFDR; Phases 1 to 4 of the CFDR program; and safety, risk assessment and professional collaboration. The training also provided opportunities for discussion on topics presented by the trainers and for professionals in attendance to bring up issues relevant to their practice situations. WLS and AIFS both gave presentations at each location on the development of the CFDR model and the rollout of the evaluation.

A one-day follow-up training session, again conducted by Ms Watson and Mr Graham, was held in each of the five locations in October or November 2011. Locations were consulted on what areas they would like to see included and these suggestions were incorporated into the training, which focused on managing inter-professional collaboration and on CFDR practice issues, particularly around engaging perpetrators and child-inclusive practice.

Both the initial and follow-up training sessions were attended in each location by a wide range of professional and managerial staff involved in delivering the CFDR program. Data collected from the Professionals Survey revealed that more than 61% of respondents completed the three-day training course offered at the start of the program (see Table 2.2). Of those professionals who did not attend the initial training, 74% received training when they started in the CFDR program, meaning that, overall, fewer than 10% of the professionals working in the program did not receive some form of CFDR training.

<sup>10</sup> AIFS attended the training at three of the locations for three days, and for one or two days at the other two locations.

**Table 2.2 Professionals participation in training, Professionals Survey**

	Completed three-day professional training		Received training when started CFDR program	
	%	<i>n</i>	%	<i>n</i>
Yes	61.4	54	73.5	25
No	37.5	33	23.5	8
Not sure	1.1	1	–	–
Missing	–	–	2.9	1
Totals	100.0	88	100.0	34

Note: Professionals were asked: “Did you complete the three-day professional training offered at the start of the CFDR program (between December 2010 and February 2011)?” and for those who did not complete initial training: “Did you receive training when you started working in the CFDR program?” Percentages may not total exactly 100.0% due to rounding.

This initial CFDR training was positively rated by participants, with 93% of those who attended reporting that it was either “very” or “somewhat” helpful.

**Table 2.3 Helpfulness of initial CFDR training for professionals, Professionals Survey**

Helpfulness of initial CFDR training	%	<i>n</i>
Very helpful	68.5	37
Somewhat helpful	24.1	13
Somewhat unhelpful	–	–
Very unhelpful	3.7	2
Not sure	1.9	1
Missing	1.9	1
Total	100.0	54

Note: Professionals who attended the initial CFDR training were asked: “How helpful or unhelpful was this training for you?” Percentages may not total exactly 100.0% due to rounding.

Further insights from the qualitative data indicate that the consensus from the locations was that the IFP training sessions provided a good start, but they were not sufficient in themselves to generate a workable CFDR program. It was also reported that a great deal of further relationship-building, together with targeted and sustained training and liaison, is required to implement the CFDR model in practice. One location noted that the initial training did not overcome professional resistance and did not necessarily generate the level of management buy-in to the program that they viewed as necessary to enable the CFDR program to run effectively.

Additional training of new staff conducted by the locations to deepen understanding of the model and address issues that emerged in practice varied considerably in both amount and format. Some locations undertook more structured training, while some locations took a more informal approach. Three locations devoted very considerable time and effort to an ongoing program of relationship-building and training, which they reported had greatly benefited the implementation of the model and improved the services provided to the clients. It was reported that in many cases this was still a work in progress, aimed at developing a common language and strengthening partner relationships.

Three locations noted that referrals of clients from partner and other services into the pilot were sometimes inappropriate, as discussed in the next section. These locations viewed ongoing and sustained inhouse training as an essential aspect of ensuring that

more appropriate clients were referred into CFDR and that a cohesive and effective program was delivered. It was also noted that good professional relationships do not necessarily transfer to appropriate referrals in practice. One location also explicitly noted that the lead-in time for developing the professional partnership and working through disciplinary differences is a significant factor that should be taken into consideration if the pilot is to be rolled out further.

Additional training delivered or undertaken by professionals involved in CFDR included:

- the development of their own training materials, adapted from the IFP Training Manual and delivered by the location coordinator in sessions of between two hours to a full day to all new staff in the program;
- refresher training sessions to deepen all partner services' knowledge of CFDR, delivered by the location coordinator throughout the period of operation of the pilot;
- less formal training of new staff by the location coordinator using the IFP Training Manual;
- attending partner services on a regular basis, either to deliver ongoing CFDR training or to join in with their regular meetings to discuss current issues and decisions about referrals, and CFDR more generally (working regularly with the same practitioners was reported as being the most effective way to increase both the number and suitability of referrals); and
- conducting specialised training to address practice issues that emerged in the partnership. One example reported was specialist training for SFVPs and MSPs to familiarise these professionals with the FDR process and the language of case management to build their confidence in participating in the pilot program.

The fourth location conducted an internal training day (based on the IFP Training Manual) for new CFDR professionals following a change of partners in May 2012. This was the first staffing change in this location since the pilot began. Regular practice meetings of all CFDR professionals throughout the period of the pilot at this location also provided an ongoing forum for informal training around practice issues and professional roles in CFDR.

The fifth location, which had not conducted significant further training, reported that they had had no staff leave the partnership since the IFP training and felt that additional training was not required.

### 2.4.1 Child-inclusive practice training

Two locations undertook specific CIP training of staff as part of their CFDR program delivery. In one of these locations, a partnership decision to undertake CIP in CFDR as much as possible was underpinned by inclusion of a specific CIP training day incorporated into an existing child-sensitive training program. In the second location, two intensive three- or four-day child-sensitive training sessions involving an external expert in the field were held in late 2011 and again in early 2012. Both of these sessions were combined training programs attended by CFDR and other staff and incorporated at least one day specifically focusing on CIP and CFDR.

## 2.5 *Referrals into CFDR and relationship-building in the partnerships*

The importance of suitable referrals into CFDR was also identified from multiple sources in the evaluation. In data collected as part of the request for information study, all locations reported that achieving appropriate referrals was intertwined with building

relationships with the partner services (and more broadly within the professional community) and with ensuring that sufficient numbers of trained and committed staff were available.

Three locations spent considerable time in developing relationships to ensure that a strong and cohesive partnership underpinned the program and to explain the model and generate appropriate referrals.

These locations viewed training as being an effective means to break down professional barriers and to ensure that the most appropriate referrals would be received into the program, as this training would allow the CFDR model and philosophy to be more clearly understood. Regular meetings with partner services (including professionals both working in the pilot and at the managerial level) were also viewed in some locations as being important in generating both a clear understanding and commitment to the CFDR process at the “on-the-ground” and managerial levels in partner organisations. One location also stressed the importance of inculcating a “CFDR culture” in partner organisations.

A number of networking routes aimed at promoting CFDR in relevant professional sectors more broadly were identified, such as professional associations and services, the pathways network, the family court liaison, other members of the LSC, and conferences and forums. However, the most effective routes in achieving steady rates of referrals into the program in four locations were through the co-location of services or a close association and regular meetings with an FRC. In the fifth location, sufficient referrals were received through the TDRS service, and referrals more broadly were not routinely sought.

## **2.6**    *CFDR pamphlets*

Related to the issue of appropriate referrals and suitable recruitment of cases into CFDR, all five locations have produced information material on the CFDR pilot for clients. Some have elected to produce a detailed parent information sheet or letter, which is distributed to parents who have entered or may enter CFDR. Other locations have chosen to produce a colour brochure for wide circulation, which aims to provide relevant information about CFDR in a clear and concise way. As the pilot has become more firmly established, a number of locations are redesigning their information material—for example, one location published a two-page illustrated colour brochure, available in print and on its website in January 2012; another location is finalising a booklet for parents that consolidates a range of material and resources relevant to separated parents where there is family violence and which will also include a space for parents to write down their appointments or keep notes. Two of the other pilot locations are also considering producing updated pamphlets for parents. Some of the locations have also produced pamphlets for referring agencies.

## **2.7**    *Engaging clients*

The challenges of engaging clients, particularly fathers, in the CFDR program are described later, in Chapter 4. All five locations have employed a range of strategies to engage parents in the CFDR process, in addition to producing the pamphlets referred to above.

The initial assessment and scheduling of appointments was reported by some locations as an important point for the engagement of potential CFDR clients. In Perth, an administrative position to undertake client intake into CFDR and the associated logistical organisation that CFDR cases require has recently been funded. It was reported that the front-of-house person with whom clients first speak can influence their engagement in

the program and that the very significant organisational demands of the pilot have necessitated additional administrative support.

Western Sydney developed a Welcome Folder that is provided to parents at the initial assessment. This non-identifying folder includes information about CFDR, various services available and the relevant consent and referral forms, together with paper and a pen. Slightly different versions have been developed for mothers and for fathers. The folder can unobtrusively hold all CFDR paperwork and information in one place and is directed at helping parents move through the CFDR process more efficiently and effectively. About half of the parents in the CFDR program at this location are reported to still be using the folder at mediation, suggesting that it has been useful for parents. The CFDR booklet currently being developed by Newcastle (discussed in Section 2.6) will serve a similar purpose of consolidating information and streamlining service delivery.

The approach taken in Brisbane is to use telephone contact to first explain about the pilot and the documentation that will be coming in the mail, and then to follow up with clients as necessary to ensure signed documentation is received and that parents are aware of the process and their appointments. Additional administrative support for this role has also recently been introduced in this location.

It was also reported that the support professional's ongoing contact with the client and their sitting in with the lawyer can be important in maintaining client engagement in the process.

In one location, an emotional support person chosen by the client can also be present at the mediation, provided the other client has no objection to the suggested person. This emotional support person does not take part in the actual mediation. A clear protocol is established with the clients, professionals and emotional support person to ensure that all participants are well prepared and informed ahead of the mediation. While the location acknowledged that this sort of innovation needs very careful consideration on a case-by-case basis, it was seen as being of particular help to vulnerable clients.

## **2.8 Operational approaches**

This section describes the operational approaches used in implementing the CFDR model. Along with the case management meetings involved as part of the model (see section 2.8.1), locations also initiated separate case review meetings and practice meetings, and support professionals also attended legal advice sessions and mediations in a number of locations. These innovations to the model are described in sections 2.8.2–2.8.4.

### **2.8.1 Case management meetings**

The original CFDR model included weekly case management meetings that all professionals involved (with the possible exception of lawyers)<sup>11</sup> would attend. All locations reported having frequent if not weekly case management meetings that were normally attended by the location coordinator (who was generally also an FDRP in the case), one or both FDRPs (co-mediators were a matter of course in all locations), the SFVP and the MSP. Lawyers were not involved in case management meetings at any pilot location, and in some locations an MSP may not have attended if it was a single-party case involving a female client, or the MSP may have contributed via email rather

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<sup>11</sup> Lawyers were not included in the case management meetings to ensure they were not exposed to information that would create ethical dilemmas for them in the lawyer–client relationship; in particular being exposed to information that contradicts the instructions provided by their client. Issues related to client confidentiality are discussed further in Chapter 6.

than at a face-to-face meeting. In one location, the men's service manager attended all the case management meetings instead of individual MSPs, and relayed the case management information to their staff. Minutes of the case management meetings at this location were also taken and distributed to all CFDR staff. This arrangement suited the particular location because, due to workplace timetabling reasons, it would not have been possible to have the MSPs regularly attend case management meetings. In one location, a child consultant attended on a per-case basis if a referral to them had been made. The other locations did not report the involvement of a child consultant in case management meetings.

The case management role was identified more generally by participating CFDR professionals as being important for supporting collaboration. This included arranging regular formal and informal case management meetings, coordinating information sharing and communicating relevant matters:

Case management meetings are extremely important because it is a forum for discussion/info sharing and developing safe and sustainable outcomes for clients. [SFVP, Professionals Survey]

Related to this theme, one location identified the case management meetings as an additional opportunity to help build professional relationships, and organised for the meetings to be rotated between the different partner services and to provide lunch on each occasion.

Case management meetings in all locations were generally a mixture of face-to-face and telephone contact for logistical and geographical reasons, with face-to-face, email and phone contact between meetings as required. The four locations that considered their process to be working successfully reported that this was an effective and efficient way to ensure professionals were well-informed and that cases were being dealt with promptly. Moreover, it was noted that, as professional relationships developed over time, it was no longer necessary to meet regularly in person to ensure a sufficient free-flow of information.

One location reported that they had found that it was not necessary to hold regular case management meeting in Phase 3 if there had been no significant changes in the status of the case. Instead, this location adapted the process so that unless there is a significant change or a new issue emerges, they distribute a progress report to all professionals on the case after each mediation, and hold one final meeting at the close of the case. Another location reported that they had held weekly case meetings between the location coordinator and the case manager/FDRP to review cases, and otherwise maintained frequent contact by telephone and/or email with the other CFDR professionals. However, they found that it was more efficient to hold formal case management meetings involving support professionals as and when required instead of on a weekly basis.

Formal minuting/reporting of case management meetings was seen as an important aspect of information flow and exchange in some of the locations. In other locations, this was more of an ad hoc arrangement and other evaluation data suggest that clarity of information and understanding of case management was sometimes less than optimal in these locations. The challenges of effective information sharing in the pilot, particularly with lawyers, are discussed further in Chapter 6.

## 2.8.2 Separate case review meetings

Another approach made by locations in the operation of the model is the implementation of separate case review meetings. One location has instigated regular case review meetings with the location coordinator, FDRPs and SFVPs and MSPs to review every current case because of some difficulties encountered with adequate



information exchange among CFDR professionals. This location is also considering adapting these case review meetings to further improve information exchange between all professionals in the program by inviting CFDR lawyers to also attend, but noted that clear protocols around confidentiality and client privilege will need to be established first. In light of the complex logistics of organising multiple professionals from multiple partner organisations, the other locations included routine reviews of all cases within their regular case management meetings.

### 2.8.3 Regular practice meetings

Along with the use of case review meetings, two locations have initiated regular face-to-face practice meetings that are quite distinct from case management meetings and are aimed at generating better professional understandings within the partnership. The meetings are held at between monthly and quarterly intervals and are attended by all CFDR professionals. While the level of generality is designed to enable lawyers to attend, an uneasiness remains around inadvertently breaching lawyer confidentiality and this is an issue that is still being negotiated (for further discussion see section 6.5). Examples of the types of topics that are covered at these meetings include: examining implementation of the model; exploring professional roles and how they operate and the tasks they undertake—for example, how FDRPs make a determination to issue a certificate and the type of certificate (see footnote 3) that is issued; and workshopping of issues that staff suggest. As with the case management meetings, one location rotates these meetings among each of the partner services to build better professional understanding and familiarity with each of the partner services.

### 2.8.4 Support professionals attending legal advice sessions and mediations

Another key innovation that has been implemented in a number of locations is the inclusion of both SFVPs and MSPs in legal advice sessions. This approach has been found to be particularly beneficial for improving information sharing with partnership lawyers. The dynamics around this adaptation are discussed more fully in section 6.5.

### 2.8.5 Provision of CFDR by telephone

One pilot location that delivered the CFDR process via telephone had a delayed implementation of the pilot, as previously discussed in sections 1.3.1 and 2.1. At the closure of CFDR data collection, 27 cases from this location were able to be included as part of the evaluation. As discussed later in Chapter 4, the number of cases from this location was similar to other pilot locations, although more cases at this location exited at earlier stages in the CFDR process, with a single case having been mediated at the time data collection closed. The evaluation findings in regard to this location are therefore more tentative than those from the other four locations. Further research focusing on the experiences of clients of this service would be valuable. Nevertheless, the findings discussed in relation to key issues throughout this report are pertinent to this location also. In addition, the data raised some specific issues discussed in this section.

Qualitative data from professionals in the Study 1 and Study 7 interviews and the Study 2 focus group suggest both strengths and weaknesses arising from the telephone-based mode of delivery. Four of the five services involved in this location were either solely telephone-based or had significant experience with delivering telephone-based services prior to the implementation of the pilot. The fifth service had not delivered services solely by phone prior to commencement of the CFDR pilot. Professionals at this fifth

service reported that they were engaged in a steep learning curve in this regard. Other professionals' prior experience with providing telephone services had, in their view, enabled them to develop skills to quickly establish rapport and read the client's emotional state and understanding of the matters being discussed. All professionals at this location noted the importance of having the support professional in attendance at legal advice sessions. These comments from a lawyer who was used to the telephone mode of providing advice highlighted some of the techniques applied in this context:

I am very much aware of my language and also tone, and plus a third-party process in the call as well, which is the support worker. So I need to ensure that my discussions are clear so that there might be some potential follow-up that can be done in terms of increasing the confidence, in terms of redirecting issues—sort of like mapping alternatives and all that stuff—because the support worker would have more insightful knowledge as to personalities, dynamics and all these stuff, while I'm just focusing on key issues ... Plus, I also find myself asking, "So how are you feeling?", you know, in my initial call, in my initial telephone, because then I get to have a sense of connection ... So I'm rephrasing and consciously aware of my tonality and how to bring the issues without too much overpowering, like, "Okay, let's talk about it; enough of the background". So far it does work. I'm using a lot of my sensory, my feeling, side of communication, like the silence, the kind of language she uses as well, of the caller, and the male caller, so I can generalise as well. So it's interesting, and the language is a bit different because we, well, in the phone system you also want to know what the silence means and whether that silence is not like sort of focused or is a negative silence, it's like a good silence. It's a lot of feeling there. The breathing as well, you listen to that. [Professional, Later stage interview]

Lawyers providing legal advice by telephone also noted the need to develop sufficient familiarity with laws across Australia and to have readily accessible information available when working with cases where cross-jurisdictional advice was required; for example, different state legislation relating to family violence laws and other related matters.

A number of positive features of the telephone provision of services were also reported, including making CFDR available to clients who live in remote locations or where the parties in a case are living in two different states. Similarly, telephone access could potentially provide greater flexibility, as all the parties don't have to be present in the same room. However, this location still experienced similar information-sharing and logistical issues in managing the pilot as the other four locations (discussed in sections 6.1 and 6.4). Some professionals also had some instances where clients forgot their appointments or were in situations when rung at the appointment time where it was "not appropriate to have the conversation" (SFVP, Later stage interviews). A number of professionals also noted that delays in clients returning case documents are a feature of telephone-based services, which can increase both workload and the length of time the case takes.

Referral of telephone-based CFDR clients onto locally based support services is discussed in section 2.9.1

## 2.9 *Streamlining service provision*

One of the main aims of the model is to provide more effective and streamlined access to relevant services to support separated parents in developing safe and sustainable parenting arrangements. A number of innovations to the model, such as the Welcome Folder and CFDR booklet discussed previously, have helped to further this aim.

Two further examples illustrating the provision of streamlined services for clients are provided by the operation of the pilot in Newcastle and Western Sydney, which have both partnered with other government agencies or other service organisations.

In Newcastle, a relationship has been established with the local Centrelink office. This has led to a process being developed to facilitate parents' access to income support. A senior Centrelink social worker is a member of the LSC and also attended the follow-up training conducted by IFP in late 2011. As part of the intake process at this location, clients are asked if they are having any financial difficulties and if their family and child support arrangements have been resolved. If necessary, and with their permission, the parent can then be put in direct contact with the Centrelink representative. The parent is then allocated a social worker to work directly on their case, which can help to streamline a complicated system involving multiple steps at a stressful time for parents. The following quote from the location coordinator emphasises the benefits to clients from this relationship with Centrelink:

Giving people, who are distressed [unclear] in chaos, phone numbers to ring is pointless. You know? You really need to do more than that. You have to really facilitate these processes for them, not just hand out phone numbers to them.

In Western Sydney, a partnership has been created with two DV service organisations that work through the courts. In this context, it was reported that CFDR has provided an opportunity to engage parents in CFDR without breaching a protection order and, on some occasions, to advocate within the courts to have protection orders made that do not proscribe mediation, while still appropriately protecting the predominant victim. It was noted that CFDR has also provided a mechanism to contact the predominant aggressor through their CFDR lawyer to check if they are willing to do mediation; a key clarification that (it was noted) helps progress the case and that has not been available previously.

### 2.9.1 Local service referrals from Brisbane: A different case

As a telephone-based service, the Brisbane location can potentially work with clients from anywhere in Australia. Linking these clients into locally based support services therefore presents a unique challenge at this location. Identifying specific and appropriate services has been approached in a number of ways. They have used a list of referrals made available by one of the partner organisations that also provides services through the Family Relationships Advice Line. This list provides details of services at a state level that can then be contacted to obtain specific referrals in the required location. A second approach that is also employed involves the support professional, primarily the SFVP, searching the Internet for resources in the client's area and, with the client's permission, making contact with that service to assess the appropriateness of the service for the client.

## 2.10 *Adaptions to the CFDR model*

The model is designed to be flexible and adaptable in responding to the needs of each family participating in CFDR. This section describes adaptations and innovations implemented in each of the five locations in addressing practical issues that emerged during the operation of the pilot program.

### 2.10.1 Interim parenting arrangements

Four of the five locations began using interim parenting arrangements from either commencement or very soon after the pilot program began operation. The fifth location, which began taking clients into CFDR later than the other locations, also intends to use interim parenting arrangements as clients progress to Phase 3. An addendum relating to interim parenting arrangements was developed and implemented in March 2012.<sup>12</sup>

While interim parenting arrangements are frequently negotiated in CFDR mediation sessions, they are also negotiated independently of mediation as specific case needs require. In one location, interim parenting arrangements are more often reported as informal agreements negotiated during the CFDR process; however, in two other locations they were reported as being negotiated between each party's lawyers and/or support professionals and then written up as documents that may or may not be signed by the parents in the case.

Given the length of the CFDR process and the likelihood of multiple FDR sessions, interim arrangements have been used to maintain clients' engagement and participation, while minimising risk and allowing the process to proceed at a pace appropriate for both clients in the case. In addition to providing a breathing space for parents to become reacquainted with their children and for children and parents to gain confidence in the safety and workability of the new arrangements, they also provide a mechanism to allow arrangements to be assessed and reviewed.

Responses from the Professionals Survey complement these insights from the qualitative data and further describe professionals' assessments of the importance of interim arrangements for both client engagement and maintaining safety. As shown in Tables 2.4 and 2.5, 89% of the respondent professionals reported that interim parenting arrangements are somewhat or very effective for maintaining the engagement of parents, and 74% agreed or strongly agreed that these arrangements adequately protect the safety of parents and children.

**Table 2.4 Effectiveness of interim parenting arrangements in maintaining parental engagement in CFDR, Professionals Survey**

Effectiveness of interim parenting arrangements	%	<i>n</i>
Very effective	44.3	27
Somewhat effective	44.3	27
Somewhat ineffective	–	–
Very ineffective	–	–
Not sure	11.5	7
Missing	–	–
Total	100.0	61

Note: Professionals who answered that interim parenting arrangements were negotiated "always", "often" "sometimes" or "rarely" were asked: "How effective are interim parenting arrangements for maintain engagement of parents in CFDR?" Percentages may not total exactly 100.0% due to rounding.

<sup>12</sup> This location began operation later than the other four locations and at the time of data collection had had one Phase 3 case. In this case, a parenting arrangement was agreed to quickly and there was no need for any interim arrangements.

**Table 2.5 Agreement about whether interim parenting arrangements adequately protect the safety of parents and children, Professionals Survey**

Agreement whether interim parenting arrangements protect safety	%	<i>n</i>
Strongly agree	16.4	10
Agree	57.4	35
Neither agree nor disagree	11.5	7
Disagree	6.6	4
Strongly disagree	–	–
Not sure	6.6	4
Missing	1.6	1
Total	100.0	61

Note: Professionals who answered that interim parenting arrangements were negotiated “always”, “often” “sometimes” or “rarely” were asked: “To what extent do you agree or disagree that interim parenting arrangements adequately protect the safety of parents and children?” Percentages may not total exactly 100.0% due to rounding.

In some cases, interim parenting arrangements have enabled issues to be addressed that might otherwise derail the CFDR process. These include cases where one parent may have had little or no contact with their children for a period of time and interim arrangements have been used to enable a graduated return to contact. Interim parenting arrangements have also been used to negotiate short-term arrangements such as care over holiday periods and to “tie-up” relatively small matters that remain in contention at the close of mediation. Interim arrangements were viewed by all locations as being a beneficial addition to the CFDR model, which allows safer and more sustainable parenting arrangements to be negotiated that suit individual families’ needs. The following quote from a FDRP provides an example of the themes discussed above:

Interim agreements allow parents to build their confidence in their ability to co-parenting a safe and supported way. (FDRP, Professionals Survey)

It was noted in one location that the lawyers in particular appreciated the protocol in the interim parenting arrangements addendum that clarified consultation with the support professionals. While some locations are more ad hoc in their approach, other locations noted that a clear and agreed protocol is important, as are good relationships between lawyers and support professionals, in facilitating the development of appropriate and safe interim parenting arrangements.

While professionals noted the positive aspects of interim parenting arrangements in maintaining safety and assisting negotiation in mediations in cases where the arrangements were working well, one potential issue with these arrangements is those instances in which the arrangements are not being maintained by clients. Professionals identified that this is particularly problematic in cases where the predominant aggressor does not adhere to the interim arrangements, as the following quotes from the open-ended questions in the Professionals Survey demonstrate:

The two completed CFDR matters—one was stopped and the other [completed CFDR matter]—the aggressor did not comply with the parenting plan set up as an interim measure, so the victim has decided the aggressor really does not want to see his children. The CFDR in the second [CFDR matter] has also stopped. [Lawyer, Professionals Survey]

Though parenting agreements were made through mediation sessions, the predominant aggressor often would not stick to them. In this sense they looked good on paper but in reality the predominant aggressor would find

ways to “legally” not follow the agreement to a “T”. NOTE: during my involvement with CFDR only interim agreements were ever made. I don’t recall actually getting to a final agreement. [SFVP, Professionals Survey]

## 2.10.2 Property and financial issues

Limitations on the ability to address property and financial matters emerged in a number of ways in the pilot prior to the addition of the property addendum in November 2011. The evaluation data reveal that this issue affected locations in differing ways: some locations did not report any concerns in dealing with property matters, while in one location this issue presented a significant challenge.

In two locations no issues with dealing with property and financial matters in CFDR were reported either before or since the addendum relating to property was implemented in November 2011. These sites are comfortable to deal with these matters in CFDR to a more limited degree, which fits within their community legal service partners’ parameters.

Property and financial matters have affected the CFDR services in two other locations and both of these have developed a protocol for dealing with these matters. Prior to the addendum in one location, parents were referred into a parallel legal process to deal with property and financial matters at the same time as they attended CFDR. This location felt that these matters could not be separated from parenting arrangements, and if not addressed, could subvert the CFDR process. However, to decrease the burden on parents’ time, considerable effort was made to co-schedule appointments if possible. Following the addendum, this location is now able to provide advice on child support and financial issues that affect the children in the CFDR program, with a specific time set aside in mediations for these issues to be negotiated. In this location, the final resolution of property matters can be undertaken by the lawyers for each party to streamline service provision and reduce stress on the parents.

At the second location, prior to the addendum, clients who would have otherwise been eligible for CFDR services were referred into an alternate pathway that did handle property and financial issues. This location noted that while property and financial issues are not encountered frequently, they are matters that at times make it difficult for parents to concentrate on parenting arrangements during CFDR negotiations. Following the addition of the property addendum, this location now handles property issues within CFDR, employing a model similar to their alternate pathway, where the normal practice is to settle parenting arrangements and then undertake property and financial negotiations.

In one location, property and financial issues have presented a significant challenge for the partnership. In this location, one legal partner was willing to undertake considerable property and financial settlement work if required to negotiate safe and sustainable parenting arrangements in CFDR. The second legal partner was a community legal service and unable to offer a comparable service. As this matter wasn’t resolved within the partnership, cases where property was likely to be an issue were not referred into the CFDR program for a period of time. Following the property addendum, property cases can now be considered for inclusion in CFDR again but it was noted that appropriate protocols still need to be developed and agreed upon.

When data from the Professionals Survey were considered, views on the inclusion of property were mixed, with professionals noting both the advantages and disadvantages of dealing with property in CFDR matters. Qualitative responses in the Professionals Survey in part reflected the themes identified above. One response also identified the

potential for child focus to be lessened in the mediation process, as demonstrated by the following quote:

I have mixed views about dealing with property issues at the same time as parenting issues. I think it can create an impression that there is a link (which in my view there should not be). [Manager, service not specified, Professionals Survey]

Other professionals noted that property and financial issues may also provide predominant perpetrators with a means to continue exerting power and control, as the following quote illustrates:

Often a skewed view on what is considered one or another's property, with one (usually the perpetrator) having control of assets and using this as a lever to get what they want [Manager, service not specified, Professionals Survey]

Interviews with parents similarly revealed that the inclusion of property and financial matters in the CFDR process could either help in resolving matters in the best interests of the children or that these matters could be used to further exacerbate power imbalances by an obdurate parent:

The finances, obviously they helped me with the finances so obviously I've got to pay her child support and school fees and all the rest of it. So it's pretty much finalised. [Parent interview]

The only hiccups or issues I had was because my ex was dragging his heels, cancelling meetings or delaying meetings. He did that a couple of times and just continued to throw everything in disarray. Then when we did meet, even though it was clearly not to discuss anything about settlement or anything, he just refused to continue unless we'd negotiate on settlement, so that became the big elephant in the room for us and that ... Yeah, that's what stopped all of our mediation in the end, because he just wouldn't agree to do anything around the kids unless the money situation was sorted out first. [Parent interview]

As another parent summed up:

I believe they [CFDR staff] do everything they can. They are very helpful people. It is my ex who is playing games, just to get at me. It is all about power. [Parent survey participant].

### 2.10.3 Provision of CFDR to clients who are in prison

Another adaptation to the model was the provision of CFDR services to clients who are in prison. This arose because Brisbane had a number of clients who were in prison for matters not related to family violence. Provision of CFDR has been very limited in these cases as, to date, prisons have been unable to facilitate the number of appointments CFDR requires. However providing better support for these clients to have contact with their children while incarcerated and/or once they leave prison may help them integrate more safely back into regular society. Alternatively, there is also potential for an abuse of power to continue from prison and re-traumatisation of the predominant victim and the children unless careful and sensitive screening processes are undertaken. This matter was initially discussed within the Brisbane LSC, and with LSC members, including Angela Lynch from WLS Brisbane and the MSP provider DVConnect, both of whom also work with clients in the prison system. An addendum for provision of CFDR in a correctional facility was subsequently developed and implemented in October 2012. As this was after



data collection for the evaluation had been finalised, this issue is not discussed further in the evaluation report.

## 2.10.4 Provision of CFDR to Aboriginal and Torres Strait Islander and culturally and linguistically diverse clients

Further innovations in the CFDR model were made in circumstances where services were provided to Aboriginal and Torres Strait Islander clients and clients from culturally and linguistically diverse (CALD) backgrounds.

Fourteen per cent of pilot cases involved clients from CALD backgrounds and 6% involved Aboriginal or Torres Strait Islander families (see section 3.1.1 for more details). Around 70% of professionals who completed the Professionals Survey agreed that the CFDR program was sufficiently flexible to respond to the needs of a diverse range of families (data not shown). As one professional summed up:

While the model doesn't stipulate how to address CALD issues, we have been able to incorporate interpreters, staff from CALD backgrounds, and other services into cases on an as-needed basis, without affecting the way CFDR moves from Phases 1 to 4. I think there is potential for this model to be adapted to a range of contexts to suit the individual needs of the family involved. [FDRP, Professionals survey]

Professionals identified the following factors as being important in providing CFDR services to these groups of clients:

- having CFDR staff from similar cultural backgrounds and/or staff with previous experience of working with specific groups of clients;
- providing specific and specialised cross-cultural training for CFDR staff;
- using accredited interpreters; and
- consulting with relevant communities about how to better engage with families from these communities in an FDR setting.

In one location, planning in the lead-up to implementation of the pilot took into account that more than 90% of the catchment population in this location is from a non-English speaking background. This location sought CALD staff and staff who have previously worked with CALD clients from the lead agency and all partner services to train and work in CFDR as part of their provision planning. Both DV service partners in this location have CALD staff members who are providing CFDR services, and at least one lawyer who is also from a CALD background. The lead agency also has a number of inhouse staff members who speak multiple languages and they have also used an accredited interpreter service where required.

A number of professionals reported that the support provided in CFDR was instrumental in successfully engaging clients from a CALD background, as the following quote illustrates:

The case involving an African father which I helped mediate was very successfully supported by a counsellor with extensive CALD training and experience. [FDRP, Professionals survey]

However, CFDR is an already lengthy process and the additional time required to negotiate cultural and language differences can be prohibitive. As this professional explained, a client from a CALD background who was initially enthusiastic about participating when referred into the CFDR program ultimately “found the time demands too much and chose to terminate her participation” [Lawyer, Professionals Survey].



## 2.11 Summary

This chapter has presented findings on some important aspects of the organisational and operational context for the implementation of the CFDR pilot, which involves multiple agencies working together in each of the five sites. Three of the five pilot sites managed the complexities involved in multi-agency, multidisciplinary practice relatively smoothly, and a fourth appeared to have been overcoming its difficulties towards the end of the evaluation period. In the fifth location, two partner services were replaced by other organisations shortly before the evaluation period concluded. The evidence from parents indicate that the tensions in the partnership in this location had an effect on service delivery.

Mechanisms for governance and oversight, and exchange of practice information, were implemented at national and local levels to support the operation of the pilot. A particularly important element is regular teleconferences between location coordinators, which provide an important source of peer support for these professionals.

Training and reflective practice, relationship-building and referral sources and mechanisms were all important components of the groundwork required to implement the pilot. While the training provided was considered to be helpful and relevant, further training that addresses the complexities of multidisciplinary practice is seen as desirable to assist professionals dealing with the issues that arise in this practice context.

Collaborative case management is a critical component of the pilot process. Case management meetings in all locations are seen to make a significant contribution to the way in which client issues are dealt with in the pilot, with the perspectives of each professional (to a more limited extent in the case of lawyers) feeding into decisions about case progress (see also Chapter 6). As practice has developed, further strategies to support case progress have been implemented in different locations, including case review meetings and practice meetings.

A number of adaptations to the pilot model were developed to deal with emerging client issues. These have included addenda for property issues, interim parenting arrangements and provision to CFDR to clients who are in prison, and support professionals attending legal advice sessions and mediations. Other adaptations have included strategies for better engaging clients in CFDR (e.g., pamphlets), streamlining services for clients who require income support and protection orders, and providing CFDR to CALD families.

As the findings in this chapter suggest, practice in the CFDR pilot entails significant complexity. The characteristics of the client group are described in the next chapter, further helping to explain the nature of professional practice in the pilot.

### 3 Client profiles: CFDR pilot and comparison groups

This chapter examines how the pilot process operates, the nature of its clients and the types of outcomes it produces. This analysis primarily draws on data from the quantitative case-file-based study in the evaluation (Study 4). As outlined in detail in Chapter 1, this study is based on data from a group of pilot files ( $n = 126$ ), with data from a sample of comparison group files ( $n = 247$ ) providing benchmark indicators to contextualise findings in key areas. The discussion in this chapter focuses on a comparison of client profiles in the pilot and comparison groups and sets the scene for the findings on key procedural issues (time frames, referrals, exit points, interventions) and outcomes (the form and nature of agreements), which are discussed in Chapter 4.

#### 3.1 Client characteristics

Almost all the cases in the pilot (CFDR) and comparison samples involved male and female partners who were formerly in a couple relationship.<sup>13</sup> A total of 451 children were involved in the comparison group families, compared with 245 children in the pilot group families. The median size of the pilot group families was slightly larger (1.94 children) than the comparison group families (1.8 children). Other parties were involved in a small number of comparison group cases: in fewer than 4% of cases it was reported that a grandparent was involved; and a similar proportion of cases involved a parent's new partner. This proportion was even lower in pilot cases (fewer than 1% of cases for each of these other types of parties).

Other differences between the pilot and comparison group families included the date of separation: pilot couples had a more recent date of separation than comparison group couples. Separation dates were distributed as shown in Table 3.1.

**Table 3.1 Date of separation of couples, CFDR pilot and comparison group families**

Date of separation	CFDR pilot group		Comparison group	
	%	<i>n</i>	%	<i>n</i>
2011 or later	34.9	44	22.3	55
2010	27.0	34	25.5	63
Before 2010	35.7	45	47.0	116
Missing	2.4	3	5.3	13
Totals	100.0	126	100.0	247

Note: Percentages may not total exactly 100% due to rounding.

The available data tend to suggest that the age distribution of the adult parties in the two samples also varies significantly (particularly in the CFDR sample), but the data should be approached with caution due to the number of clients for whom ages weren't available (see note to Table 3.2). Table 3.2 also shows that there was a greater disparity in the distribution of ages by gender in the pilot group, with 42% of female clients compared with 29% of male clients in the 25–34 age group, and 42% of females compared to 50% of males in the 35–44 age group. In contrast, the data for the comparison group suggest a more even distribution among age categories: 35% of males and 40% of females in the 25–34 age group; 41% of males and 39% of females in the 35–44 age group.

<sup>13</sup> There was one exception in the comparison group—one matter involving two sisters.

**Table 3.2 Age distribution of clients, CFDR pilot and comparison groups**

Clients' age	CFDR pilot group				Comparison group			
	Male		Female		Male		Female	
	%	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%	<i>n</i>
Under 25 years	6.4	7	9.2	11	7.0	14	12.5	29
25–34 years	28.4	31	41.7	50	34.7	69	39.5	92
35–44 years	49.5	54	41.7	50	40.7	81	39.1	91
45–54 years	11.9	13	7.5	9	15.1	30	9.0	21
55 years or older	3.7	4	–	–	2.5	5	–	–
Totals	100.0	109	100.0	120	100.0	199	100.0	233

Note: No information on age of client in 17 cases for male clients and 6 cases for female clients (pilot cases), and 48 cases for male clients and 14 cases for female clients (comparison cases). Percentages may not total exactly 100.0% due to rounding.

Some differences in the age distribution of children across the pilot and comparison samples are also evident, with pilot group children being slightly older (average age of 7.8 years cf. 6.9 years). Seventy-six per cent of pilot children were more than 5 years old, compared with 64% of comparison group children (Table 3.3).

**Table 3.3 Age distribution of children, CFDR pilot and comparison groups**

Child's age	CFDR pilot group		Comparison group	
	%	<i>n</i>	%	<i>n</i>
0–2 years	13.9	34	18.4	83
3–4 years	10.6	26	17.3	78
5–11 years	53.5	131	46.3	209
12–14 years	16.7	41	11.5	52
15 years or older	5.3	13	6.4	29
Totals	100.0	245	100.0	451
Average age (years)	6.9		7.8	

Note: Percentages may not total exactly 100.0% due to rounding.

### 3.1.1 Socio-demographic features

Some differences between pilot and comparison group cases were evident in relation to selected socio-demographic characteristics (Table 3.4). In relation to cultural background, 14% of the pilot were CALD compared to 2% of the comparison group, while 6% of the pilot group compared to 2% of the comparison group were Aboriginal or Torres Strait Islander. The reverse of these patterns is evident in relation to recorded indicators of low socio-economic status between pilot and comparison clients, with a lower proportion (41%) of pilot group cases falling into this category, compared with 50% of the comparison group cases. Both groups were similar in relation to having a family member with a disability (6% in each sample).

In Table 3.4 and several of the subsequent tables in the report, where multiple response options could be chosen, cell sizes are not reported within tables as percentages do not sum to 100%.

**Table 3.4 Other family socio-demographic information, CFDR pilot and comparison groups**

Socio-demographic characteristic	CFDR pilot group (%)	Comparison group (%)
Low socio-economic status	41.3	50.2
One or more family members have a disability	6.4	5.7
Non-English speaking background/CALD	14.3	2.4
Aboriginal or Torres Strait Islander	5.6	2.4
No. of cases	126	247

Note: Percentages do not sum to 100% as multiple response options could be chosen. Guidance was provided by AIFS to location coordinators in a teleconference in March 2011 that a case could be identified as being of low socio-economic status if both parties were receiving government benefits.

### 3.1.2 Case characteristics

In keeping with existing knowledge about the prevalence of complex issues among separated families (Kaspiew et al., 2009), issues relating to mental illness and substance misuse were evident among both the pilot and comparison groups.

Table 3.5 demonstrates that higher proportions of pilot group clients had complex issues, with 42% of comparison group cases and 52% of pilot cases indicating a drug or alcohol issue with one or more family members. A mental health issue with one or more family members was present in 35% of comparison group cases, with an even higher corresponding proportion of 55% in pilot cases.

**Table 3.5 Substance misuse and mental health issues, CFDR pilot and comparison groups**

	CFDR pilot group (%)	Comparison group (%)
Drug or alcohol issue with one or more family members	51.6	41.7
Mental health issue with one or more family members	54.8	34.8
No. of cases	126	247

Note: Percentages do not sum to 100% as multiple response options could be chosen.

Data describing the dynamics of family violence in the pilot and comparison groups are a significant feature of the dataset generated for this component of the evaluation, because of the issues being dealt with in the pilot. In considering these data, it is important to appreciate that a range of issues—for example, classifications of “predominant aggressor” and “predominant victim”—reflect the assessments made by the professionals involved in completing the data collection forms. A significant feature of the data collected for the comparison and pilot groups relates to the clients’ alleged experience of or perpetration of family violence, covering both past and current allegations.<sup>14</sup> By definition, pilot group cases involve family violence. Significantly, however, close to all of the comparison group files involved allegations of family violence, with fewer than 1% of women and 21% of men not reporting an allegation. These rates were even lower in pilot cases, with 6% of men and no women in the sample reporting no allegations of violence.

Table 3.6 highlights some significant patterns in relation to the dynamics surrounding admissions and allegations of violence. Overall, women across both the pilot and comparison samples were more likely to allege experiencing family violence, while men were more likely to admit perpetrating family violence or allege family violence was

<sup>14</sup> In the analysis of perpetration and experience of family violence in this section, percentages do not sum to 100% as multiple responses could be chosen for each category.

perpetrated by both parties. Most of these statements were more strongly true of pilot group sample cases. Some of the significant patterns evident from Table 3.6 include:

- Past or current perpetration of family violence was admitted by 68% of men in pilot group cases compared to 30% of men in comparison group cases.
- Past or current perpetration of violence was acknowledged by a higher proportion of men than women in both samples: 68% of pilot group males (cf. 2% females), and 30% of comparison group males (cf. 6% females).
- Female clients allege a past or current experience of family violence far more often than male clients across both groups: 91% of pilot group females (cf. 7% males) and 85% of comparison group cases (cf. 15% males).
- Men were more likely than women to claim that past or current violence was perpetrated by both parties, especially in the comparison group sample, in which 17% of men and 5% of women alleged mutual perpetration. In the pilot sample, 10% of men and 2% of women were recorded as alleging mutual violence.

**Table 3.6 Client allegations of violence, CFDR pilot and comparison groups**

Client allegation	CFDR pilot group		Comparison group	
	Female (%)	Male (%)	Female (%)	Male (%)
Alleged perpetrator of family violence and/or safety concerns	2.4	67.5	5.7	30.0
Alleged experience of family violence and/or safety concerns	90.5	7.1	85.0	15.0
Client alleges both parties responsible for family violence and/or safety concerns	2.4	10.3	5.3	17.4
No allegations of family violence and/or safety concerns	0.0	5.6	0.8	20.7
No. of cases	126		247	

Note: Percentages do not sum to 100% as cases could have multiple allegations of violence.

Additionally, professionals were far more likely to assess men as the predominant aggressor in both samples. Table 3.7 shows that in 89% of pilot cases and 80% of comparison group cases professionals assessed the predominant aggressor as the male. This is compared with 5% and 9% of women in pilot and comparison samples respectively.

**Table 3.7 Professionals' assessment of predominant aggressor status, CFDR pilot and comparison groups**

Professionals' assessment	CFDR pilot group		Comparison group	
	%	<i>n</i>	%	<i>n</i>
Predominant aggressor is male	88.9	112	80.2	198
Predominant aggressor is female	4.8	6	9.3	23
Missing or determination not able to be made	6.4	8	10.5	26
Totals	100.0	126	100.0	247

Note: Percentages may not total exactly 100.0% due to rounding.

Table 3.8 shows that professionals' assessments of predominant aggressor status was also more likely to conflict with claims of experiencing violence by men in the comparison group (27% of men who claimed experiencing violence were assessed to be the

predominant aggressor cf. 2% of women). Small sub-sample sizes precluded a parallel analysis for pilot cases.

**Table 3.8 Client allegations of family violence, by professionals' assessments of predominant aggressor, comparison group**

Client allegation of experiencing violence	Professional's assessment of predominant aggressor						Totals	
	Male		Female		Missing			
	%	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%	<i>n</i>
Female	90.5	190	2.4	5	7.1	15	100.0	210
Male	27.0	10	48.7	18	24.3	9	100.0	37

Notes: A similar analysis could not be reported for CFDR cases due to the small sample size of male clients alleging an experience of family violence.

### 3.1.3 Existing court orders

In order to gain insight into the history of contact between clients and the family law system, the case file data collection captured information about the existence of personal protection orders made under state legislative frameworks, proceedings in relation to breaches of personal protection orders, other criminal proceedings related to family violence, and other family-law related orders, including parenting orders, for both the pilot and comparison group. In Table 3.9, and throughout this report, "Client 1" refers to the person who initiated contact with either the pilot or comparison group service, and "Client 2" refers to the other party in the matter.

**Table 3.9 Client 1 and Client 2 history of legal orders, by client sex, CFDR pilot and comparison groups**

Legal orders	CFDR pilot group				Comparison group			
	Client 1		Client 2		Client 1		Client 2	
	Male (%)	Female (%)	Male (%)	Female (%)	Male (%)	Female (%)	Male (%)	Female (%)
Past or current protection order	57.1	3.8	60.2	9.5	43.8	12.0	51.5	9.5
Past or current breach of a protection order	14.3	–	10.7	–	6.7	3.5	16.9	1.9
Past or current criminal charges (e.g., assault)	23.8	1.9	13.6	–	8.6	0.7	8.8	1.9
Other family law order (e.g., parenting order)	4.8	1.0	7.8	4.8	11.3	8.5	5.2	1.9
No. of cases <sup>a</sup>	21	105	103	21	105	142	136	105

Note: Percentages do not sum to 100% as cases could have clients with multiple legal orders. <sup>a</sup> Data on the gender of Client 2 was missing in 2 cases for the CFDR pilot group and in 6 cases for the comparison group. These missing cases for Client 2 have been excluded from this analysis.

The following aspects of the data described in Table 3.9 are noteworthy:

- Across both samples, men were more likely to have protection orders taken out against them, with a majority of pilot group men (57% of cases for Client 1 males and 60% for Client 2 males) and significant proportions of comparison group men (44% of cases for Client 1 males and 52% for Client 2 males) being subject to protection orders.
- Women generally were far less likely to have protection orders taken out against them, and this was particularly true of Client 1 women in the pilot group (4%).

- Between 14% (Client 1) and 11% (Client 2) of men in the pilot group had been involved in proceedings over protection order breaches. The corresponding proportions for men in the comparison group were 7% and 17% respectively. No pilot group women and small proportions of comparison group women (4% for Client 1 females and 2% for Client 2 females) had been involved in this type of breach.
- Men in the pilot group were much more likely than comparison group men to have been involved in criminal proceedings related to family violence (24% of CFDR cases for Client 1 males and 14% for Client 2 males, compared to 9% each of comparison group cases for Client 1 and Client 2 males). Very few women across the samples were in this category, with the highest proportion being 2% of Client 1 females in the pilot sample and 2% of Client 2 females in the comparison group.
- Client 1 parents in the pilot group sample were less likely to have had other court orders, including parenting orders, than Client 1 parents in the comparison sample. Conversely, Client 2 parents in the pilot sample were more likely to have such orders than Client 2 parents in the comparison sample.

These data suggest some differences in the nature and consequences of the family violence history relevant to the clients in each of the samples. Among men in the pilot group, compared to the comparison group, there was a higher proportion of family violence orders, breach proceedings (for Client 1), and criminal proceedings, suggesting that, on average, a greater severity of family violence was relevant to the pilot group clients. The data suggest, consistent with that reported in the preceding section, that men were significantly more often considered the predominant aggressors than women, with this being particularly marked in the pilot sample.

### 3.1.4 Safety concerns

A significant aim of the pilot process was to improve the safety of children while processes were in train and the substantive outcomes reached. In light of this, data on safety concerns (raised by either a parent or the professional about at least one child in the case) were also captured in the case file component of the evaluation. Table 3.10 demonstrates that safety concerns are prevalent in the case files, with 64% of pilot group cases having a safety concern involving the father for at least one child on the file. This was higher than the proportion in the comparison group (46%). There was little difference between the two samples in terms of safety concerns with mothers (10% of pilot group and 14% of comparison group cases). Pilot group cases were more likely than comparison group cases to involve current allegations of abuse or neglect (18% cf. 13% respectively); however, there was no difference in the reported rate of previous intervention by a child welfare department (10% in both samples).

**Table 3.10 Safety concerns, allegations of abuse and statutory child protection intervention, CFDR pilot and comparison groups**

Safety issue	CFDR pilot group (%)	Comparison group (%)
Safety concerns when with mother	9.5	13.8
Safety concerns when with father	63.5	45.3
Current allegation of abuse/neglect	18.3	13.4
Child previously subject to statutory child protection intervention	10.3	9.7
No. of cases	126	247

Note: Data relate to a safety concern, allegation or statutory intervention for at least one child on the file. Percentages do not sum to 100% as cases could have multiple safety concerns, or allegations.

### 3.1.5 Parenting arrangements at time of initial contact with service

At the time the families in each sample initially came into contact with the service, the predominant living arrangements for the children involved them spending most or all of their time with their mother (78% in the pilot group and 74% in the comparison group) (Table 3.11). A further 9% of pilot group children and 12% of comparison group children were in shared care arrangements, with the remaining 10% of pilot children and 13% of comparison children spending most time or all of their time with their father.

**Table 3.11 Children's current living arrangements, CFDR pilot and comparison groups**

Child's living arrangement	CFDR pilot group		Comparison group	
	%	<i>n</i>	%	<i>n</i>
All time with mother, no time with father	23.3	57	20.6	93
Most time with mother (at least 66% of time)	54.3	133	53.4	241
Shared care (35–65% with each parent)	8.6	21	12.2	55
Most time with father (at least 66% of time)	7.8	19	8.0	36
All time with father, no time with mother	2.5	6	5.1	23
Missing	3.7	9	0.7	3
Totals	100.0	245	100.0	451

Note: Percentages may not total exactly 100.0% due to rounding.

Some differences were found in children's current living arrangements by age in both the pilot and comparison samples, with children aged 5–11 years being more likely to be in shared care arrangements and less likely to be spending most of their time with their mother than either 0–4 year olds or children aged 12 years and over (Table 3.12).

**Table 3.12 Children's current living arrangements, by age of child, CFDR pilot and comparison groups**

Child's living arrangement	CFDR pilot group children						Comparison group children					
	0–4 years		5–11 years		12+ years		0–4 years		5–11 years		12+ years	
	%	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%	<i>n</i>
All time with mother, no time with father	35.0	21	21.4	28	14.8	8	22.4	36	19.6	41	19.8	16
Most time with mother (at least 66% of time)	56.7	34	55.0	72	50.0	27	62.1	100	46.9	98	53.1	43
Shared care (35–65% with each parent)	5.0	3	10.7	14	7.4	4	5.6	9	17.7	37	11.1	9
Most time with father (at least 66% of time)	3.3	2	10.7	14	5.6	3	4.4	7	10.1	21	9.9	8
All time with father, no time with mother	–	–	0.8	1	9.3	5	5.6	9	4.3	9	6.2	5
Missing	–	–	1.5	2	13.0	7	–	–	1.4	3	–	–
Totals	100.0	60	100.0	131	100.0	54	100.0	161	100.0	209	100.0	81

Note: Percentages may not total exactly 100.0% due to rounding.

## 3.2 Summary

In summary, the data discussed in this section indicate that the majority of both pilot and comparison group files involved histories of family violence and concerns about child safety. The data tend to suggest that, on average, the family violence tended to have



more indicators of severity in the pilot group than the comparison group, though these indicators were also present to a lesser extent in the latter group. A majority of files in both groups involved concerns about child safety, but these were more markedly present in relation to fathers in the pilot group. The pilot group files are also distinguished by having proportionately more clients from CALD and Aboriginal and Torres Strait Islander backgrounds, slightly more children on average in the families, and a greater disparity in the ages of the parents in the ex-couples. These findings indicate that the pilot group cases tend to represent a more complex sub-group than the comparison group cases; however, the differences are not so marked as to suggest the two groups are incomparable. Indeed, the prevalence of past and/or current family violence and child safety concerns in the comparison group indicates that significant complexity characterises the clients of the services from which both the two samples were drawn.

## 4 Procedural profiles: CFDR pilot and comparison groups

This chapter further explores processes and outcomes in the CFDR pilot and comparison group processes, primarily based on insights from the case profile data collection. Issues concerning referrals into the program, the trajectories of cases and exit points for clients are first considered. Other case dynamics, such as single-party cases, the reasons for parties choosing not to proceed, and the types of cases where CFDR is most appropriate are then discussed.

It should be noted that the pilot process is significantly more complex than the family dispute resolution process applicable for the comparison group, which involves fewer steps. For this reason, some sections in this discussion—particularly those about processes—refer to the CFDR pilot and comparison group separately, while agreement outcomes between the two processes are compared and discussed together towards the end of the chapter. The chapter concludes with a discussion outlining the time frames for the respective processes.

### 4.1 *Process and outcomes*

This section provides an overview of high-level features of the pilot and comparison group samples, covering entry and referral points, process exit points, and the features of cases that involve a single party only and cases that do not proceed into CFDR.

#### 4.1.1 Referral sources, case trajectories and attrition

Pilot clients were most often referred into the program by the service that was providing family dispute resolution services within the partnership (32%). The Family Relationship Advice Line (FRAL) referred 19% of cases and a legal partner in the pilot referred a further 15%. Referral dynamics in the comparison group are most different from these patterns in relation to self-referral (which is not possible for pilot group clients), with 37% of clients self-referring to these services. For other referral sources, proportions are not markedly different from pilot cases: 21% and 17% were referred by FRAL and lawyers respectively. Fewer than 5% of cases had other service types (e.g., Legal Aid, other FRCs, women's and men's services) listed as the referral source for comparison group cases.

Table 4.1 provides an overview of each sample and their progress through the different phases of their respective processes. Further analysis of the exit phase of CFDR cases, by pilot location, is described in Table 4.2.

While the trajectories for clients between the CFDR and FDR processes are not directly comparable due to the different preparation stages undertaken, these data do give an indication of the propensity of clients to reach a mediation process in the pilot and comparison samples. As can be observed in the table and Figure 4.1, there were some differences between the two samples, with 21% of cases in the pilot sample reaching the CFDR process (6% of cases exiting in Phase 3; 9% exiting in the 1–3 month follow-up stage; and 7% exiting in the final 9–10 month follow-up stage), and almost double (41%) the comparison group reaching an FDR process (10% exiting during the FDR process, and a further 30% completing a final agreement).

One potential factor explaining the relatively low rate of CFDR cases that reach a mediation process is the finding from the evaluation data of a significant proportion of single-party cases in CFDR. The characteristics of single-party cases are discussed further in the next section.

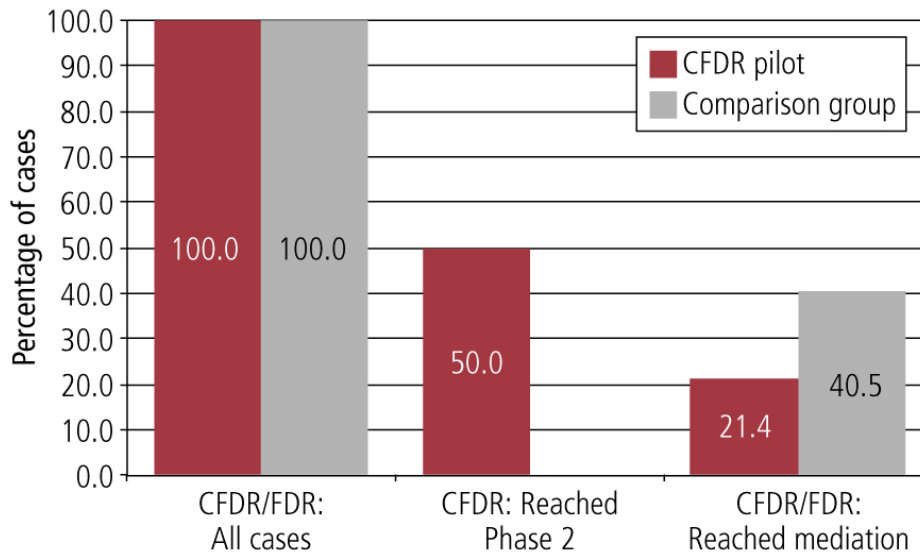
**Table 4.1 Phase at which clients exited, CFDR pilot and comparison groups**

CFDR phase when clients exited	CFDR pilot group		FDR phase when clients exited	Comparison group	
	%	<i>n</i>		%	<i>n</i>
Phase 1: CFDR intake	50.0	63	Preparation for FDR	59.5	147
Phase 2: Preparation undertaken	28.6	36	FDR process	10.1	25
Phase 3: CFDR process	5.6	7	Final agreement reached	30.4	75
Phase 4: 1–3 month follow-up	8.7	11			
Phase 4: 9–10 month follow-up	7.1	9			
Totals	100.0	126	Totals	100.0	247

**Table 4.2 CFDR phase at which client exited, by location, CFDR pilot group**

	Brisbane (%)		Hobart (%)		Legal Aid WA (%)		Newcastle (%)		Western Sydney (%)	
	%	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%	<i>n</i>
Phase 1: CFDR intake	25.0	7	63.0	17	47.6	10	–	–	67.6	25
Phase 2: Preparation undertaken	71.4	20	11.1	3	14.3	3	–	–	10.8	4
Phase 3: CFDR process	3.5	1	–	–	14.3	3	–	–	–	–
Phase 4: 1–3 month follow-up	–	–	18.5	5	4.8	1	–	–	13.5	5
Phase 4: 9–10 month follow-up	–	–	7.4	2	19.1	4	–	–	8.1	3
Totals	100.0	28	100.0	27	100.0	21	100.0	13	100.0	37

Notes: Data for Newcastle not reported due to the small sample size. Percentages may not total exactly 100.0% due to rounding.


**Figure 4.1 Proportion of cases reaching mediation phase, CFDR pilot and comparison groups**

The identification of pilot cases not suitable for the CFDR process (including client self-identification) was divided among the first two phases, with 50% of all CFDR cases exiting at intake stage and 29% exiting after preparation had been started. In the comparison group, 60% of cases did not make it past the intake stage. Further discussion concerning the reasons for CFDR cases not proceeding to the CFDR process is provided in section 4.1.3.

It is evident from the quantitative and qualitative data that a range of issues underlies what we have referred to for simplicity as “attrition”. In both CFDR pilot and comparison group processes, the trajectory of a case may be determined by clinical professional judgments, decisions on the part of either client, or a combination of these factors, with the balance of influence changing from case to case. Cases involving family violence, clinical judgments and client dynamics raise particularly complex issues. Data on risk assessment and case progress are discussed in section 4.2 and in Chapter 5.

As noted above, selection into CFDR or FDR processes occurs by way of a multilateral and dynamic process of selection influenced by professional judgments and client decisions. This process resulted in 27 out of 126 pilot group and 100 out of 247 comparison group cases reaching family dispute resolution. The smaller proportion of pilot group cases reaching this point suggests the operation of a tighter process of selection, and data on this point is discussed in section 4.2. Interestingly, pilot group cases were more likely than comparison group cases to reach either a full or partial agreement in the FDR process. Table 4.3 shows that the FDR process did not produce any outcome in 11% of pilot cases, compared with 23% of comparison group cases. Partial rather than full agreement was more common among pilot cases, with some issues being resolved in 48% of pilot group cases compared with 33% of comparison group cases. Full agreement occurred in 37% of pilot group cases and 43% of comparison group cases.

**Table 4.3 Agreement outcome in cases that reached CFDR/FDR process, CFDR pilot and comparison groups**

	CFDR pilot cases		Comparison group cases	
	%	<i>n</i>	%	<i>n</i>
Full agreement reached	37.0	10	43.0	43
Partial (written or verbal) agreement	48.2	13	33.0	33
No agreement reached	11.1	3	23.0	23
Missing	3.7	1	1.0	1
Totals	100.0	27	100.0	100

In keeping with the more intensive nature of the CFDR process, the case file data collection indicated more interim agreements among pilot group files than comparison group files (56% cf. 8% respectively). The data also suggest differences in the way in which agreements were formalised between the two groups, although these data should be regarded with caution due to some missing data on CFDR agreement types (Table 4.4). The most frequently occurring types of agreement were written agreements (other than parenting plans and consent orders) (52% of pilot and 41% of comparison group cases). This was followed by consent orders (26% of pilot and 24% of comparison group cases). Around one-fifth of comparison group cases had parenting plans (23%); however, this agreement type was rare in CFDR cases (4%).

**Table 4.4 Type of agreement, where final or partial agreement reached, CFDR pilot and comparison groups**

	CFDR cases (%)		Comparison group cases (%)	
	%	<i>n</i>	%	<i>n</i>
Parenting plan	4.4	1	22.7	17
Consent order	26.1	6	24.0	18
Other written agreement	52.2	12	41.3	31
Verbal agreement	–	–	9.3	7
Other agreement type	8.7	2	2.7	2
Missing	8.7	2	–	–
Totals	100.0	23	100.0	75

Note: Percentages may not total exactly 100.0% due to rounding.

Substantive outcomes negotiated in the CFDR mediation and comparison groups are discussed further in section 4.2.5.

Overall, the data discussed in this section highlight that while agreement rates were higher in the pilot sample, this was in the context of a lower proportion of cases in the CFDR pathway progressing to a mediation process, in contrast to the comparison group sample. These findings are linked to both professional judgments and client decisions on whether or not to proceed to the next phases of CFDR. Another potential contributor to the lower rates of progression in the pilot sample is the higher prevalence of single-party cases among CFDR clients compared to non-CFDR clients, a subject to which we now turn.

### 4.1.2 Single-party cases

A noteworthy characteristic of the CFDR process is the incidence of cases involving a single party only. Analysis of the case management data for pilot cases reveals that almost half (49%) of all CFDR cases across the five pilot locations were single-party cases.<sup>15</sup> As outlined further below, these single-party cases were commonly characterised by referrals for clients to other services and complex case dynamics in terms of risk and safety issues.<sup>16</sup> In contrast, single-party cases were less common in the comparison group (31% of cases) and had markedly lower use of services compared to CFDR cases.

In CFDR cases, mothers were reported as being significantly more likely to be the client in single-party cases (52 mothers cf. 10 fathers).<sup>17</sup> There were two main reasons reported for engaging clients in single-party cases: the second party did not respond or chose not to attend CFDR (44%); or the other party was not invited to enter the process, primarily because the CFDR case team judged that it would not be safe to do so (36%) (Table 4.5). Other less common reasons for single parties only being engaged (21%) included: parents settling privately outside of the CFDR process or choosing another mediation process; mediation being precluded because the other party was incarcerated; a protection order prohibiting mediation; and parents withdrawing with no reason

<sup>15</sup> Single-party cases reflect situations in which the second party in a matter refuse to engage in CFDR processes or were ultimately not invited because of safety concerns. Aggregate data is presented in this section, as the number of cases is too small to present separately by pilot location.

<sup>16</sup> The proportion of single-party cases handled in the pilot was much higher than was anticipated and our methodology did not allow for collection of data beyond Phase 2 for these cases. On this basis, the trajectory of outcomes for single-party families after they exit at either Phase 1 or Phase 2 is unclear. However, single-party cases receive substantial support services while in the pilot and with ongoing referrals once their involvement in CFDR ceases (see Tables 4.8 and 4.9).

<sup>17</sup> In the comparison group sample, there were 58 mothers and 18 fathers involved in single-party cases.

recorded. The data reported in Table 4.5 show that broadly similar trends were also evident in the comparison group sample.

**Table 4.5 Main reasons for case being single-party only, CFDR pilot and comparison groups**

Main reason for single-party case	CFDR pilot group		Comparison group	
	%	<i>n</i>	%	<i>n</i>
Second party did not respond/did not choose to engage	43.5	27	48.7	37
Not invited/not safe to invite second party	35.5	22	39.5	30
Other main reasons <sup>a</sup>	21.0	13	11.8	9
Totals	100.0	62	100.0	76

Note: <sup>a</sup> Other main reasons include: parents settling privately outside of the FDR process or choosing another mediation process; mediation being precluded because the other party was incarcerated; a protection order prohibiting mediation; and parents withdrawing with no reason recorded.

### *Single-party case dynamics*

The case profile data also show that, similarly to two-party cases, single-party cases were characterised by complex dynamics. As shown in Table 4.6, there was a relatively small difference in the proportion of single-party CFDR cases that were identified by case managers as having one or more family members with drug or alcohol issues when compared to two-party CFDR cases. Almost half of all single-party CFDR cases were reported as having one or more family members with a mental health issue, compared to 61% of two-party CFDR cases and 55% of all CFDR cases.

**Table 4.6 Substance misuse and mental health issues, by single-party, two-party and all cases, CFDR pilot group**

	Single-party CFDR cases (%)	Two-party CFDR cases (%)	All CFDR cases (%)
Drug or alcohol issue with one or more family members	48.4	54.7	51.6
Mental health issue with one or more family members	48.4	60.9	54.8
No. of cases	62	64	126

Note: Percentages do not sum to 100% as multiple response options could be chosen.

Single-party CFDR cases were equally as likely to involve allegations of child abuse/neglect compared to CFDR cases where two parties were involved (Table 4.7), while more than twice the single-party cases (15%) had at least one child in the case previously subject to statutory child protection intervention compared to two-party CFDR cases (6%).

**Table 4.7 Allegations of abuse and statutory child protection intervention, by single-party, two-party and all cases, CFDR pilot group**

	Single-party CFDR cases (%)	Two-party CFDR cases (%)	All CFDR cases (%)
Current allegation of abuse/neglect	18.8	17.8	18.3
Child previously subject to statutory child protection intervention	14.5	6.3	10.3
No. of cases	62	64	126

Note: Percentages do not sum to 100% as multiple response options could be chosen.

## Service use and referrals made

Seventy per cent of single-party cases in CFDR exited at Phase 1 and 30% exited at Phase 2. Services were provided to clients in single-party cases in both Phases 1 and 2 of the pilot. Here we report the total level of the services reported as being provided to single-party cases in both Phases 1 and 2 since, as has been discussed in section 1.3.4, the CFDR model is not linear and the distinction between Phase 1 and Phase 2 is not clear in practice.

Most single-party CFDR cases received services in the pilot beyond their initial intake process (Table 4.8). Fifty-two per cent of single-party clients received substantial support in the pilot, including the intake process and either services from both the support and legal services, or from one of these services multiple times. Another 29% of single-party CFDR cases attended the intake process and received services from either the support service or legal service, and 19% of single-party CFDR cases received no additional services. This level of service use in the CFDR caseload was in marked contrast to the comparison group, where most single-party cases (86%) did not receive any services beyond the intake process.

**Table 4.8 Services received by single-party cases beyond intake process, CFDR pilot and comparison groups**

Services received by single-party cases	CFDR pilot group		Comparison group	
	%	<i>n</i>	%	<i>n</i>
No CFDR services beyond intake process received	19.4	12	85.5	65
Intake process and one service from either the support service or the legal service received	29.0	18	13.2	10
Multiple services received	51.6	32	1.3	1
Totals	100.0	62	100.0	76

When information on referrals to the next step is analysed according to the number of parties in the CFDR case, the case profile data also show that a higher proportion of two-party cases were referred to court (27%) compared to 15% of single-party cases. There was little difference between single-party and two-party CFDR cases in terms of the referrals made to Legal Aid and post-separation support services during Phase 1 (Table 4.9).

**Table 4.9 Referrals made for next step, if certificate issued/referred out of CFDR in Phase 1, by single-party, two-party and all cases, CFDR pilot group**

	Single-party CFDR cases (%)	Two-party CFDR cases (%)	All CFDR cases (%)
Legal Aid	40.0	41.8	40.8
Court	14.7	26.7	18.4
Post-separation support service	13.3	14.7	14.3
Other referrals made <sup>a</sup>	29.4	13.3	24.5
No. of cases	34	15	49

Notes: Percentages do not sum to 100% as multiple response options could be chosen. <sup>a</sup> Other referrals for single-party cases included FDR, counselling and private legal advice; other referrals for two-party cases included mental health services.

Additional insights from the request for information (RFI) data highlight the benefits of single-party CFDR cases, particularly in terms of helping to manage risk and safety issues and identification of appropriate services for clients. The RFI data reveal that single-party CFDR cases, frequently but not exclusively involving the predominant victim, are

conducted in all five locations. Four of the partnerships have had single-party cases from the beginning of the CFDR pilot and the fifth location began taking on single-party cases after approximately the first 6 months. In that location, the policy change was a result of the positive feedback from single-party cases in the other locations that were in operation at the time. Single-party cases are viewed by all locations as being a positive innovation that was driven by clients' needs, and which has now become an important outcome of the CFDR program.

In one location, the provision of support in single-party CFDR cases was viewed as having filled a gap in service provision by leading to the development of a more integrated service that provides counselling and legal support to vulnerable clients inhouse.

Another two locations made a policy decision to always engage predominant victims before inviting the second party to CFDR, to ensure the process would only proceed into the Phase 2 if the more vulnerable party was genuinely willing and able to participate in mediation. Engaging the predominant victim first also enabled the service to conduct (specialist) risk assessment for that client while ensuring they received the necessary legal advice and counselling. It also enabled the service to feel more confident that it was safe to engage the second party when they decided to do so.

A third location noted that engaging predominant victims as single-party cases initially also increased safety by enabling vulnerable clients to obtain relevant advice about their options and information on strategies they might employ.

It was also reported that predominant victims are often very motivated to undertake mediation as they view it as a better option than a court process, and that they are frequently perplexed if a decision is made not to offer mediation. CFDR provides a wealth of information gathered from the risk assessment and from the counsellors, lawyers and family dispute resolution practitioners (FDRPs) involved in the case, which can help the vulnerable party better understand the reasons why mediation isn't suitable. Professionals can also work with them to generate further options.

Another theme to emerge from the RFI data was that the provision of services to the party involved first helps to keep these clients engaged in the CFDR process while assessing whether to invite the other party, and/or while waiting for them to enter the program and proceed through intake and risk assessment.

In summary, the case management data emphasise how regularly CFDR pilot cases involve a single party only, as almost half of the CFDR sample consisted of this case type. The preceding discussion also highlights the benefits of this approach, from the perspective of professionals working in CFDR cases, and the still often complex case dynamics in terms of service use, issues facing clients, and risk and safety concerns characterising these cases.

### 4.1.3 Parties not proceeding

This section describes relevant features of cases that were considered for inclusion in the pilot but did not proceed into the CFDR process. This analysis draws primarily on information collected by each location and provided to AIFS as part of the data collection in Study 4. Data from the Professionals Survey also shed light on some of the reasons for parents withdrawing from CFDR.

An additional component of Study 4 collected information on 94 cases that did not proceed into the pilot. Information on the party that did not proceed (whether they were a predominant victim or aggressor), and the reason for not proceeding, was reported by



location coordinators as part of this data collection. As noted in Chapter 1, these data do not represent every case that did not proceed into the pilot.

Analysis of these data shows that the reason for the case not proceeding was due to a client decision in more than half of the cases that did not proceed, with Client 2 choosing not to proceed in 30% of cases and Client 1 making this decision in 29% of cases (Table 4.10). In a smaller number of cases, both parents decided not to proceed (8%), and in some cases a decision was made at the case level that it was not appropriate for the clients to continue in CFDR (11%).

**Table 4.10 Source of decision to not proceed with CFDR: Client or case level, Parties not proceeding**

Source of decision	%	<i>n</i>
Client 1	28.7	27
Client 2	29.8	28
Both clients	7.5	7
Client unknown	23.4	22
Case-level decision <sup>a</sup>	10.6	10
Totals	100.0	94

Note: <sup>a</sup> Reasons for a case-level decisions included professional judgment of inappropriateness to continue based on mental health and safety issues, and circumstances such as geographical location and client not being within financial criteria.

Overall, predominant victims (50% of cases that did not proceed) were more than twice as likely as predominant aggressors (22%) to make the decision to not proceed with CFDR (Table 4.11). There were some differences in this aspect across the pilot locations. In three locations, predominant victims were more likely to decide to not proceed with CFDR (78–93% of cases where this information was available), while in the other two locations predominant victims were less likely to decide to proceed into the pilot (36% and 47%) compared to predominant aggressors (data not shown).

**Table 4.11 Source of decision to not proceed with CFDR: Predominant aggressor or victim, Parties not proceeding**

Source of decision	%	<i>n</i>
Predominant victim	50.0	47
Predominant aggressor	22.3	21
Clients were engaged in mutual violence	1.1	1
Unknown	26.6	25
Totals	100.0	94

Note: Predominant aggressors and victims were assessed as such by professionals in the CFDR pilot.

There were a number of reasons reported as to why CFDR pilot cases did not proceed (Table 4.12). In nearly one-quarter of cases at least one parent refused to proceed or was not contactable. In 15% of cases, parents chose alternate pathways to resolve their issues, and in 11% of cases the length of the process dissuaded parents from participating in CFDR. In 6–9% of cases, relocation and geographical issues, family violence and safety issues and no acknowledgement of family violence (by the predominant aggressor) were determining reasons for why cases did not proceed. In a small number of cases (4% each), private lawyers had advised clients not to undertake CFDR or the clients had reconciled.

**Table 4.12 Reasons given for not proceeding with CFDR, Parties not proceeding**

Reason for CFDR not proceeding	%	<i>n</i>
Client unable to be contacted/refused invitation	22.3	21
Alternate pathway chose to resolve matters <sup>a</sup>	14.9	14
Length of time the process required was too long	10.6	10
Relocation/geographical issues	8.5	8
FV risk and safety issues	7.4	7
No acknowledgement of FV	6.4	6
Private lawyer advised against	4.3	4
Reconciled	4.3	4
Other reason <sup>b</sup>	21.3	20
Totals	100.0	94

Notes: In four cases, a second reason related to the first reason was also recorded but have been excluded from this analysis.

<sup>a</sup> Alternate pathways included: non-CFDR mediation, counselling, court, and using a private lawyer. <sup>b</sup> Other reasons included: client in jail, change in location partnership providers, client not within financial criteria, clients working issues out, property-only matters, and clients wanting further time to consider their options.

These findings are complemented by data from the Professionals Survey, which also provides some insights into the CFDR professionals' assessments of the reasons for parents withdrawing from CFDR during intake. As shown in Table 4.13, the most common reason reported by professionals for parents withdrawing from the program was that the predominant aggressor was not willing to acknowledge violence or safety concerns (56% of professionals indicated this). The other responses are ordered by prevalence. Around a quarter of professionals said that parents withdrew during intake as the CFDR program takes too long. Parents choosing other dispute resolution pathways—such as court, legal practitioners and non-CFDR mediation—were also relatively common.

**Table 4.13 Main reason(s) for parents withdrawing from CFDR at intake, Professionals Survey**

Professionals' assessment of reason parents withdraw at intake	CFDR cases (%)
Predominant aggressor not willing to acknowledge violence or safety concerns	55.7
One or both parents feeling too intimidated by the other parent	29.6
Time taken to complete the CFDR program will be too long	26.1
One or both parents deciding to seek use of the courts instead of the CFDR program	20.5
One or both parents preferring use of a legal practitioner instead of the CFDR program	18.2
Number of appointments involved in the CFDR program	11.4
One or both parents deciding to use FDR instead of the CFDR program	11.4
One or both parents deciding to negotiate directly between themselves instead of the CFDR program	5.7
Other reasons	12.5
Cannot say	26.1
No. of respondents	88

Notes: Professionals were asked: "Sometimes a parent may choose NOT to go ahead with CFDR at the first intake phase. Based on your experience, what is the main reason(s) that parents decide against taking part?" Percentages do not sum to 100% as multiple response options could be chosen.

#### 4.1.4 Clients for whom CFDR is not appropriate

In order to assess the characteristics of cases that are most suitable for CFDR, open-ended questions in the Professionals Survey asked respondents to reflect on the types of

clients for whom CFDR is and is not appropriate. The key theme to emerge from these data is that CFDR is least appropriate for cases where there is a very high level of family violence. Professionals also thought that cases where there are acute mental health and substance abuse issues are also not appropriate for the CFDR process.

### *High levels of violence*

Across all professional groups, circumstances where a high level of violence has occurred or is currently occurring were nominated as inappropriate for CFDR. Signs include a pattern of escalating violence, threats to harm or kill, presence/use of weapons, and ongoing coercive/controlling behaviour by predominant aggressors.

Professionals indicated that where predominant aggressors are unwilling to acknowledge violence or safety concerns and have limited insight and responsibility for themselves, they are inappropriate participants for CFDR. This reflects the intention of the CFDR model, which requires some recognition of violence or, at a minimum, safety concerns as a prerequisite for suitability.<sup>18</sup> CFDR was also identified as being inappropriate in circumstances where the predominant aggressor was using the CFDR process to exert further coercion and control over the predominant victim (reported by a SFVP, a lawyer and a FDRP):

I believe CFDR is not appropriate where there is extreme high level of family and domestic violence. Research indicates that in these cases the aggressor might appear to go along with the opportunity to participate, but the high level of family violence/power and control will prevail and the risk will exacerbate for the victim and the children. [SFVP, Professionals Survey]

For predominant victims and children, the main concern expressed by professionals in relation to high levels of violence was their increased risk and vulnerability to further abuse. If a predominant victim continues feeling unsafe, even with CFDR support services, this was reported as a sign that the case might not be appropriate for mediation:

Where the violence, worries or fears of the other parents cannot safely be put “on the table”, then CFDR will not be able to proceed without potentially placing that person at further risk, or being able to take into account those reasons as part of their FDR negotiations, further disempowering the victim. [FDRP, Professionals Survey]

The existing screening process and ongoing risk assessments were valued for detecting such parents for whom CFDR was not appropriate because of the level of violence and high risk:

It all comes down to ongoing, stringent risk assessments done by ALL professionals involved with parties. [Lawyer, Professionals Survey]

Women and children experiencing very severe/high risk cases would not be appropriate if the very participation in the process itself puts them at higher risk of abuse, therefore the first risk assessment is of paramount importance. [SFVP, Professionals Survey]

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<sup>18</sup> The model requires that professionals keep family violence at the forefront of their practice, but not that the predominant aggressor explicitly acknowledges family violence. The model clearly states its recognition that perpetrator change in the relatively short time frame of CFDR is unlikely.

### *Parents with ongoing and acute mental health and drug and alcohol problems*

Respondents from all professional groups identified parents experiencing current or long-term acute mental health and drug and alcohol problems as potentially unsuitable for CFDR.

For some people, court is their only route. Where there is significant mental health or addiction problems, CFDR may not be effective because the underlying issue remains constant and unchanged. Where the family violence is too severe, then CFDR will not alleviate the fear. [FDRP, Professionals Survey]

### *Child abuse involving statutory child protection services*

CFDR was also identified as inappropriate for parents where there are allegations of child abuse or involvement of statutory child protection services.

## **4.2 Procedural profiles: Pilot group cases**

As noted in Chapter 1, the CFDR process comprises an intensive series of steps (described in the flow chart reproduced in section 1.2.1) involving an intake process, meetings between the clients, support professionals and lawyers, a process of preparation for FDR, the FDR sessions themselves, and a follow-up process. Case management meetings involving the location coordinators (who all have the dual roles of coordinating and being an FDRP), the support professionals and additional FDRPs take place to guide case progress. Lawyers may be involved to a limited extent in this information loop (see Chapter 6) and information may also be provided to and by child consultants. The procedural profile of pilot group cases is mapped in the following discussion. At the outset, it is worth noting that women were most often recorded as being Client 1 ( $n = 105$ ), signifying that they made initial contact with the program, and men were most often recorded as being Client 2 ( $n = 103$ ), or respondents to the initiating contact made by Client 1. As explored in this chapter and in section 2.7 of this report, difficulties in initially engaging Client 2 parents (and sometimes maintaining engagement) were evident in all pilot locations. This partly accounts for the lower than expected numbers of cases being dealt with in the pilot.

One-third of cases had a case management meeting prior to the Phase 1 intake. Table 4.14 describes the presence of professionals in Phase 1 and 2 case management meetings. Noteworthy features of these data are:

- SFVPs were present in most cases in both phases. Qualitative data provide further insight into this finding, with two pilot locations having a policy to take in the most vulnerable client first; generally the mother.
- It was more common for one FDRP to be present than two.
- Men's service professionals (MSPs) were much more likely to be present at Phase 2 (79%) than Phase 1 (53%) case management meetings.
- Lawyers for Client 2 and child consultants were never present in Phase 1 and rarely present in Phase 2.
- Child consultants were rarely involved in the case management meetings.

**Table 4.14 Parties present at case management intake meeting, Phases 1 and 2, CFDR pilot group**

	Phase 1 (%)	Phase 2 (%)
DV service consultant	84.9	88.9
One FDRP	61.1	69.8
Men's service professional	53.2	79.4
Two FDRPs	25.4	15.9
Lawyer for Client 1	1.6 <sup>a</sup>	–
Lawyer for Client 2	–	1.6 <sup>b</sup>
Child practitioner	–	3.2
Other professional	31.8	28.6
No. of cases	126	63

Notes: Percentages do not sum to 100% as cases could have multiple professionals present at case management intake meeting. For both Phase 1 and 2, the most frequently occurring response for other professional present was location coordinator, followed by a family advisor. <sup>a</sup> For all CFDR cases where a lawyer for Client 1 was present at the case management intake meeting, Client 1 was female. <sup>b</sup> For all CFDR cases where a lawyer for Client 2 was present at case management intake meeting, Client 2 was male.

As explained in Chapter 1, a significant feature of the pilot process is the application of specialist risk assessment processes during the intake phase (and a collaborative process of ongoing risk assessment throughout the process). Case file data show that the initial risk assessment process occurred collaboratively between the DV service and men's service in a significant minority of cases (36%), with the DV service having carriage of the process alone in 45% of cases. In 9% of cases, the men's service was responsible for this step.<sup>19</sup>

Highlighting further the role that family violence and risk assessment play in determining which cases exit and which cases proceed further than the intake phase, case management data show that, in 52% of CFDR pilot cases, the specialist risk assessment recommended proceeding to Phase 2. In 44% of CFDR pilot cases, a recommendation was made to not proceed, with these data missing in a further 4% of cases.<sup>20</sup>

For those 44% of CFDR pilot cases where a recommendation was made to not proceed, the reasons for this decision were collected and are described in Table 4.15. The most common reason given by case managers for this recommendation was "Other reasons" (54% of CFDR cases), which mainly consisted of clients choosing not to proceed and inability to engage male clients into the program. In some of these cases, safety concerns were given as a reason for not proceeding to Phase 2. In 23% of cases, the SFVP recommended not proceeding, and also in 23% of cases, Client 2 (mostly male clients) did not attend for assessment.

<sup>19</sup> Data were missing for 10% of CFDR cases.

<sup>20</sup> In a small percentage of CFDR cases (6%), the specialist risk assessment recommended proceeding to Phase 2 but the case exited at Phase 1. Explanatory notes indicate that this was due to clients deciding to withdraw or the parties reconciled.

**Table 4.15 Reasons for specialist risk assessment recommending to not proceed to Phase 2, CFDR pilot group**

Reason for not proceeding	CFDR cases (%)
DV service consultant recommended not proceeding	23.2
Client 2 did not attend for assessment	23.2 <sup>b</sup>
Men's service professional recommended not proceeding	7.1
Client 1 did not attend for assessment	7.1 <sup>c</sup>
Other reason for not proceeding <sup>a</sup>	53.6
No. of cases	56

Note: Percentages do not sum to 100% as cases could have multiple reasons for not proceeding to Phase 2. <sup>a</sup> The most frequently occurring response for "Other reason for not proceeding" to Phase 2 was clients choosing not to proceed with mediation and inability to engage Client 2 into the program. In some cases, safety concerns were given as a reason for not proceeding to Phase 2. Information relating to "other reasons" was provided in a "write-in field" and so is not reported separately. <sup>b</sup> In 69.2% of the CFDR cases where Client 2 did not attend for assessment, Client 2 was male. <sup>c</sup> In 50% of the CFDR cases where Client 1 did not attend for assessment, Client 1 was male.

Along with the specialist risk assessment process, the CFDR model also included a case management intake meeting where a final decision was made for the case to proceed to Phase 2 or for a certificate to be issued (see footnote 3) and/or referral out of CFDR. Table 4.16 sets out the outcomes of Phase 1 case management decisions, with just under half (46%) of the cases being deemed suitable to progress to Phase 2 (FDR preparation). A significant minority (39%) were deemed to be unsuitable to proceed, of which 23% were issued with a certificate and a further 16% were referred out with no certificate.

**Table 4.16 Final decision made from case management intake meeting, CFDR pilot group**

Final decision made	%	<i>n</i>
Phase 2 CFDR preparation	46.0	58
Certificate issued <sup>a</sup>	23.0	29
Referred out of CFDR, no certificate issued	15.9	20
Other decision made	7.9	10
Missing	7.1	9
Total	100.0	126

Note: <sup>a</sup> In 82.7% of the CFDR cases where a certificate was issued, Client 1 was referred to another service. In the remaining 13.8% of these cases, Client 2 was referred to another service. Percentages do not total exactly 100.0% due to rounding.

Of the 49 cases that did not proceed, the decision to leave the process was instigated by either client in 22% of cases, by a collective decision by the professional team in 49% of cases, and by an FDRP in 18% of cases (data not shown).

## 4.2.1 Referrals and certificates in CFDR cases

Two of the key case management decisions that could be made by CFDR professionals were to terminate the client's involvement in the pilot and refer them on to another service or to issue a certificate. This section further explores referrals made and certificates issued during the CFDR process more generally and the type of referrals made when clients are referred out of CFDR.

Information on referrals to other non-CFDR services (outside of the CFDR program) was collected for Client 1, Client 2 and their children at five points in the CFDR process, reflecting each phase of the CFDR model and the two follow-up phases. As shown in Table 4.17, referrals were relatively common in CFDR cases, with 38% and 58% of Client

1 fathers and mothers respectively being referred to at least one other service during any phase of CFDR. Referrals were less commonly made for Client 2, with 28% and 24% of cases involving a referral to a service during any phase of CFDR for fathers and mothers respectively from this client group.

**Table 4.17 Referrals to non-CFDR services during any phase of CFDR, by client, client gender and their children, CFDR pilot group**

	Client 1				Client 2				Children	
	Male		Female		Male		Female			
	%	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%	<i>n</i>
One or more referrals	38.1	8	58.1	61	28.2	29	23.8	5	22.2	28
No referrals	61.9	13	41.9	44	71.8	74	76.2	16	77.8	98
Totals <sup>a</sup>	100.0	21	100.0	105	100.0	103	100.0	21	100.0	126

Note: <sup>a</sup> Data on gender of Client 2 was missing in two cases and have been excluded from this analysis.

The referral data are not directly comparable between the pilot and comparison group samples, as the data for the latter group were only collected at two points in the FDR process; however, the most striking difference between the two samples is the higher proportion of CFDR cases in which referrals were made for children (22%) compared to 5% of comparison group cases. See Section 4.2.3 for a description of the referrals made in the comparison group sample.

Further data relating to referrals at each specific phase of CFDR are presented in Appendix A.

Where a certificate was issued or clients were referred out of CFDR, information was collected from case managers on the referral type made. The most common referral type in both Phases 1 and 2 was a referral to Legal Aid (41% in Phase 1 and 46% in Phase 2). This was similar to the proportion referred to Legal Aid at the preparation phase of FDR in comparison group cases (50%) (see section 4.2.3).

While there were only 24 cases that were referred out or where a certificate was issued in Phase 2, the data in Table 4.18 show that a higher proportion of these Phase 2 cases were referred to court (42%) compared to the corresponding proportion in Phase 1 (18%).

**Table 4.18 Referral made for next step if certificate issued/referred out of CFDR in Phase 1, 2 or 3, CFDR pilot group**

Referral made to:	Phase 1: Intake (%)	Phase 2: Preparation undertaken (%)	Phase 3: CFDR process (%)
Legal Aid	40.8	45.8	–
Court	18.4	41.7	–
Post-separation support service	14.3	8.3	–
Other referral made	24.5	25.0	–
No. of cases	49	24	16

Note: Percentages do not sum to 100% as cases could have multiple referrals. Information on referrals in Phase 3: CFDR process are not reported due to small sample size.

Related data outlining the reasons why a certificate was issued or clients were referred out of CFDR provide some further understanding of the dynamics behind dis-engagement from the CFDR process. As described in Table 4.19, 39% of the cases were reported to have been referred out or a certificate issued in Phase 1 due to Client 2

(mostly fathers) refusing to cooperate with the process. The next most common reason for this group exiting was a recommendation by the specialist risk assessment against proceeding (reported in 25% of cases). In a small number of cases, a decision was made not to contact the non-initiating party. Qualitative data indicate that this sometimes occurred because it was considered unsafe to contact the other party.

**Table 4.19 Reason for issuing a certificate or referring client out of CFDR in Phase 1, CFDR pilot group**

Reason for certificate/referral	%
Client 1 was willing to do CFDR but Client 2 refused/failed to cooperate (e.g., Client 2 did not acknowledge violence/safety concern) <sup>a</sup>	38.8
Specialist risk assessment determined not appropriate to proceed	24.5
Only one client was contacted during Phase 1, as contacting other client determined as not appropriate	14.3
There was a change in violence risk assessment (e.g., if a new incident of violence occurred)	6.1
Power balance between the parties was too great	4.1
Client 2 was willing to do CFDR but Client 1 refused/failed to cooperate (e.g., Client 1 did not acknowledge violence/safety concern) <sup>b</sup>	2.0
Agreement to proceed to Phase 2 could not be reached by case team	–
Other reason <sup>c</sup>	26.4
No. of cases	49

Note: Professionals were asked: “If certificate issued/referred out of CFDR in Phase 1, why was this decision made?” Percentages do not sum to 100% as cases could have multiple reasons for why decision was made to issue certificates or referral out of CFDR. <sup>a</sup> For these cases, 84% of Client 2 were male and 16% were female. <sup>b</sup> There was only one such case, and Client 2 was female. <sup>c</sup> The most common “other reason” given was clients not attending FDR appointments. This category also includes clients using alternate pathways, such as choosing court over CFDR or reaching agreement themselves.

## 4.2.2 Lead-up to family dispute resolution in CFDR cases

Of the 126 CFDR pilot cases in our sample, half (or 63 cases) exited at Phase 2 or later. This section provides a basic description of Phase 2 outcomes for CFDR clients and describes the sessions undertaken by clients in preparation for mediation.

Data collected on preparation sessions/appointments undertaken by clients in Phase 2 reveal that the most frequently occurring sessions involved legal advice and communication (Table 4.20). In 80% of cases where Client 1 was female, the client completed one or more legal advice sessions, and the same proportion completed one or more communication sessions. The corresponding proportion of cases where Client 2 was male was 61% for both legal advice and communications sessions.

**Table 4.20 Completion of Phase 2 CFDR preparation sessions, by client and client gender, CFDR pilot group**

Session completed	Client 1		Client 2	
	Male (%)	Female (%)	Male (%)	Female (%)
Legal advice session	–	80.0	61.2	–
Communication session	–	80.0	61.2	–
CFDR preparation workshop	–	46.0	46.9	–
FDR assessment/intake 2 appointment	–	48.0	49.0	–
No. of cases <sup>a</sup>	13	50	49	13

Note: Due to the small sample size, frequency of preparation sessions for Client 1 males and Client 2 females are not reported in this table. <sup>a</sup> Data on the gender of Client 2 was missing in one case and have been excluded from this analysis. Percentages do not sum to 100% as clients could complete multiple sessions.



Analysis of the average number of sessions completed shows that, in CFDR cases, female clients completed a higher number of legal advice (4.9 appointments) and communication sessions (2.8 appointments), compared to male clients (1.0 and 1.6 appointments respectively) (Table 4.21).

**Table 4.21 Average number of Phase 2 CFDR preparation sessions completed, by client and client gender, CFDR pilot group**

Session completed	Client 1		Client 2	
	Male (n)	Female (n)	Male (n)	Female (n)
Legal advice session	–	4.9	1.0	–
Communication session	–	2.8	1.6	–
CFDR preparation workshop	–	0.5	0.5	–
FDR assessment/intake 2 appointment	–	0.5	0.5	–
No. of cases <sup>a</sup>	13	50	49	13

Note: Due to the small sample size, the average number of preparation sessions for Client 1 males and Client 2 females are not reported in the table. <sup>a</sup> Data on the gender of Client 2 was missing in one case and have been excluded from this analysis.

These data were collected at a particular phase of CFDR. Below we discuss other evaluation data that reveal that support services are provided at different points and multiple times during CFDR process.

Additional data provided from some of the partner services in some locations (and analysis of qualitative data from interviews with professionals and parents) revealed that services are provided at each phase of CFDR, and this often occurs multiple times across an extended period. The total number of communication and legal advice sessions across all phases of a client's involvement in CFDR could be much greater than the average number of sessions reported at Phase 2 in Table 4.21. The evaluation data collected from professionals showed that pilot locations and individual services were highly responsive to clients' needs and, on occasion, professionals reported that they had contact—in person, by phone and/or email—on a weekly or even more frequent basis with clients, as the individual case required. At one location, it was reported that communication and legal advice sessions occurred between once every two weeks to more than two times a week on average across a 3–6 month or longer period.

Given the high level of support required by clients in CFDR, and that the average length of time for CFDR cases to reach Phase 3 mediation is 211 days (as discussed later in section 4.3), coupled with the period of time required for multiple mediations and the Phase 4 follow-up period, it is not surprising that frequent communication and legal advice sessions were undertaken.

Linked with the clients' preparation for mediation that occurs in Phase 2 are professional judgments on the appropriateness of proceeding to CFDR mediation. Table 4.22 describes the outcomes from the capacity and readiness assessments of the 63 CFDR cases that reached Phase 2. In almost half of the cases that reached CFDR, the outcome from this assessment was that the case was ready for the CFDR process (44%). In 35% of cases, a certificate was issued.

**Table 4.22 Final decision made regarding capacity and readiness to proceed to CFDR Phase 3, CFDR pilot group**

Final decision made	%
Ready for Phase 3 CFDR process	44.4
Certificate issued	34.9
Referred out of CFDR, no certificate issued	3.2
Parenting agreement reached, no further action required	1.6
Other decision made	17.4
No. of cases	63

Note: Percentages do not sum to 100% as multiple response options could be chosen. The most common “other decision made” was clients not responding to CFDR invitations or accepting Legal Aid conferences.

Of the 24 cases in Phase 2 where a certificate was issued or the case was referred out of the pilot, the most frequently given reason for this decision was “Other reason”. These mostly were either male clients not responding to invitations or female clients ceasing to engage in CFDR. In 25% of these Phase 2 cases, a change in violence risk assessment was given as a reason for the issue of a certificate or referral out of the pilot (Table 4.23).

**Table 4.23 Reason for issuing a certificate or referring a client out of CFDR in Phase 2, CFDR pilot group**

Reason for certificate/referral	%
There was a change in violence risk assessment (e.g., if a new incident of violence occurred)	25.0
Power imbalance between the parties was too extensive	12.5
Client 2 has not satisfied capacity and readiness assessment <sup>a</sup>	4.2
Client 1 has not satisfied capacity and readiness assessment	–
Agreement to proceed to Phase 3 could not be reached between the case team	–
Other reason <sup>b</sup>	66.7
No. of cases	24

Note: Professionals were asked: “If certificate issued/referred out of CFDR in Phase 2, why was this decision made?” Percentages do not sum to 100% as cases could have multiple reasons for why decision was made to issue certificates or a referral out of CFDR. <sup>a</sup> All clients in these cases were male. <sup>b</sup> Information relating to “other reasons” was provided in a “write-in field” and so is not reported separately. The most common other reason was clients (both mothers and fathers) withdrawing from CFDR or not responding to invitations into CFDR.

Overall, the case management data reveal the intensive nature of the CFDR process. Referrals to other services during the process were common, and for those cases referred out of the pilot in either Phase 1 or 2, referrals to other dispute resolution pathways such as Legal Aid, court or post-separation support services were often made. These data also convey the difficulties in some cases of engaging clients, in particular fathers, into the process. In the next section, case management data are used to describe key process issues underlying the comparison group cases.

### 4.2.3 Procedural profiles: Comparison group cases

This section describes the procedural profiles of the 247 cases in the comparison group sample. First, referrals and certificates are described before data relating to client preparation for mediation are analysed. The data show broadly similar use of referrals for clients between the pilot and comparison groups. The biggest difference between the two samples was a higher use of referrals for children in the pilot sample (see Table 4.24 and discussion in section 4.2.1).

As shown in Table 4.24, referrals to other non-CFDR services for comparison group cases were relatively common for Client 1 fathers and mothers, with 48% and 42% respectively of these cases involving at least one referral for clients. This was broadly similar to the corresponding proportion of 38% and 58% of referrals for Client 1 fathers and mothers respectively in CFDR cases (Table 4.17). As was found in the CFDR sample, the rate of referrals for Client 2 was also lower in the comparison group.

**Table 4.24 Referrals to non-FDR services during any phase of FDR, by client, client gender and their children, comparison group**

	Client 1				Client 2				Children (%)	
	Male		Female		Male		Female		%	n
	%	n	%	n	%	n	%	n		
One or more referrals	47.6	50	41.6	59	19.1	26	36.2	38	4.5	11
No referrals	52.4	55	58.4	83	80.9	110	63.8	67	95.6	236
Totals <sup>a</sup>	100.0	105	100.0	142	100.0	136	100.0	105	100.0	247

Note: <sup>a</sup> Data on gender of Client 2 was missing in six cases and have been excluded from this analysis. Percentages may not total exactly 100.0% due to rounding.

Table 4.25 indicates that in 128 of the comparison group cases, a certificate was issued or the case was referred out. For this sub-group, information was collected on the referral made for the next step and why the certificate was issued or case referred out. The most frequently occurring referral during this phase of FDR was a referral to Legal Aid (50% of cases).

Comparing these data to the 56 cases where no or partial agreement was reached during the FDR process, it can be observed that a lower proportion are referred to Legal Aid at this phase (20%) compared to 50% of cases where a certificate is issued or referred out at the preparation phase of FDR (Table 4.25). Cases were also more likely to be referred to court where no or partial agreement is reached (23%), compared to 16% of cases where a certificate was issued or the case was referred out prior to this.

**Table 4.25 Referral made for next step, by whether certificate issued/referred out of FDR or no/partial agreement reached during FDR, comparison group**

Referral made for next step	Certificate issued/referred out of FDR (%)	No/partial agreement reached during FDR (%)
Legal Aid	50.0	19.6
Court	16.4	23.2
Post-separation support service	7.8	5.4
Other referral made	8.6	11.7
No. of cases	128	56

Note: Percentages do not sum to 100% as cases could have multiple referrals.

#### 4.2.4 Lead-up to family dispute resolution in comparison group cases

For all comparison group files, cases managers were asked to indicate whether Client 1 and Client 2 had completed legal advice, a private intake session with an FDRP, or FDR preparation workshops as part of their preparation for FDR. This information is summarised in Table 4.26. In most cases, Client 1 had completed a private intake session with an FDRP: 73% of cases where Client 1 was male and 82% of cases where Client 1 was female.

There were lower rates of completion of legal advice sessions and FDR preparation workshops. A higher proportion of Client 1 clients completed a legal advice session when Client 1 was female (39%) compared to when Client 1 was male (31%). On the other hand, Client 1 males were more likely to complete an FDR preparation workshop (35% of cases) than Client 1 females (22% of cases). For comparison, this same data analysed by the gender of Client 2 is also shown in Table 4.26.

**Table 4.26 Preparation for FDR, by client and client gender, comparison group**

	Client 1		Client 2	
	Male (%)	Female (%)	Male (%)	Female (%)
Completed legal advice <sup>a</sup>	30.5	39.4	30.9	27.6
Completed private intake session with FDRP	73.3	82.4	53.7	64.8
Completed FDR preparation workshop (e.g., group information session)	35.2	21.8	18.4	26.7
No. of cases <sup>b</sup>	105	142	136	105

Note: Percentages do not sum to 100% as multiple response options could be chosen. <sup>a</sup> Legally assisted FDR was standard practice in one location. <sup>b</sup> Data on the gender of Client 2 were missing in six cases and have been excluded from this analysis.

Case decisions for the next step in the FDR process are outlined in Table 4.27. A little over 4-in-10 comparison group cases (41%) were ready for the FDR process at the preparation phase. A very small percentage of cases where a recommendation to proceed was made did not proceed to the FDR process (2%), as clients had either reconciled or parties withdrew.

Around half of the comparison group cases had a certificate issued at the preparation phase, and a further 2% were referred out of FDR at this phase. Almost 7% had another reason on the file for why the case did not proceed past this phase of FDR. The most common other reasons included clients choosing not to continue FDR or discontinuing contact with the service.

**Table 4.27 Case decision for next step in FDR preparation phase, comparison group**

Case decision	%	<i>n</i>
Ready for FDR process	41.3	102
Certificate issued	49.4	122
Referred out/no certificate issued	2.4	6
Other decision made <sup>a</sup>	6.9	17
Totals	100.0	247

Note: <sup>a</sup> Other decision made includes clients choosing not to continue FDR or discontinuing contact with the service.

For those cases where a certificate was issued or the case was referred out of FDR, the most frequently given reason for doing so was that the power imbalance between the parties was judged to be too extensive (30% of these type of cases) (Table 4.28). The next most frequently given reason (20%) was a change in violence risk assessment.

**Table 4.28 Reason for certificate being issued/referred out of FDR, comparison group**

Reason decision was made	%
Power imbalance between the parties was too extensive	29.7
There was a change in violence risk assessment (e.g., new incident of violence)	20.3
Client 2 has not satisfied preparation required for FDR <sup>a</sup>	7.0
Client 1 has not satisfied preparation required for FDR <sup>b</sup>	0.8
Other decision made	45.3
No. of cases	128

Note: Percentages do not sum to 100% as cases could have multiple reasons why decision was made to issue certificate or referral out of FDR. <sup>a</sup> In the cases where Client 2 had not satisfied the preparation required, 33% of them were male and 67% were female. <sup>b</sup> In the cases where Client 1 had not satisfied the preparation required, all of them were male.

## 4.2.5 Dispute resolution outcomes in the CFDR pilot and comparison groups

This section contrasts arrangements reached in the CFDR pilot group with those made for the comparison group. For those clients completing the preparation phase and proceeding to a mediation process, information was collected on the agreed outcomes relating to parenting arrangements, parental responsibility, supervision and changeover arrangements for both the CFDR pilot and comparison group cases. In the CFDR pilot group, 27 cases—involving 51 children (21% of all children in CFDR pilot group cases)—reached a final agreement, while in the comparison group, 75 cases—involving 138 children (31% of all children in comparison group cases)—reached a final agreement. The data relating to these arrangements is outlined below.

Analysis of the outcome data in Table 4.29 reveals that most children in the comparison group were in arrangements where they spent most time with their mother (62% of children) or had shared care (22%). A similar pattern was evident for final CFDR agreements, with 55% of children spending most time with their mother. The proportion in shared cared arrangements was lower in CFDR cases (10% of children) (although it is noted that for around a quarter of CFDR cases, information on children's parenting time was missing).

**Table 4.29 Parenting time arrangements reached, CFDR pilot and comparison groups**

Parenting time arrangement	CFDR pilot group		Comparison group	
	%	<i>n</i>	%	<i>n</i>
All time with mother, no time with father	3.9	2	0.7	1
Most time with mother (at least 66% of time)	54.9	28	62.3	86
Shared care (35–65% with each parent)	9.8	5	21.7	30
Most time with father (at least 66% of time)	5.9	3	8.0	11
All time with father, no time with mother	–	–	–	–
Not in agreement <sup>a</sup>	–	–	7.3	10
Missing	25.5	13	–	–
Totals	100.0	51	100.0	138

Note: <sup>a</sup> "Not in agreement" means that parents did not agree to parenting time arrangements as part of the mediation process.

Parenting time arrangements for comparison group children reached in the final agreement were further analysed by children's age. Shared care arrangements were more likely to be agreed for children aged 5–11 years (31%) compared to children aged 0–4

years (12%) (data not shown). The same analysis of parenting arrangements by children's age is not reported for the CFDR sample due to small sample sizes.

As Table 4.30 shows, where final agreement was reached, there were some differences between the CFDR pilot and comparison groups when there were safety concerns raised by a parent or professional regarding the father.<sup>21</sup> No CFDR children had final agreement arrangements where they spent most time with their father when there were safety concerns with this parent. In this group, there was little difference in the rates of shared care by whether safety concerns had been raised with the father. In contrast, in the comparison group, in cases where a safety concern regarding a father was raised, 26% of children were in shared care arrangements, compared to 19% where no safety concern was present. On the other hand, comparison group children in cases where no safety concern was raised with the father were more likely to spend most time with their father (10%) compared to 6% of children where a safety concern with the father had been raised.

**Table 4.30 Parenting time arrangements where final agreement reached, by whether safety concerns with father were reported, CFDR pilot and comparison groups**

Parenting time arrangement	CFDR pilot group				Comparison group			
	Safety concerns with father		No safety concerns with father		Safety concerns with father		No safety concerns with father	
	%	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%	<i>n</i>
All time with mother, no time with father	6.9	2	–	–	1.8	1	–	–
Most time with mother (at least 66% of time)	51.7	15	59.1	13	61.8	34	62.7	52
Shared care (35–65% with each parent)	10.3	3	9.1	2	25.5	14	19.3	16
Most time with father (at least 66% of time)	–	–	13.6	3	5.5	3	9.6	8
All time with father, no time with mother	–	–	–	–	–	–	–	–
Not in agreement	–	–	–	–	5.5	3	8.4	7
Missing	31.0	9	18.2	4	–	–	–	–
Totals	100.0	29	100.0	22	100.0	55	100.0	83

Note: Only 8 children in the CFDR pilot group and 12 children in the comparison group had safety concerns when with their mother, so a similar analysis of data for these children has not been included. Percentages may not total exactly 100.0% due to rounding.

Across both samples, very few of the parenting arrangements were supervised, as shown in Table 4.31. The majority of children were in arrangements where time with both parents was unsupervised (59% of children in pilot group cases and 63% of children in comparison group cases). Around 6% of pilot group cases were in arrangements where their father was supervised, compared to 10% of children in comparison group cases.

<sup>21</sup> Analysis of parenting arrangements where the female client was identified by professional assessment as being the predominant aggressor is not reported due to the small numbers of such cases in the CFDR pilot and comparison groups.

**Table 4.31 Supervision during parenting time with children, where final agreement reached, CFDR pilot and comparison groups**

Nature of supervision	CFDR pilot group		Comparison group	
	%	<i>n</i>	%	<i>n</i>
All time with both clients unsupervised	58.8	30	63.0	87
Mother supervised by contact centre	–	–	–	–
Mother supervised by relative/friend/new partner	–	–	–	–
Mother supervised by other arrangement	–	–	–	–
Father supervised by contact centre	3.9	2	7.3	10
Father supervised by relative/friend/new partner	–	–	1.5	2
Father supervised by other arrangement	2.0	1	1.5	2
Not in agreement	9.8	5	21.7	30
Missing	25.5	13	5.1	7
Totals	100.0	51	100.0	138

Note: Percentages may not total exactly 100.0% due to rounding.

Around one half of the children's arrangements in final agreements had a shared parental responsibility outcome (47% of children in CFDR pilot group cases and 50% of children in comparison group cases) (Table 4.32). Comparison group cases were further characterised by parties not being able to reach agreement on parental responsibility (46% of comparison group cases, compared to 24% of the corresponding CFDR pilot group cases).

**Table 4.32 Parental responsibility outcome, where final agreement reached, CFDR pilot and comparison groups**

Parental responsibility	CFDR pilot group		Comparison group	
	%	<i>n</i>	%	<i>n</i>
Shared parental responsibility (with or without exceptions)	47.1	24	50.0	69
Sole parental responsibility to mother (with or without exceptions)	3.9	2	0.7	1
Sole parental responsibility to father (with or without exceptions)	–	–	–	–
Other arrangement	–	–	–	–
Not in agreement	23.5	12	46.4	64
Missing	25.5	13	2.9	4
Totals	100.0	51	100.0	138

The distribution of changeover arrangements is described in Table 4.33. There was some form of changeover arrangement for 33% of children in CFDR cases and 41% of children in comparison group cases. A lower proportion of CFDR pilot group cases (26%) had no changeover provision compared with comparison group cases (32%). For a further 14% of children in CFDR pilot group cases and 24% of children in comparison group cases, no agreement was reached about changeover requirements.

**Table 4.33 Changeover arrangements, where final agreement reached, CFDR pilot and comparison groups**

Changeover arrangements	CFDR pilot group		Comparison group	
	%	<i>n</i>	%	<i>n</i>
No changeover requirements	25.5	13	31.9	44
Changeover supervised by a relative/friend/new partner	3.9	2	5.1	7
Changeover from school/child care/kindergarten	15.7	8	9.4	13
Changeover at contact centre	–	–	6.5	9
Changeover at police station	–	–	–	–
Changeover at neutral public place	11.8	6	16.7	23
Other changeover arrangement	2.0	1	2.9	4
Not in agreement	13.7	7	23.9	33
Missing	27.5	14	3.6	5
Totals	100.0	51	100.0	138

Note: Percentages may not total exactly 100.0% due to rounding.

An analysis comparing the final parenting arrangements with those at intake has also been undertaken. When looking back to parenting time arrangements at the time of intake (see client profile data reported in section 3.1.5, Table 3.11) compared with those clients where a final agreement was reached (Table 4.29), there are differences in proportions of shared care arrangements. Shared care arrangements remained proportionately stable for CFDR children from intake to final agreement (9% cf. 10% respectively), whereas in the comparison group, shared care arrangements increased substantially, from 12% at intake to 23% of final agreements.<sup>22</sup>

This section has presented findings from the agreed outcomes made in the CFDR pilot and comparison group processes. Most children across both samples were in arrangements where they spend most time with their mother. In the CFDR pilot group, there were fewer arrangements for shared care, including in circumstances where there were safety concerns pertinent to fathers. Few agreements across both samples involved arrangements for supervision; however, there were marginally more supervised arrangements in the comparison group.

## 4.3 Timeframes

As information was also collected about the timing of each phase in the FDR and CFDR processes, the case management data enabled comparisons of the length of time taken for each step in the process.

Analysis of the average length of time in days between each phase of the CFDR pilot group process is described in Table 4.34. On average, 52 days elapsed between Client 1 invitation and the Phase 1 case management intake meeting. For those cases that progressed, 85 days elapsed until Phase 2 case management finalisation, and 211 days elapsed until the case proceeded to Phase 3 CFDR process (Phase 4 timing is not included due to small sample sizes).

<sup>22</sup> Due to small sample sizes, the full analysis is only reported for the comparison group sample. Further analysis comparing parenting arrangements at intake with final parenting arrangements can be found in Appendix A.



**Table 4.34 Average time elapsed between CFDR phases, CFDR pilot group**

	<i>n</i>	Average number of days		
Client 1 CFDR invitation	126	0 days	.	.
Phase 1: Case management intake meeting	111	52 days	.	.
Phase 2: Case management finalised	58	85 days	.	.
Phase 3: CFDR process	27	211 days	.	.

Note: Average number of days between Client 1 CFDR invitation and Phase 4 follow-up is excluded from this analysis due to small sample size. Eleven CFDR cases had information relating to the timing of the 1–3 month follow-up and no timing information was available for those cases that reached the 9–10 month follow-up phase. Analysis based on CFDR cases where information relating to timing is available in the case files.

As shown in Table 4.35, for comparison group cases, on average 59 days elapsed between Client 1 intake and finalisation of FDR preparation. For those cases that proceeded to an FDR process, the average length of time between Client 1 intake and this stage of FDR was 94 days, which was similar to the average length of time (99 days) between Client 1 intake and when final agreement was reached.

**Table 4.35 Average time elapsed between FDR phases, comparison group**

	<i>n</i>	Average number of days		
Client 1 intake	246	0 days	.	.
Finalisation of FDR preparation	124	59 days	.	.
FDR process	100	94 days	.	.
Final agreement	72	99 days	.	.

Note: Analysis based on comparison group cases where information relating to timing is available in the case files.

When information relating to comparison group timing is compared, the most noticeable difference between the CFDR pilot and comparison groups is the average length of time taken to complete each process. For those CFDR pilot group cases that proceeded to a CFDR process, the average number of days between Client 1 invitation for CFDR and this phase of CFDR was 211 days. This compares to an average length of 99 days in comparison group cases between Client 1 intake and final agreement being reached.

While noting the average longer length of time taken by the CFDR process relative to the comparison group, professionals indicated that the longer timeframe could have positive and negative aspects. Positive features included allowing parties to receive ongoing support and ensuring safety for victims. The following qualitative response from the case management data illustrates the responses made along these lines:

There was a significant time lapse between Client 1 (mother) and Client 2 (father) intake assessment. This was due to the need for ongoing risk assessment and support of Client 1 (mother) prior to a decision being made to invite Client 2 (father). [Case management qualitative data]

On the other hand, both professionals and parents indicated that a negative aspect of the longer timeframe is that the child may not be having any contact with a parent (usually a father) during this period:

It's very hard keeping your client engaged when there are continually waiting periods. And sometimes you can't fit in someone who's sick or something ... That is when you are challenged to stop them getting frustrated, especially when you are dealing with the perpetrators of the violence. [Lawyer, Focus group participant]

It took a lot of, like it took a long time. Like it was seven months that I didn't see my [child], like the whole process took seven months. [Parent interview]

Commenting on how they felt parents viewed the length of time the process took, professionals offered both positive and negative comments, as these examples from MSPs working with clients who were predominant aggressors show:

The process, I think, certainly has some advantages, but what the clients would say [is] that it's very long and drawn out, and maybe to them, needlessly so. My own view of that is that the court process is just as long and convoluted, but it's perhaps a little bit more straightforward, whereas perhaps this process is quite intricate. It's just the various component parts to it; you know, the pre-mediation sessions, the information sessions, the one-on-one sessions, etc. There's a lot of parts to the whole ... Often clients will say, "Oh look, I may as well just take this to court; it's going to be quicker and easier". So quite often I'm educating them about, well, it's probably not that quicker, and definitely not that easy. [MSP, Later stage interview]

You know, there is a loss of time and the male clients tend to be fairly frustrated, so I think if there were not this investment of time in something that, in this, in which the certificate is produced and they see themselves as potentially starting the clock over now with the court system. [MSP, Later stage interview]

Slowing down the process, for families to receive services, and to see change, is very useful in getting positive outcomes [MSP, Professionals Survey]

The majority of parents interviewed thought the length of time the CFDR process took was too long. For fathers who weren't seeing their children, the length of the process was an issue, and in some instances lead to increased frustration (an issue that professionals also commented on). These quotes from male clients illustrate this point:

So I think I had to wait, I think it was about 2 weeks, I think, after I rang up to make the appointment. So yeah, that was a little bit disheartening, you know, 'cause I think by that stage ... [I] hadn't seen my son and didn't know where my son was and what was happening. So having to wait the 2 weeks was a little bit excruciating, but it got worse and worse from then on because I still wasn't able to get in contact with my wife in the meantime ... I think the next appointment that I could get in to see [the mediator] for assessment, I think it was, I think that was like a week or maybe another 2 weeks down the track. So, you know, I was a bit disappointed in that because as each day and week went on it was another day and week that I still was not able to get access to [my child]. [Parent interview]

Well, I'm seeing my [child] now. It took 7 months from when we split up to when I got to see her. It'd be exactly 7 months and, like, it was a really slow process. I thought it was. [Parent interview]

Another parent nevertheless found the process very helpful, if long:

It's certainly been a long process ... Through what these counsellors were saying, that the kids weren't ready, so I had to sort of bide my time with that as well, basically, you know, what the hell [unclear] for all the counsellors to give the all clear as well. So yeah, it was a bit of a drawn out process. But, I mean, it has been very helpful. [Parent interview]

The length of the process was not seen as a disadvantage by all parents. Some, women in particular, indicated that the length of time and the support they received in the process allowed them to stabilise themselves and their children:

I think by the time mediation actually happened, I think it was about 7 months from the time I left, to the time the first mediation happened. Which I found really good, because it was time for just everything to kind of—nothing—I don't think anything for him settled down. But for me and the girls, everything settled down. I was seeing a psychologist at the time, trying to deal with, trying to get [Location Coordinator] and [SFVP] there, that I could talk to. Yes, I think it was good that way. It was really good. I don't think he'd agree with that, but I found that really good. [Parent interview]

Some parents viewed the process as having taken too long because of the number of steps required, and for other parents, the failure to achieve a desired outcome was intertwined with the time the process took:

The program took too long and it was a long process. It just took too long. Steps and steps before [they] contact him. Contact him first and if he agrees to see the children we can start. Thought it was useless. [Parents Survey]

I wasn't really satisfied with that, so if I had to take it any further, I have to go to the Family Court, file it and get a private lawyer, and then I'd also been advised by my private lawyer that the longer the children are in that sort of setting, you know, it's going to be harder to sort of break, which I find that very unsatisfactory. I'm not happy about that. [Parent interview]

Further discussion of issues concerning CFDR length in the context of managing the logistics and resourcing of the pilot for professionals is discussed in Chapter 6.

## 4.4 Summary

This chapter has presented key findings on significant aspects of clients' progression, use of services and outcomes in the CFDR pilot and comparison group processes. The characteristics of single-party cases, clients choosing to not proceed in CFDR and the types of cases for which CFDR is most appropriate have also been considered.

The case management data indicate that clients progressing through the CFDR pilot pathway are less likely to reach a mediation process when compared to the comparison group. This finding is potentially linked with the significant distinction between the CFDR pilot and comparison groups in regard to single-party cases. There were more single-party cases in the CFDR pilot compared to the comparison group (49% cf. 31% respectively) and, on average, the single-party cases in the CFDR pilot received more services than those in the comparison group. In terms of this type of case, single-party cases are often characterised by complex case dynamics when considered in the light of use of services, the types of issues facing clients, and risk and safety concerns.

Where CFDR pilot cases did not proceed, this was mostly driven by the clients, with the non-acceptance of invitations and choosing alternate pathways to resolve their dispute being the most common reasons given for why CFDR did not proceed.

The process and outcome data show that most children in both the CFDR pilot and comparison groups were in arrangements where they spend most time with their mother. Very few of these arrangements are supervised. The case management data also reveal that the average length of time taken to reach these agreements is over twice as long for clients in the CFDR pilot compared to those clients in the comparison group.

## 5 Working with family violence in CFDR: Issues and challenges

This chapter considers the issues that arose in working with family violence in the CFDR pilot. As discussed in Chapter 1, a central aim of the pilot is to identify and manage risk arising from past and/or current family violence and concerns about child safety. The CFDR model envisages that risk assessment and management are actively pursued throughout the process. Understanding the history of family violence in a given case is also important to ensure that appropriate decisions are made about whether and how a matter proceeds to family dispute resolution (Chapter 7) and the nature of the parenting arrangements that are agreed if CFDR produces an outcome. The content of the legal advice that parties receive about their legal position is also contingent upon lawyers' understandings of their client's position and their own understanding of the law in this field. In each of these areas, identifying and responding to family violence and safety concerns involves particular complexities. This chapter first considers the way in which each pilot location has approached the question of risk assessment. It then discusses the level of confidence shown by professionals operating in the pilot about their ability to address key issues in relation to family violence. Finally, it highlights some areas of particular complexity.

### 5.1 *Risk assessment and management*

#### 5.1.1 Tools

A core aspect of the pilot process is the initial process of risk assessment, which continues on an ongoing basis throughout the parents' engagement in CFDR and is a responsibility shared by all professionals. Initial specialist risk assessment is the core responsibility of the specialist family violence professional (SFVP), but lead agencies and men's support professionals (MSP) also engage in their own parallel assessment processes. A common risk assessment tool, the Victorian Common Risk Assessment Framework (Department of Victorian Communities, 2007),<sup>23</sup> is provided as part of the CFDR manual. Practices varied as to whether this tool (often with adaptations) was applied, or whether agencies continued to use the instruments applied in regular practice. Research and practice literature in the family violence area demonstrates that knowledge is continually developing in relation to risk assessment (e.g., Cattaneo & Chapman, 2011; Robinson & Moloney, 2010; Rodgers, 2011). The professionals who participated in the evaluation studies noted that this was an area where depth of experience was critical in informing clinical decisions.

The following information is derived from AIFS' own consideration of the risk assessment tools used in different locations that were made available to it by lead and partner agencies, and insights provided by location coordinators in the request for information study:

- Hobart has expanded the Victorian risk assessment tool that was recommended for use/adaptation to include additional sections on children's wellbeing, risk and safety. The original Victorian risk assessment tool primarily collected demographic details about children, and the main SFVP and the main MSP in this location worked

<sup>23</sup> This risk assessment framework records demographic information about the alleged victim, alleged aggressor and children in the family, and incorporates a comprehensive evidence-based assessment of risk and vulnerability indicators for both parents. It also includes the alleged victim's assessment of their own safety, a risk management and safety plan, and a section on referrals considered and made.

together to develop a tool that is more child-sensitive as a matter of priority early in the pilot. Both parties in a case are advised that the same form is being used with each parent as a strategy to encourage perpetrator participation.

- Brisbane has a separate CFDR risk assessment tool adapted from an already existing Relationships Australia resource. It is a shorter document than the Victorian risk assessment tool and, rather than using detailed lists and questions covering a wide range of demographic and risk factors to guide the assessment, the Brisbane tool uses open text boxes—together with some scales around risk, safety and the ability of the client to negotiate—to capture similar information. There is no separate section relating to a safety plan in the Brisbane risk assessment tool. Limited demographic information about children is collected and if child protection authorities are involved, this is also recorded. The men's service in Brisbane also does its own risk assessment after every interaction with a client and this information is distributed to the case team.
- In Western Sydney, MSPs are using the Victorian risk assessment tool and SFVPs are using an adaptation of this tool, together with the risk assessment tools they use in their normal practice. The location coordinator also reported that ongoing consultation with support professionals and their managers is being undertaken to develop common forms to guide initial consultations with clients, in order to ensure relevant risk and safety information is collected in a standardised way that will not jeopardise the client–professional relationship. The location coordinator noted that while the SFVP's regular professional practice is consistent with CFDR, the role played by MSPs in Western Sydney's CFDR is quite different to their role in any other programs the service runs. Children's programs in the Western Sydney location are also providing a way to assess children's risk and safety during the process; for example, a program of 6–8 weeks allows a child time to re-engage with a parent they may not have seen for some time, while also allowing time to monitor the re-engagement.
- In Perth, each service initially used their own risk assessment tools in the pilot. This location has recently developed a whole-of-location risk assessment tool based on *The Western Australian Family and Domestic Violence Common Risk Assessment and Risk Management Framework*, published by the Department for Child Protection in 2011, which is as similarly comprehensive a resource as the Victorian risk assessment tool. The tool developed by the Perth location has also taken on board aspects of the instruments in use at other pilot locations and incorporates a child-sensitive approach. While this risk assessment tool is not currently shared with lawyers, at times SFVPs obtain client consent to forward their case worker reports to the lawyer on the case as well.
- Newcastle advised that its adaptation of the Victorian risk assessment tool has been through a number of iterations and includes aspects of Interrelate's existing safety planning resource.

All location coordinators supported the cooperative development of a universal and comprehensive risk assessment tool that could be used in CFDR should the program be extended. Given the substantial work already undertaken in developing tools at three of the locations, groundwork has been laid in the development of such a tool by these pilot locations. The recently released *The Detection of Overall Risk Screen (DOORS) Framework* (McIntosh & Ralfs, 2012), developed as a universal tool for the Australian government, will also be highly relevant. Aspects of other up-to-date risk assessment tools contained in the Avert Training could also possibly be incorporated. It was noted by all locations that a universal tool would need to be flexible enough to suit different contexts in different locations.

Responses to questions relating to risk assessment in the Professionals Survey generally indicate a high level of self-confidence in this area. Professionals generally held a

positive view that the CFDR risk assessment helped to support safe and workable outcomes for parents and children. As shown in Table 5.1, 79% of professionals agreed or strongly agreed that this was the case. A lower but still high proportion of professionals (68%) agreed or strongly agreed that case management meetings helped to achieve these aims.

**Table 5.1 Agreement that CFDR risk assessment and case management meetings help achieve safe and workable outcomes for parents and children, Professionals Survey**

	Risk assessment		Case management meetings	
	%	<i>n</i>	%	<i>n</i>
Strongly agree	45.5	40	38.6	34
Agree	33.0	29	29.6	26
Neither agree nor disagree	6.8	6	8.0	7
Disagree	1.1	1	1.1	1
Strongly disagree	–	–	–	–
Not applicable	5.7	5	14.8	13
Missing	8.0	7	8.0	7
Totals	100.0	88	100.0	88

Notes: Professionals were asked: "Please indicate the extent to which you agree or disagree with the following statements about the CFDR program: The risk assessment carried out as part of CFDR helps support safe and workable outcomes for parents and children; and Case management meetings help achieve safe and workable outcomes for parents and children". Percentages may not total exactly 100.0% due to rounding.

### 5.1.2 Risk management throughout CFDR

It is clear from the interviews with both professionals and parents that risks escalated and abated throughout the CFDR process for parents in different circumstances and with different trigger points. A number of parents and professionals described circumstances in which perceived risk arose as a result of the behaviour of the other parent at various times, often but not always related to arrangements for contact.

The professionals working with predominant victims, including location coordinators, indicated that intensive support was often required for some women to assist them to manage concern about risk arising from alleged or substantiated family violence, as the matter proceeded through the process.<sup>24</sup> A parallel process of engaging with predominant aggressors to contain their levels of frustration was also evident (see below). A family dispute resolution practitioner (FDRP) provided an example of how one client rang up shortly after her first appointment, reporting that she had to call the police because of her ex-partner's behaviour. The appointment with the CFDR lawyer was brought forward to provide support in relation to proceedings for a personal protection order and the SFVPs also provided assistance in the process.

Similar examples emerged from several different locations of situations in which the pilot resources (legal and support workers especially) were mobilised to deal with unfolding events. Among the issues dealt with in this way included obtaining personal protection orders, seeking variations to personal protection orders, making reports to child protection authorities, and dealing with the implications for ongoing contact

<sup>24</sup> As explained in section 3.1.2, a small proportion of males were assessed as predominant victims and a still smaller proportion of women as predominant aggressors. Given the ethical issues that arise in dealing with participants from groups that contain small numbers, the particularities of the experiences of male predominant victims and female predominant aggressors, and the professionals' experiences with them, are not explicitly explored in this report. However, where data were collected from individuals in these groups, it is reflected in some parts of the discussion.

arrangements and making interim parenting arrangements. In some instances, clients and children were also being referred to counselling as part of CFDR, or may have been seeing counsellors, psychologists or psychiatrists independently of the program.

SFVPs commonly described a process of maintaining contact with their clients (weekly or even more often sometimes) and monitoring the safety of the clients and children, as in this example:

Every time I speak to them, we will go through [whether] there are any specific safety issues that have arisen ... What's happening with the kids [i.e., do they need to be included on a personal protection order?] ... It's a constant process. [SFVP, Later stage interview]

Several of the parents interviewed described having strategies in place to deal with risk, as a result of the discussions and safety planning process put into place through their involvement in CFDR. Speaking about the SFVP for her case, one mother said this:

She showed me how to make a safety plan and to allow myself to feel more confident. And all the back-up support whenever I needed to vent, which I did probably every week ... I found it was probably the best counselling that I have had all through. [Parent interview]

Similarly, this parent felt the support offered by her SFVP was crucial to her during the CFDR process:

[SFVP] was amazing and gave me the strength to keep going when I felt I no longer could. [Parent interview]

Another parent interviewed described how she turned to her SFVP at a time of crisis:

At one stage when he was insisting on turning up and I was a bit hysterical, I rang [the SFVP] and she was very good. [Parent interview]

Highlighting a possible need for any ongoing implementation of CFDR to have after-hours and holiday-period emergency coverage, another parent described conflict escalating over property and financial matters (not an isolated instance according to the parent interviews):

[He] became really unpredictable and erratic ... When I needed the support there was no one there [because of the time of year]. [Parent interview]

This parent was not alone in reporting that they had recourse to police assistance in these circumstances. Apart from this instance, the parent in the example provided indicated that she felt very supported by her SFVP during the CFDR process:

I really felt very supported by her, which was good. She gave me the moral boost and the encouragement I needed to move through ... She was excellent actually. [Parent interview]

This parent indicated that her ex-partner behaved in a difficult manner throughout the process, which resulted in a certificate being issued as no agreement could be reached.

Concerns were expressed by some parents and professionals in some locations about delays in the CFDR process proceeding leading to an escalation of risk, due largely to impatience on the part of predominant aggressors about a lack of action and resolution. Professionals in a range of roles, including FDRPs, lawyers and MSPs, described actively and intensively having to manage the expectations and behaviour of their clients in order to avoid risks of violence being activated and heightened during the process. For example:

I have found several times that three steps are taken forward and two steps are taken back in between FDR sessions. Frustration levels rise and attempts are made to “resolve” the matter directly with the woman—resulting in breach of trust and increased safety concerns. [Lawyer, Professionals Survey]

## 5.2 *Understanding the story*

An area of particular challenge for practice in the pilot concerns eliciting disclosure, admissions and acknowledgement of family violence and developing a clinical assessment of the nature and effects of the history of family violence in any particular case. The evaluation data suggest that there are three areas of particular complexity in any particular case: eliciting disclosures of the history from the predominant victim; eliciting admission or acknowledgement from the predominant aggressor; and developing a common view among the professionals as to this history, and its implications for the ex-partners’ engagement in CFDR.

This section begins with a discussion of the philosophical tensions at play in approaches to family violence and the way in which they were evident in practice in the pilot. This is followed by sections setting out the challenges in working with predominant victims and aggressors. Further sections focus on the challenges lawyers face in dealing with predominant aggressors and on professionals’ self-assessments of their own ability to deal with particular issues related to family violence.

### 5.2.1 Philosophical tensions

In some instances, in some locations, the assessment of the nature and effects of family violence revealed tensions within the partnerships. The data indicate that the sources of these tensions in any particular case could either be broad—differences in philosophical approaches to family violence—or narrow—differences in clinical judgments. Such tensions were described by professionals in most locations and were susceptible to resolution through further discussion in some but not all instances. The differences in philosophical approach may well underpin the differences in clinical assessments in some cases. The following quotes illustrate the dynamics at play.

An example of differences in clinical judgments is provided below:

I have found that in a couple of cases as well that the level of violence or conflict that’s been alluded to hasn’t been substantiated very well or assessed in the very first instance well. [MSP, Later stage interview]

The process of resolving differences in views among professionals about the dynamics in a particular case and its progress through CFDR was described in this way in one interview with an FDRP:

We had that big discussion and then we all got together and had a chat about that, and it was agreed that we would keep going through the process ... [One professional may not have agreed with the decision] ... but it was a decision management also agreed with. [FDRP, Later stage interview]

These quotes highlight the differences in understanding that were referred to by professionals in several locations:

There’s been one occasion where a certain attitude to women’s experiences of violence have been talked about in a certain discourse where she ... needs to become more assertive or to increase her self-esteem ... Those comments come from, maybe, not a full appreciation that domestic violence is nothing about a woman being, not having self-esteem or not being



assertive. It's about a man that's choosing to use violence and control over his partner. [SFVP, Later stage interview]

Domestic violence is an issue that just strikes at lots of people's core values about relationships and about families ... We [challenged other professionals in the program] in terms of their understanding of domestic violence because it's not their core business and it is ours ... It was about educating them. [MSP, Later stage interview]

Interestingly I discovered—which took me a bit by surprise— that there's even a different philosophy about DV in different organisations. [FDRP, Later stage interview]

A challenge is having all professional stakeholders understand the intention and purpose of the program, specifically concerning DV. [SFVP, Professionals Survey]

In addition to individual professionals having a shared understanding of domestic violence, the broader culture of their organisations and management were identified as being important as well:

Organisational frameworks are vital to maintain commitment to detect and respond appropriately to family violence. The organisation's family violence policy is central to the success and commitment to high standards of risk assessment/screening/response; thus is prevention and empowerment. [SFVP, Professionals Survey]

## 5.2.2 Working with predominant victims

The complexity in building understanding of the experience of predominant victims had several aspects. First, there was recognition that many people who have experienced family violence may be reluctant to disclose the full history of the violence they have experienced for a range of reasons, including shame, denial and embarrassment. For example, one parent interviewed said that she had not previously disclosed the family violence because her ex-partner had intimidated her with threats. At a more subtle level, it was also clear from interviews with professionals and parents that predominant victims do not always recognise that what they have been subjected to, particularly in the case of non-physical behaviour, amounts to family violence. Finally, it was recognised that the traumatic effects of family violence can make eliciting a history difficult, requiring careful discussion over a number of meetings. To illustrate:

Well, that's the thing some women don't realise; that the behaviours that are still being displayed are part of domestic violence since the separation. So it's power and control—controlling how and when they see the children, always having the last say and mak[ing] sure the arrangements work best suited to their circumstances. So I'd consider that still part of DV. [SFVP, Early stage interview]

Some women may have underestimated the risk and begin to put it together after they've talked about it and received some more information about it. [MSP, Later stage interview]

DV ... doesn't always look the way it is, if you know what I mean. There can be one person behaving like an absolute idiot, but that may very well be because of the pressure of the DV ... making them not perform well. So the other person comes across as perfectly calm and it actually takes a bit of experience to see that—that you have to assist that person to present a different sort of front so that they're actually able to function in the

mediation without looking as though they're trying to ... derail it or get emotional and it's not working in their interest. [MSP, Early stage interview]

Messy is probably the only word I can use. But her story was all over the place. She was presenting [as] very anxious, she couldn't make decisions, [I] had difficulty getting details out of her and [there was] a lot of worry about her capacity and what's happening for her with the kids. [FDRP, speaking about a client, Early stage interview]

The following quote comes from an interview with a mother. Her experience illustrates how professionals working with predominant victims can support the development of understanding about domestic violence:

She was actually the one that said to me, do I realise I was a victim of domestic violence? So it's very empowering this whole program to me because I actually said to her, "Well, no, he's never hit me". She actually gave me the piece of paper which has a pie graph on it with the violence ... It was very interesting to me because there was probably less than 5% of this pie graph that actually involved any physical violence, and the rest—it ticked nearly every box except for the one of actually throwing ... So that was very empowering for me. [Parent interview]

### 5.2.3 Working with predominant aggressors

It is clear that the dynamics surrounding disclosure of the perpetration of family violence are even more complex. The pilot model is premised on there being some acknowledgement of past and/or current violence in the process. It is clear that practice in relation to acknowledgment by perpetrators has evolved somewhat differently in each location and varies from case to case. Interview data suggest that where there is a history of previous legal system engagement, such as the presence of a personal protection order, the dialogue about family violence is less challenging to enter into. However, where such a documented history is not available, professionals reported encountering greater challenges. The following quotes illustrate the range of experiences:

The violence is acknowledged. There's no hiding it. There's no tiptoeing around it ... As a mediator I'll be more upfront about what I am prepared to [do]. [FDRP, Later stage interview]

The model has been progressing for us, [with] the alleged perpetrator coming without being prepared to admit to any domestic violence and not wanting to be tarred with that brush, and being reluctant to engage with their counselling support service sometimes ... That can shift as they engage with their counselling support service, but primarily it doesn't. [Lawyer, Later stage interview]

There are challenges around the level of acknowledgement from many perpetrators. [FDRP Professionals Survey]

There's a lot of denial, which takes a fair bit of work to break down. [MSP, Later stage interview]

This excerpt from an interview with an FDRP summarises the challenges involved where there is no documented family violence history (e.g., through a personal protection order):

There's no point going straight in with them, because they'll just repeat their normal pattern of behaviour. You've got to find that place that they can let

down some of that normal attacking ... There's a defensiveness, but it's often played out as an attack. [FDRP, Later stage interview]

There are a number of issues that are relevant to understanding the issues surrounding disclosure on the part of perpetrators. It is well-recognised in the family violence literature that frank disclosure is uncommon for a range of reasons, including shame, lack of insight that the behaviour constitutes family violence and lack of willingness to admit to committing what amounts to criminal conduct (e.g., Blacklock, 2001; James, Seddon, & Brown, 2002). Family violence practitioners and researchers recognise that denial is common, full admission is rare, and that, more commonly, some behaviour may be admitted and accompanied by exculpatory discussion, including blaming the victim, mutualising the violence, minimising what occurred, and attributing responsibility for the actions to external circumstances, including stress or substance use. These dynamics are evidently at play in practice in CFDR. In discussing the challenges in understanding the story, one MSP explained practice in this way:

I always feel as though I've arrived at something with the client that contributes to furthering the understanding of the team. I don't ever delude myself thinking I have the full picture. [MSP, Later stage interview]

Eliciting information about family violence histories, and working with the client to develop understanding of the effects of the behaviour, are critical parts of the MSPs' role. The interviews with professionals, particularly with MSPs, highlighted the way in which, in many instances, working to build understanding of an alleged perpetrator's own behaviour, and its implications for ex-partners and family members, was a key part of their task in the CFDR process:

We're forcing them to consider their actions towards the other parent at least in light of the children that they have and what the effect of that will be. [MSP, Later stage interview]

So one of the things that the counsellors would do would [be to] ask how the violence impacts on significant others, and this can sometimes gently—well, not gently—sometimes it is quite confronting for the client then to have to think about how their violence impacts others and how they talk about that. So the counsellor would also validate the difficulty in talking about violence but then gently encourage them to be more explicit so the counsellor gets an understanding of [the violence]. Because that is what this is about—they are assessing the degree of violence in this relationship. [MSP, Early stage interview]

An MSP made the following observation about the emotional and psychological conditions he considered his clients were experiencing:

I think there's a real sense of relief for a lot of the guys, because they mainly deal with shame and guilt and a whole lot of depression and anger. Whereas if they can actually sit there and look at what the issues are and accept them and own them, I think they start to feel a bit better about it. [MSP, Later stage interview]

In discussing the effects of the program, an SFVP gave this example of how, through teamwork with the MSP, a father came to understand that his behaviour was frightening his children:

It's been quite good to bring that back to the case management meeting about his understanding about the impact he's had on his kids ... And then to see the men's worker work with him on that ... That guy ... is starting to

actually now understand the impact that his behaviour in the past has had.  
[SFVP, Later stage interview]

Another professional provided an example of an MSP feeding information into case management about his client's behaviour and steps that would need to be taken to maintain the predominant victim's safety:

The consultant worked with the father around understanding [that his behaviour amounted to family violence] ... It didn't get put on the table by the women's consultant. It got put on the table by the men's consultant ... It was really clear that nobody was hiding things ... even though it didn't make their client look good. [FDRP, Later stage interview]

It is also clear, however, that the characteristics of some clients create inherent limitations in the progress that can be made in these areas. Professionals spoke of the difficult clinical assessments that need to be made to work out whether clients are amenable to change to any extent at all. These comments illustrate the issues raised:

Partly because he's a very rigid personality and he's got his view and he's not shifting from it. [MSP discussing the limited ability to encourage a father in the pilot to understand his behaviour, Early stage interview]

Full acknowledgement of family and domestic violence is rare ... [It] may be acknowledged, but not [the] full extent or impact on others. [FDRP, Professionals Survey]

Those men are very reactive and can play out their abusive behaviour with us ... We have to really set strong boundaries, and at some point it helps you make a decision [about whether there is] any potential for change, even in this program. [FDRP, Later stage interview]

These comments from an FDRP underline the key role that the capacity to develop insight on the part of predominant aggressors plays in determining whether CFDR can be applied to produce an agreement:

In some cases it's been very successful, and in some cases it's been less successful. I think the success has been determined by—to some degree—by the level of acknowledgement of DV from the perpetrator, and whether that changes over time. [FDRP, Later stage interview]

## 5.2.4 Lawyers and predominant aggressors

Working with predominant aggressors also raised particular challenges for lawyers in the CFDR program. Lawyers have an obligation to obtain instructions from their clients that will then form the basis of their legal advice. The client's formal instructions about the facts of a matter from their perspective must form the basis of the lawyer's approach to assisting the client. Making admissions to a lawyer relating to the perpetration of family violence imposes an obligation on the lawyer to disclose the admissions to the court and/or to cease acting for the client. From the client's perspective, the act of disclosing that they have perpetrated family violence also amounts to making admissions that have serious legal consequences, including, potentially, criminal charges being laid. From the perspective of predominant aggressors, this complicates the lawyer-client relationship in CFDR, as well as creating tensions for the lawyer and their role in CFDR and, more generally, the constellation of inter-professional relationships in the CFDR team.

Lawyers who took part in the evaluation studies articulated a number of dilemmas involved in advising perpetrators. These included being unable to get honest instructions from their clients, and being involved in CFDR sessions where information at odds with

the clients' instructions emerged. For example, some lawyers described experiencing ethical dilemmas when becoming aware of a history of family violence that was unlikely to be provable in court (yet being concerned for the children) and being unable to convince a client that their history of perpetration stood in the way of achieving the parenting arrangements they wanted. The challenges in negotiating these issues are illustrated in the following quotations:

It becomes difficult when the alleged perpetrators have limited insight into their behaviours and become aggressive when their limited options are presented to them in terms of spending time with their children. The failure of the client in gaining insight into their violence is the biggest hurdle to being able to give effective legal advice. [Lawyer, Professionals Survey]

When working with one aggressor, I found he was not honest with me in disclosing what was going on. I felt quite disadvantaged not knowing what the history of the couple had been. My client initially portrayed himself as being extremely reasonable and very concerned for the welfare of his children. CFDR was stopped because the other client could not proceed because of my client, yet I was not aware of what was happening. From my experience in this [case], the family violence was not named. [Lawyer, Professionals Survey]

I had instructions from a client and wasn't really sure [how accurate they were]. I'm not experienced on working out the extent, in some cases, of very, the very manipulative sort of family violence that goes on ... As a lawyer, it's very strange to feel like you're the one who's in the dark and everybody else knows all this stuff. [Lawyer, Later stage interview]

I haven't been able to get information about the DV. He gave me the impression it was a one-off isolated incident, but the actions of the mother indicate otherwise ... It's hard to advise him. And then I thought, gosh, I'm advising him on spending time with them when possibly that's not in the best interests of the children. [Lawyer, Later stage interview]

I have to advise my clients based on what their instructions are. If they instruct me there's no domestic violence or no violence and nothing that can hinder how the court might perceive ... their case in court, my advice has to revolve around that ... What your client instructs is going to be the basis of your advice and if those instructions aren't accurate, then your advice isn't going to be as accurate, which can lead to not very successful mediations ... Where someone admits the domestic violence, I can talk to them about what the implications of that might be in a court scenario; why they're benefitted to stay out of the court scenario if the violence has been quite severe. Then advise them realistically on what sorts of contact with their children they should expect. [Lawyer, Later stage interview]

From the perspective of a perpetrator, in court a lot of it relies on evidence—what evidence is available. So when you have evidence you can base your advice on that ... In these [CFDR], it's different to that because it's not an evidentiary based thing ... You need to make sure they have accurate expectations, realistic expectations. It's not necessarily easy to be able to form that for them. [Lawyer, Focus group participant]

In another location, consents for information sharing between the MSPs and the clients were being obtained, ameliorating some of the problems referred to in the preceding quotes:

Because we do make it quite clear at the beginning that there will be some information sharing and that they're consenting to that, then when they are confronted—if there has been a differing in stories—then that's dealt with quite well. [Lawyer, Later stage interview]

## 5.2.5 Professionals' self-assessments

Despite the complexities discussed in the preceding sections, responses on questions relating to family violence in the Professionals Survey suggest that the majority of professionals working in the pilot across all locations have significant confidence in their ability to identify family violence issues and to work with families experiencing family violence.

A series of questions requiring self-assessments in relation to identifying family violence, working with clients at risk of experiencing family violence, and detecting and responding to risks involving the safety of parents and children almost uniformly drew majority responses in the “excellent” and “good” categories in the six-point response scale (excellent, good, average, poor, not applicable, cannot say/do not know) (Table 5.2). Information sharing was one area where lower confidence was evident. Response patterns in this regard were less decisively positive (but still positive overall). The majority of responses for information sharing were in the “good” (47%) rather than “excellent” category (38%).

**Table 5.2 Professionals' self-rated ability to work in CFDR, Professionals Survey**

Professionals' self-assessment	Identify issues of family violence		Make referrals to the appropriate service		Detect and respond to safety issues		Share information with other professionals	
	%	n	%	n	%	n	%	n
Excellent	59.1	52	51.1	45	40.9	36	37.5	33
Good	30.7	27	37.5	33	43.2	38	46.6	41
Average	–	–	–	–	3.4	3	2.3	2
Poor	–	–	–	–	–	–	–	–
Very poor	–	–	–	–	–	–	–	–
Cannot say/do not know	1.1	1	1.1	1	1.1	1	2.3	2
Not applicable	1.1	1	2.3	2	3.4	3	3.4	3
Missing	8.0	7	8.0	7	8.0	7	8.0	7
Totals	100.0	88	100.0	88	100.0	88	100.0	88

Notes: Professionals were asked: “The following questions relate to the service in which you mainly work. Please rate your ability to do the following in your work: Identify issues of family violence; Make referrals to the appropriate service for clients involving family violence; Detect and respond to safety issues for parents; and Appropriately share information about clients with other professionals”. Percentages may not total exactly 100.0% due to rounding.

As shown in Figure 5.1, there was a clear relationship between self-rated ability to identify issues of family violence and years of professional experience. More than 70% of professionals with 10 or more years of family law/relationships experience rated their ability to identify issues of family violence as “excellent”. This compared to 32% of professionals with fewer than 3 years of experience.





**Figure 5.1 Professionals' self-rated ability to identify issues of family violence, by years of experience, Professionals Survey**

Another series of questions in the Professionals Survey highlights areas where less confidence is evident than in the core areas described above. Table 5.3 represents responses to a series of survey questions that sought self-assessments in relation to:

- working with clients who have had allegations of family violence made against them;
- the ability to work with clients who are at risk of experiencing family violence; and
- identifying circumstances where clients may be at risk of self-harm.

**Table 5.3 Professionals' self-rated ability to work with clients in relation to family violence and self-harm, Professionals Survey**

Professionals' self-assessment	Work with clients with family violence allegations made against them		Work with clients at risk of experiencing family violence		Identify risk of self-harm	
	%	<i>n</i>	%	<i>n</i>	%	<i>n</i>
Excellent	36.4	32	48.9	43	29.6	26
Good	34.1	30	34.1	30	48.9	43
Average	12.5	11	4.6	4	6.8	6
Poor	1.1	1	–	–	1.1	1
Very poor	–	–	–	–	–	–
Cannot say/do not know	2.3	2	2.3	2	3.4	3
Not applicable	4.6	4	2.3	2	2.3	2
Missing	9.1	8	8.0	7	8.0	7
Total	100.0	88	100.0	88	100.0	88

Notes: Professionals were asked: "The following questions relate to the service in which you mainly work. Please rate your ability to do the following in your work: Work with clients who have had allegations of family violence made against them; Work with clients who are at risk of experiencing family violence; and Identify circumstances where clients may be at risk of self-harm". Percentages may not total exactly 100.0% due to rounding.

Significantly, the areas where less confidence was evident were the ability to work with clients who have had allegations of family violence made against them and the ability to identify circumstances where clients may be at risk of suicide or self-harm. While the majority of responses once again fell into the “excellent” or “good” categories in these areas, “good” was more frequently nominated than “excellent” in relation to self-harm (49% cf. 30% respectively). The qualitative data discussion presented in section 5.2.4 similarly reflects a lower level of confidence among lawyers representing predominant aggressors.

Further, in relation to working with clients against whom allegations had been made, responses were relatively evenly spread between “excellent” (36%) and “good” (34%), and “average” was selected in relation to this question more frequently than any other in this series (13%). This pattern contrasts significantly with the professionals’ assessments of their ability to work with clients at risk of experiencing family violence. In this area, almost half (49%) of the participants rated their ability as “excellent”, 34% as “good” and 5% as “average”. Some of the practice challenges underlying these response patterns were discussed earlier in this chapter.

### Professionals’ ability to work with family violence: A comparison with results from other AIFS evaluations

As part of AIFS evaluations of the 2006 family law reforms and the Legal Partnerships Program, two of the same survey questions as in Tables 5.2 (ability to identify issues of family violence) and 5.3 (ability to work with clients who are at risk of experiencing family violence) were asked of relevant professionals from FRCs and/or legal assistance services.

In the evaluation of the 2006 family law reforms, FRC staff were involved in providing a range of direct and referral services to families, and in the Legal Partnerships Program, FRCs and legal assistance services partnered to offer information sessions, legal advice and, in some cases, legally assisted mediation to assist clients to resolve their post-separation parenting disputes.

#### Ability to identify and work with issues of family violence

Comparisons between these data and data collected from the professionals working in the CFDR pilot reveal broadly similar trends: 98% of FRC staff in the evaluation of the 2006 family law reforms and 95% of all staff in the evaluation of the Legal Partnerships Program, self-assessed their ability to identify issues of family violence as being “excellent” or “good”, compared with 99% of CFDR professionals (excluding “not applicable” responses and missing data).

#### Ability to work with clients who are at risk of experiencing family violence

Again, comparison between these data and data collected from the professionals working in the CFDR pilot reveals broadly similar trends: 90% of FRC staff in the evaluation of the 2006 family law reforms and 92% of all staff in the evaluation of the Legal Partnerships Program, self-assessed their ability to work with clients who are at risk of experiencing family violence as being “excellent” or “good”, compared with 92% of CFDR professionals (excluding “not applicable” responses and missing data).

Source: Moloney et al. (2011)

## 5.3 Summary

This chapter has examined some core issues related to working with family violence in the CFDR pilot locations. Varying approaches were evident in the assessment of risks of family violence to family members and risks of self-harm, with most pilot sites applying adapted versions of the Victorian Risk Assessment Framework or their own internal instruments. Professionals demonstrated significant confidence in their own level of



competence to assess risk. The incidence and nature of risk is dynamic through the CFDR process. Active management and response is a key part of all practitioners' responsibilities throughout the process, but particularly for SFVPs and MSPs.

Some tensions of a philosophical and/or clinical nature were described by professionals across locations, but these were mostly resolved through discussions among themselves. The professionals involved in the evaluation studies referred to a range of challenges in working with family violence in CFDR, but overall demonstrated significant confidence in their own capacities.

Working with perpetrators, in a support professional role or as a legal practitioner, is clearly one of the most challenging and critical areas in the CFDR pilot, as well as the area where practice has furthest to still develop. This is not a criticism of the professionals working in the pilot; rather, it reflects the inherent challenges in this area and the cutting-edge nature of professional practice in the pilot. Practitioners in the pilot have clearly demonstrated significant self-awareness in this regard and professional practice with perpetrators of family violence is generally recognised to be an area where knowledge about what constitutes effective practice is significantly underdeveloped.<sup>25</sup> The level of acknowledgement of a past history of violence is crucial in determining whether appropriate parenting arrangements can be reached in the CFDR process, so the importance and influence of effective practice in this area cannot be underestimated. It is clear that the skill of the support professional in developing the client's capacity for insight into their own behaviour is critical, and the establishment of collaborative partnerships between support professionals and lawyers requires further development. It is also clear that the application of clinical judgments about whether a client has the capacity to develop sufficient insight into their behaviour to make the case amenable to resolution through CFDR is critical.

As the discussion in this section establishes, the quality of the collaborative relationships between the agencies and professionals in CFDR is a critical part of providing an effective service. Collaboration is examined more fully in the next chapter.

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<sup>25</sup> The under-developed state of knowledge about effective practice with perpetrators is referred to in *Time for Action: The National Council's Plan for Australia to Reduce Violence Against Women and Their Children* (National Council to Reduce Violence Against Women and Their Children, 2009).

## 6 Coordination and collaboration in CFDR

As the discussion in the preceding chapters establishes, collaborative practice is a central aspect of the CFDR process, with responsibility for risk assessment and management, client management and case management being largely shared among the professionals. The extent to which functional collaborative relationships between the pilot partners are developed is critical to the efficacy with which the CFDR locations operate. The ability to operate collaboratively as a “clinical” team in working with clients through the process is essential to ensuring that CFDR operates safely and effectively. As also noted in Chapter 2, the evaluation data indicate that this is one of the most challenging elements of implementing and operating the pilot. Practitioners not only have to adapt to a different way of working, but inter-professional relationships need particular attention to lessen “the risk of re-creating between the professionals themselves many of their own clients’ experiences of high conflict and low trust” (Kaspiew et al., 2009, p. 110).

Evaluation data indicate that the capacity of the location coordinators to pull everyone together is of core importance. The commitment of the individuals and organisations within the partnership is also a necessary prerequisite. Weakness in collaborative relationships impairs the value of the model to clients and could compromise risk assessment and management.

The CFDR evaluation data indicate that a range of challenges may arise in this regard. At an operational level, issues such as the complex logistics of coordinating the involvement of a diverse group of professionals were identified as challenges. At a broader level, difficulties may arise from organisational frameworks and philosophies, professional responsibilities and obligations and mutual understanding of these among professionals, and the capacity of organisations, which in some circumstances may be competitors for funding, to establish collaborative working relationships.

This chapter begins with a discussion about the implications of the logistical aspects of collaboration in the multi-agency context of CFDR. Some other high-level issues that influence effective collaboration in the CFDR pilot are then discussed. These issues are illustrated through a detailed discussion of a central but complex issue in the pilot: information-sharing.

### 6.1 *Logistics in a multi-agency practice context*

Implementation of the pilot has been challenging in a logistical and operational sense in all five locations due to the complexity and sensitivity of cases being addressed, the ongoing liaison required with clients and with partner services, and the time required to build cross-disciplinary professional relationships and common understandings of the model in practice.

All locations began operation with a full-time/near full-time location coordinator taking “on-the-ground” responsibility for implementing the pilot program. In all locations the location coordinator was also a primary FDRP in the program, and frequently the case manager was also an FDRP. All locations viewed the location coordinator role as being pivotal to the running of the pilot. They are the point of contact for both professionals and clients, and the key person who has their finger on the pulse and is aware of case numbers and their progress. They are the person responsible for allocating services and professionals to cases in both a timely and efficient manner—in a way that takes account of the specificities of each particular case—and ensures that the client isn’t adversely affected by operational issues. They are also the key professional with responsibility for communication and case management within the partnership and who troubleshoots

issues as they arise, trains staff in the model, and builds and extends partner relationships.

All location coordinators reported being overextended by the amount of administration required to implement the pilot. For example, in one instance described to us, it had taken more than one month to organise a mediation that was attended by six professionals working in five different services, largely because of the logistical difficulties of taking into account multiple work schedules and availability. Only one of the locations funded some additional administrative support initially but, following the extension of the pilot until April 2013, two more locations implemented administrative assistance on a part-time basis and one further location funded a full-time administrative coordinator/intake officer position. One location did not report having formal administrative help.

Various suggestions for streamlining service delivery from the organisational/administrative perspective included:

- allocating specific days on which CFDR professionals will work;
- allowing access to electronic diaries for booking appointments; and
- ensuring there are sufficient numbers of trained staff in each professional group available to draw upon.

A number of professionals suggested that it be considered that the location coordinator and FDRP/case manager roles be separated into two distinct positions both to spread the workload and responsibility and to enable multiple professional perspectives to be more clearly heard. It was also suggested that the location coordinator and CFDR program required upper level managerial support to deal with partnership issues at an early stage.

It is clear from data reported to AIFS that a location coordinator with very high-level logistical organisational skills and active higher level managerial support and commitment within the lead organisation are both critical to the successful implementation of the model. The following quotes from professionals at different locations illustrate this point:

The strength is that it's felt like a collaborative effort. Dealing with [location coordinator] has just been really inspiring actually. I've found [location coordinator] always really helpful, really professional. I think it is a genuine attempt—from [my] woman's perspective—to have women's voices heard around if they do have concerns around their safety and, historically, what they've experienced. So I think that comes from a really genuine place, so I think that's a real advantage of the program. [SFVP, Later stage interview]

[Location coordinator's] very good at [their] role of coordinating us and getting us all talking with each other and just working with each of the different kind of professionals in terms of what they need and what they don't need in terms of information sharing and that sort of thing. Just the general attitude and approach that [location coordinator] brings to the big task of coordinating a lot of people I think has really had a good flow-on effect for our communication and relationship with each other. [Lawyer, Later stage interview]

But we have a really, really good manager, in that [location coordinator's] incredibly knowledgeable, so you have this faith in [location coordinator] of knowing how to process, and knowledge about any client issues that come up, that kind of thing. [SFVP, Later stage interview]

A very significant administrative burden, coupled with the complexities of the model, resulted in a slower start-up of the pilot than initially envisaged. Throughout the

operation of the pilot, locations reported that they would not have been able to handle any further cases, due to the steep learning curve that all professionals in the partnership were on, in terms of the type of work they were undertaking and the cross-disciplinary collaboration required by the model. The logistical organisation of the process was also a significant factor in limiting the number of cases that could be taken on in the program in each location.

### 6.1.1 Logistics and timing

The implications of logistical complexity, and the consequent length of the process, was reinforced in the responses to the Professionals Survey. Almost one in five professionals working in the CFDR program reported that the time required to complete a CFDR case compared to a non-CFDR case was “too long” (Table 6.1). This assessment was most likely to be made by lawyers and FDRPs working in the program (data not shown).

**Table 6.1 Time taken and overall workload of CFDR cases compared to non-CFDR cases, Professionals Survey**

Comparison with non-CFDR cases	Time taken to complete CFDR cases		Overall workload for CFDR cases	
	%	<i>n</i>	%	<i>n</i>
Too long/too much	19.3	17	11.4	10
About right	39.8	35	46.6	41
Not long enough/not enough	4.6	4	3.4	3
Not applicable	27.3	24	28.4	25
Missing	9.1	8	10.2	9
Totals	100.0	88	100.0	88

Notes: Professionals were asked: “Now thinking about the operation of the CFDR program, how would you rate the following aspects of the program: Time taken by you to complete a CFDR case compared to a non-CFDR case; and Your overall workload for CFDR cases compared to non-CFDR cases”. Percentages may not total exactly 100.0% due to rounding.

Professionals participating in the survey also had the opportunity to provide their views on the length of time required to participate in CFDR program activities with other CFDR professionals. As shown in Table 6.2, the typical view was that the time required of them for such activities was “about right”; however, for some of these aspects a significant minority of respondents indicated that the time required of them was either “too long” or “not long enough”. These response patterns were most pronounced for the time required in managing professional relationships as part of the CFDR program, with 13% of professionals being of the view that the time required was too long, while a further 9% reported that they would like more time on this area of CFDR.

**Table 6.2 Professionals' rating of time required to participate in CFDR program activities with other professionals, Professionals Survey**

Rating of time required	Organise meetings		Attend case management meetings		Manage professional relationships	
	%	<i>n</i>	%	<i>n</i>	%	<i>n</i>
Too long/too much	15.9	14	4.6	4	12.5	11
About right	51.1	45	65.9	58	55.7	49
Not long enough/not enough	1.1	1	3.4	3	9.1	8
Not applicable	22.7	20	18.2	16	12.5	11
Missing	9.1	8	8.0	7	10.2	9
Totals	100.0	88	100.0	88	100.0	88

Notes: Professionals were asked: "Now thinking about the operation of the CFDR program, how would you rate the following aspects of the program: Time taken by you to organise meetings; Time required of you to attend case management meetings; and Time required of you in managing the professional relationships involved as part of the CFDR program". Percentages may not total exactly 100.0% due to rounding.

The data in Table 6.3 show that similar views were held by professionals on the length of time required of them to organise and attend sessions with clients.

**Table 6.3 Professionals' rating of time required to organise and attend sessions with clients, Professionals Survey**

Rating of time required	Organise clients to attend sessions		Follow up with clients/organise appointments	
	%	<i>n</i>	%	<i>n</i>
Too long/too much	8.0	7	11.4	10
About right	55.7	49	48.9	43
Not long enough/not enough	2.3	2	3.4	3
Not applicable	25.0	22	23.9	21
Missing	9.1	8	12.5	11
Totals	100.0	88	100.0	88

Notes: Professionals were asked: "Now thinking about the operation of the CFDR program, how would you rate the following aspects of the program: Time taken by you to organise clients to attend sessions; and Time required of you to follow up the case with clients/organise appointments". Percentages may not total exactly 100.0% due to rounding.

Further insights into the logistical issues are provided by data from the open-ended questions in the Professionals Survey, inviting comments on their experiences at each phase of CFDR and what practices or issues facilitated or hindered the process. It was acknowledged that the busy schedules of professionals and their time constraints added to collaboration challenges (timeframes are discussed in more depth in section 4.3):

Many of the professionals involved in the program have regular commitments, which sometimes made meetings/mediations time-consuming to organise. [FDRP, Professionals Survey]

It is hard to get meetings arranged between professionals, which leads to long timeframes in the process. [FDRP, Professionals Survey]

The biggest hindrance (apart from client commitment to ongoing process) is time availability of professionals involved and coordinating this. [Manager and FDRP, Professionals Survey]

## 6.2 *Effective collaboration and constructive relationships*

Overall, professionals reported positive views in terms of working together, the development of cooperative relationships, and improving their capacity to work constructively with other professionals.

The majority of survey respondents agreed that the professionals worked together effectively. Almost half of professionals strongly agreed with this statement, with a further 28% agreeing that professionals worked together effectively (Table 6.4). A small percentage of respondents disagreed or strongly disagreed with this proposition and this group of unenthusiastic responses were all recorded in one pilot location.

A related survey question that asked about the development of cooperative relationships for professionals working in the CFDR program elicited a similar response pattern from respondents, with 75% of professionals either agreeing or strongly agreeing with this statement. As with the previous item relating to working effectively together, all of the respondents who disagreed that cooperative relationships had been developed were from one pilot location.

The survey also found very high levels of agreement by professionals that their service works well with other organisations and agencies in the CFDR program, with 89% either agreeing or strongly agreeing with this statement.

**Table 6.4 Professionals' agreement about working collaboratively in CFDR, Professionals Survey**

Professionals' level of agreement	Professionals in your location worked together effectively		Professionals in the CFDR program developed cooperative relationships		My service works well with the other organisations in the CFDR program <sup>a</sup>	
	%	<i>n</i>	%	<i>n</i>	%	<i>n</i>
Strongly agree	46.6	41	43.2	38	43.2	38
Agree	28.4	25	31.8	28	45.4	40
Neither agree nor disagree	6.8	6	8.0	7	n/a	n/a
Disagree	4.6	4	1.1	1	1.1	1
Strongly disagree	1.1	1	2.3	2	1.1	1
Can not say	3.4	3	5.7	5	6.8	6
Not applicable	n/a	n/a	n/a	n/a	1.1	1
Missing	9.1	8	8.0	7	1.1	1
Totals	100.0	88	100.0	88	100.0	88

Note: Professionals were asked; "Now thinking about your overall experiences in the CFDR program to date, to what extent do you agree or disagree: That the professionals involved in your location worked together effectively; The professionals working together in the CFDR program have developed cooperative relationships; and My service works well with the other organisations and agencies in the CFDR program". <sup>a</sup> A different response scale was used for this survey question. The category "Neither agree nor disagree" was not asked, and "Not applicable category" was included in this survey question. Percentages may not total exactly 100.0% due to rounding.

## Professionals' views on inter-agency cooperation: A comparison with results from other AIFS evaluations

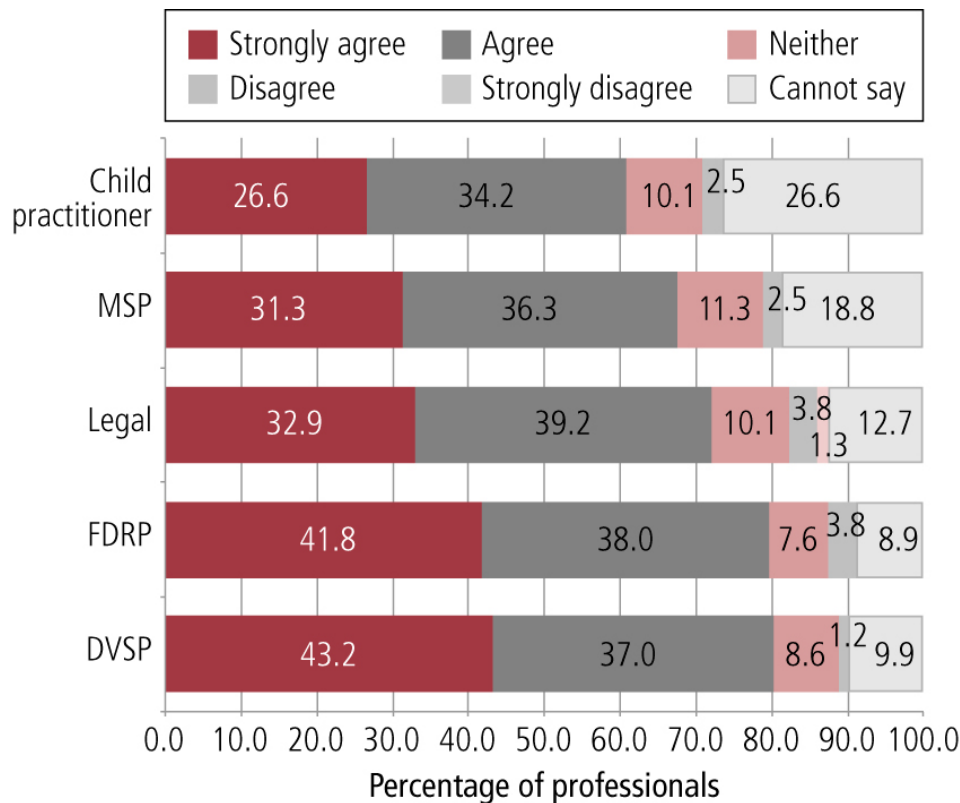
In the AIFS evaluations of both the 2006 family law reforms and the Legal Partnerships Program, service professionals were asked to report the extent of their agreement with the statement that their service works well with other organisations and agencies. As part of the CFDR evaluation, professionals involved in the program were asked a similar question specifically reflecting on other CFDR organisations and agencies in the CFDR program (see Table 6.4).

In the evaluation of the 2006 family law reforms, FRC staff were involved in providing a range of direct and referral services to families, while in the Legal Partnerships Program, FRCs and legal assistance services partnered to offer information sessions, legal advice and in some cases legally assisted mediation to assist clients to resolve their post-separation parenting disputes.

Comparison between these data and data collected from the professionals working in the CFDR pilot reveals broadly similar trends, although a slightly lower proportion of CFDR professionals agreed with this statement about inter-agency effectiveness: 96% of FRC staff in the evaluation of the 2006 family law reforms and 100% of all staff in the evaluation of the Legal Partnerships Program either agreed or strongly agreed that their service works well with other organisations and agencies, compared to 90% of CFDR professionals (excluding "not applicable" responses and missing data).

Source: Moloney et al. (2011)

Professionals completing the survey were also given the opportunity to reflect on the ability of the CFDR program to improve their capacity to work with other professionals. As can be observed in Figure 6.1, between 60% and 80% of professionals either agreed or strongly agreed that the program improved their ability to work constructively with each of the other professionals their service partnered in CFDR. The lowest agreement rates were reported for working with child practitioners and men's service professionals, although responses relating to these two groups also had the highest proportion of "cannot say" responses (27% and 19% respectively).



Notes: Professionals were asked: "Reflecting on your working relationships with other professionals including those from your own service: Working in the CFDR program has improved my capacity to work constructively with child practitioners, MSPs, legal representatives, FDRPs and DVSPs." Missing responses have been excluded from the analysis. Percentages may not total exactly 100.0% due to rounding.

**Figure 6.1 Professionals' agreement that the CFDR program improved their capacity to work with other professionals, Professionals Survey**

Qualitative data provide further insight into the factors that contribute to effective collaborative relationships. One FDRP described the task of pulling the partnership together and keeping it functioning in this way:

I think it's been a lot of bloody hard work. [FDRP, Later stage interview]

Other insights from the qualitative data underline the importance of reciprocal trust, professional respect and mutual understanding of organisational and practice frameworks, as these quotes highlight:

The quality and strength of the professional relationships is a key factor in ensuring the success of the program. A good understanding of the role and operation of each service is crucial for effective referral and management of CFDR cases. [Lawyer, Later stage interview]

I think that we've operated as a team really, really well. We're all on the same page. There are times I guess where some people become a little bit passionate about what they do and we've had a couple of those instances, but by talking it through, we come up with a common solution to the problem. But, yeah, that's probably the only thing. Other than that we've all worked really well. Everyone communicates really effectively. [FDRP, Later stage interview]

From the very beginning, the practitioners who were put forward to participate in CFDR were hopeful about what we could achieve for our clients. Over time, this has grown into enthusiasm for most staff, who can



see the results of the work we are doing. Our organisation had the advantage of some pre-existing partnerships being in place when CFDR began. This gave us a good foundation to build on. [FDRP, Professionals Survey]

In my view, [the] central nature of management, monitoring, ongoing commitment to consultation with relevant stakeholders, develop service providers partnership and commitment to ongoing training ensures the success of the CFDR model. [SFVP, Professionals Survey]

We're interacting with other professionals and making team-based decisions in a context of dealing with families who have been in violence and impacted by family violence ... I think, for me, that's been a very positive outcome, to interact with other professionals and work through cases in that type of framework and structure. I think it's really structured and the case management meetings are well-planned, and that allows us to then assess how we can reach the outcome. [SFVP, Focus group participant]

The following statements reflect sentiments expressed by a number of professionals concerning the contribution made by the CFDR pilot to building collaborative relationships between different agencies and professionals:

The big legacy of CFDR will be the teamwork experience. We have literally worked as a clinical and legal team and that is a unique experience. The experience of the relationships will stay with us whether or not there is ongoing funding for the program. [FDRP, Later stage interview]

There's a lot more collaboration from a whole range of services that just wouldn't be able to happen so much because if the onus is on the woman to do it, they get exhausted by it. They're already in a stressful situation. [SFVP, Later stage interview]

The strength has been is that there's been this cross-collaboration, particularly with agencies who wouldn't necessarily work this deeply with one another. Sure, we refer to one another, but we don't really work similarly—well not in my experience anyway—like this. I think that certainly exposed us to another organisation that we might otherwise wouldn't have been exposed to. We can learn and pick from things that they've done that we don't do here. So I think that's certainly one of the strengths—is sort of enriching relationships within the sector. [MSP, Later stage interview]

### 6.3 Challenges

While the pattern in survey responses reported in section 6.2 indicates largely positive views and experiences on core aspects of collaboration in the CFDR pilot, a recurrent theme in the qualitative aspects of the evaluation data collection with professionals were the challenges involved in managing multidisciplinary practice across agencies, and the commitment and skill required to build and maintain positive relationships across agencies and between professionals. Challenges at three levels were identified:

1. practice philosophies and framework and the extent of management commitment to CFDR;
2. interdisciplinary understanding, and a commitment to working in a collaborative interdisciplinary manner; and
3. information-sharing.

The first two issues affected the implementation of CFDR to varying extents in different locations. This section sets out professionals' views on these two issues. The third issue—information-sharing—raised different issues in each location and were dealt with differently in each location. It is discussed in section 6.4.

A range of agency-level issues were identified as being potential impediments to establishing effective collaborations. Active engagement between agencies in all locations was required to ensure that policy and organisational frameworks could be applied or adapted to accommodate the pilot and, in at least two locations, these issues contributed to less than smooth relationships. The following quotations indicate the range and nature of the issues raised by professionals:

A key ingredient has been the organisation's policy framework and whether senior managers actively encourage collaborative arrangements. Smaller partners/units tend to be more flexible and have adapt[ed] more enthusiastically to the CFDR model. Resource limitations and/or lack of senior manager support has hindered some organisations' practitioners' practical case participation (even where the practitioners are keen to be more fully involved). Positive senior management endorsement has enhanced practical and coalface involvement down through the other staff in that organisation. [FDRP, Professionals Survey]

Managing the relationships between the services and negotiating across service boundaries is very tricky. It really requires managing professional suspicion and professional jealousy and the lack of willingness on the part of some services to share resources and information for the benefit of the client. [FDRP, Professionals Survey]

They go to one agency for a DV assessment, they go to another agency to have the FDR done. Now they're going to another agency to do the CIP. It's a dog's breakfast, really, for the client. If it's all together in a social science agency and the lawyer's coming in, it's a much better way to go. [Child consultant, Later stage interview]

In addition to the broad-level issues referred to above, several other issues on a less significant scale were also referred to. For example, professionals in one service reported having to adjust to a different way of practising due to the multi-agency character of the pilot:

If it's inhouse, I can always go and check with the other person ... but if it's in another organisation, I feel like I'm working with at least one arm behind my back ... I would have engaged a lot better if I'd heard the story from the other side as well. [Professional, Focus group participant]

While this professional participant raised the difficulties inherent in different agencies dealing with each party in a matter, other professionals considered that the involvement of different agencies heightened accountability:

We're saying co-location and experience, I think it's important ... Let's just say that I give it the name CFDR and that model itself employs each individual involved. I think it's important that there are the variations so that, for example, [SFVPs] and the male workers aren't employed under the one umbrella so that anything is compromised—they agree to that. So if it's—even though I say co-location, it's a co-location of a worker from different services. [SFVP, Later stage interview]

In relation to challenges that may be manifested at the level of individual practitioners, such occurrences were illustrated in relation to the practices of lawyers in these comments:

One of the problems that can occur is that the lawyers get into the thing that lawyers do of sending letters back and forth, under instructions from their clients, about changes to the plan, and this bypasses the other workers, who often do not know that this is happening. [FDRP, Professionals Survey]

The practice of lawyers engaging with cases, or aspects of a case, independently of the rest of the partnership was an area where different practices were evident. In at least two locations, some professionals perceived that this had contributed to a more adversarial tone being adopted in some cases. In contrast, another location reported that CFDR lawyers were negotiating matters separately as part of the CFDR service being offered, which has resulted in more matters being finalised in CFDR and outcomes being achieved that are considered to be safer and more sustainable (as discussed in the context of negotiating interim parenting arrangements in section 2.10.1). The key factors supporting successful collaborative practice among lawyers were:

- the establishment of a clear protocol and practice guidelines for what is covered in lawyer negotiations and how these negotiations will be undertaken, and for ensuring the CFDR partnership remains fully informed on the case. The location coordinator had a pivotal role here in managing the relationships, training staff and relationship-building, as well as in overall case management;
- clear and consistent reinforcement of why these CFDR cases are different to the cases and professional relationships they undertake in their regular professional practice;
- ongoing training and development of the professional relationships of the CFDR services to break down professional barriers and allow professional trust to develop over time; and
- paying particular attention to the professional relationships between support workers and lawyers, with supplementary training and discussions as needed.

In one location where issues have arisen, an agreement has been developed to notify the location coordinator regularly and whenever letters are exchanged or negotiations in the case are entered into. In another example, a lawyer new to the CFDR process sat in on a mediation (with the client's permission) to see firsthand how CFDR works to enable clients to speak for themselves rather than the normal practice of lawyers negotiating for their client.

## 6.4 *Information-sharing*

Information-sharing is a critical aspect of the collaborative case management approach involved in CFDR. The process involves the key professionals, apart from the lawyers, feeding information into the case management process with the consent of their clients, in order to inform clinical decisions about case progress, and to support the assessment and management of risk. The data indicate that this is an area where practice was developed and refined, and confidence has grown as practice in the pilot has progressed. However, lower confidence was evident in the area of information-sharing by and with lawyers than between other professionals. It was evident that the understanding of legal professional privilege and the boundaries of confidentiality in the lawyer–client relationship lacked clarity at the outset and continued to cause some confusion.

Moreover, varying practices between the locations in relation to gaining client consent to share information were evident. In November 2010, AGD provided two protocols that could be applied in CFDR to obtain client consent to share information. One document allows for information to be shared between the support worker and the FDRP. The

other provides for clients to elect to allow lawyers to share information with CFDR professionals on either a comprehensive or limited basis. The documents are based on the client consent forms developed by Western Sydney. Practices varied as to whether these forms were applied or whether the locations continued to apply their own approaches to the issue. In some locations, the initial agreement between the lawyers and the clients involved consent being provided for the lawyer to share information with other professionals. In other locations, consent was negotiated on an issue-by-issue basis and in other locations information was not shared by lawyers. As reported below, survey responses on the question of information-sharing generally indicate professionals' self-assessed confidence in their ability to share information, but the response patterns are less emphatically positive about information-sharing, compared with other aspects of family-violence-related practice (see section 5.2.5).

Despite the complexity involved in negotiating the boundaries of client confidentiality in the various client–professional and professional–professional relationships in the pilot, it is clear that this is a critical aspect of providing CFDR services. Sharing insights between professionals allows a more comprehensive picture of the history and effects of family violence and in most cases professionals indicated that clients are happy to agree to information being shared:

As we can share those stories together, we actually start to build up a bigger picture of how significant is this domestic violence? Is this domestic violence something that would be viewed ... by the courts in a criminal way ... or is it domestic violence that would be very difficult to prove in a court system? So, more of the coercive controlling violence [where there is no evidence]. [FDRP, Later stage interview]

In relation to information I might share with the men's workers, we do get clients to sign a pretty comprehensive consent form about information-sharing, where appropriate, between us. Generally the clients are really happy about that. A lot of the times in that initial legal information session that I have with our clients, where appropriate, the counsellor will actually attend that ... They've already formed that relationship with the counsellors, so, and then the issue of information sharing is discussed during that session. [Lawyer, Later stage interview]

Support professionals were able to hear the same information and then the counsellors were able to go away after, say, the legal advice sessions and work with the clients around, you know, that advice they'd been given. [FDRP, Later stage interview]

It was clear that ensuring the adequate flow of appropriate information was a challenging issue in all five locations. As the pilot has developed over time, all locations have found that protocols to ensure all professionals receive the necessary case information in the appropriate timeframe have required fine-tuning, as these comments indicate:

As lawyers, client confidentiality is sacred! And learning to "share" information with the other professionals was a challenge, but made easy when a good working relationship and rapport was developed between all professionals very early in the piece ... Trust in each other's professional skills was something that was talked about right from the beginning in training, and if one professional says "It's just not safe to continue CFDR", then the other professionals respect that judgment call and support that decision. Again, the human resources in a program like CFDR is crucial to its success ... Cooperation between professionals and trust in the staff involved

is a very important element in the CFDR structure. [Lawyer, Professionals Survey]

There was initially some difficulty striking the appropriate balance as to what information could be fed back to me as a legal practitioner. In order to preserve confidentiality, a very cautious approach was taken, which sometimes left me in the dark regarding the progress of a particular matter through the program. Conversely, on some occasions the outcome of direct communication between legal practitioners was not provided to the FDRPs in a timely manner. As more experience was gained, and after some discussions between the legal practitioners and the other professionals, the sharing of appropriate information improved. [Lawyer, Professionals Survey]

As the model envisaged, case management meetings are the primary means of ensuring information flow about the cases. Data collected in the request for information study identified a number of factors that support good information flow, including:

- ensuring case management meetings are full and frank discussions, and holding additional meetings such as the case review meetings described earlier;
- the location coordinator keeping their “finger on the pulse” across each of the cases as they progress; and
- joint and/or consecutive CFDR appointments for clients with a short overlap between sessions to enable professionals to ensure that relevant information is passed on in a transparent and professional manner.

As noted earlier, particular concern was evident about the place of lawyers in the information-sharing and receiving loop. But this was not the only area where the boundaries of client confidentiality caused concern, as this statement suggests:

Practitioners were still quite nervous or continued to be a bit nervous about sharing information in case management meetings ... It was really about finding a way to do that so practitioners didn't feel they were breaching confidentiality ... Over time ... it was: “We don't need to know what was discussed in your session. We really just want you to give an opinion on where this person's at ... Are there any issues of risk that we need to be aware of before we make a decision about moving to the next stage?”. [FDRP, Later stage interview]

Responses from the Professionals Survey reveal that generally professionals were satisfied with the level of information-sharing occurring as part of CFDR processes. In particular, professionals rated their own ability to appropriately share information about clients with other professionals very highly, with 84% of professionals rating their own ability in this regard as either excellent or good (data not shown) (see Table 5.2).

Respondents were less positive about information-sharing across all professionals (Table 6.5), with 61% of CFDR professionals agreeing or strongly agreeing with the statement that information sharing was sufficient to enable safe and workable outcomes for parents and children to be achieved. A small minority of participants (10%) either disagreed or strongly disagreed that this was the case. This negative response was made from three of the five pilot locations.

**Table 6.5 Agreement as to whether information-sharing among professionals is sufficient to enable safe and workable outcomes for parents and children, Professionals Survey**

Level of agreement that information-sharing is sufficient	%	<i>n</i>
Strongly agree	26.1	23
Agree	35.2	31
Neither agree nor disagree	14.8	13
Disagree	9.1	8
Strongly disagree	1.1	1
Not applicable	5.7	5
Missing	8.0	7
Totals	100.0	88

Notes: Professionals were asked: "Is information sharing among all professionals sufficient to enable safe and workable outcomes for parents and children to be achieved?"

Notwithstanding the largely positive response patterns in the Professionals Survey data, qualitative data reveal three areas of particular complexity about information-sharing. The first relates to what information can and can't be shared among particular professionals. The second, closely related, issue concerns too little information being shared (also discussed in Chapter 7). The third concerns too much information being shared, with possibly adverse consequences for the safety of the predominant victim and children.

These statements illustrate the first two related points:

As a community agency, that's one of the frustrations we have—is the absoluteness of the confidentiality of the legal process. [FDRP, Later stage interview]

The lawyers don't participate in the case management meetings for reasons of confidentiality. So it is hard to really feel part of what is going on. Sometimes the client is less-than-forthcoming about the extent of FV (if they are the perpetrator), and the notes from the coordinator are not always detailed enough to get a full picture. [Lawyer, Professionals Survey]

Lawyers were out of the case management information-sharing loop. There needed to be some basic information exchanged between lawyers and parties as well as the other professionals, as this impacted on appropriate legal advice given to the parties. [FDRP, Professionals Survey]

While information exchange between lawyers and other professionals was the main source of frustration reflected in the qualitative data, there were other areas of concern as well:

What didn't work well was communication from [FDR service provider] and [legal service provider]. Their communication was not very consistent or timely. [SFVP, Professionals Survey]

In relation to concerns about too much information being shared, issues relating to inter-professional trust, and concerns about risks to predominant victims and children underpinned the concerns expressed by some professionals:

I have recently been concerned that another agency that was meeting with the man wanted information provided to our agency by the woman. My concern is that we have no control over what would be done with that information, and it may put the woman at risk if revealed to the man. [SFVP, Professionals Survey]



It is very important that clear protocols exist for information-sharing, particularly for the counsellors and FDRPs, to prevent breaches of confidentiality. [Lawyer, Professionals Survey]

## 6.5 *Lawyers in the loop?*

Ensuring that lawyers receive an appropriate level of information has been an ongoing issue in all locations, given that they do not attend case management meetings. Some of the complexities involved in lawyers obtaining instructions from clients in the context of family violence have been referred to in Chapter 5. A number of locations acknowledged that lawyers felt somewhat isolated from the rest of the CFDR partnership and have been working at addressing these concerns. Other locations also reported that on occasion, to protect client privilege, lawyers have not disclosed relevant information, which has threatened to derail the CFDR process in some cases.

However, complex issues—based on professional trust and regard—are recognised to be critical in this area. As one FDRP astutely observed, developing practice understandings and professional relationships that are based on trust and confidence underpins successful sharing of appropriate information, as it is not possible to completely case manage this type of information exchange. Another FDRP reported feeling uncertain about what could be said and what could be passed on to lawyers without breaching confidentiality, and indicated that this issue was continually being reviewed and that better communication was developing between lawyers and other CFDR professionals as confidence in professional relationships was developing over time.

An FDRP from a different location reported that if a communication pathway was already established, it facilitated an appropriate flow of information, and that an effective and monitored communication protocol was crucial to establishing an effective pathway between two services that were professionally unfamiliar with each other.

Locations have implemented a variety of processes to ensure lawyers are adequately informed and included in the partnership, including:

- screening the case report for any issues around confidentiality and then passing the report on to the lawyers in full or in part;
- providing general partnership updates on case progress, which take lawyer–client privilege into account;
- providing the case intake form to lawyers;
- the location coordinator facilitating meetings for lawyers and support professionals to discuss CFDR issues more broadly; and
- lawyers and the SFVP/MSP meeting prior to the first legal advice session to exchange relevant information.

Having the SFVP/MSP attend legal sessions with their client is one adaptation to the model that all locations have used to varying degrees:

- one location has the support professional attend every legal advice session;
- a second location reported that this occurs at least once with every case;
- two locations reported that it occurs as required; and
- one location reported that it would occur infrequently and would be on the client's request to allay client concerns.

It was also noted that a telephone service facilitates this type of adaptation of the model more easily than locations where professional schedules and distance may make attending sessions face-to-face impractical and expensive.

The consequence of confusion about the boundaries of confidentiality was reflected in some lawyers feeling “out of the loop”, and some other types of professionals feeling left “out of the loop” by lawyers. One lawyer noted that they felt they had much less information in the CFDR process than they would normally have access to in their usual practice through exchanging information with the other party’s lawyer about their instructions from their respective clients. The following quotations illustrate the differences in thinking:

I think the prescriptive thing at the beginning about lawyers waiving privilege and attending the case management, we haven’t done. But I think in different ways, each site is moving towards that with our lawyers. In WA, we’ve never been of the view that the lawyers should waive the professional privilege because we think there are other ways of sharing information that work. But I think the closer engagement between the lawyer and the case worker is a really—just generally between lawyers and counsellors—is a really good development for the clients. But I think the model itself allows for that. [FDRP, Later stage interview]

Yes, the process that enables us to be able to essentially break that legal privilege is when we are referred a client through the CFDR program. When we make initial contact with that client for some advice, we broach that subject of, you know, part of this process is to be able to hopefully share the information with some other professionals, with the view that we are still acting in your best interests as your solicitor, but we’d like to be able to share information that we think is relevant to progressing your matter and hoping to achieve an agreement at the end of the day that are in the best interests of your kids. That’s the way that the client gives us that authority is we ask them to sign an authority to release information and waive legal privilege. The clients have the option to either provide us with that authority to waive legal privilege generally—which enables us to discuss their matter with any of the professionals involved—or they can specify who we are allowed to release information to. For example, perhaps as the father’s solicitor, he would be happy to speak with his consultant and the mediators, but not the mother’s solicitor or the mother’s consultant for anything. So that’s how our clients give us permission for that information-sharing. [Lawyer, Later stage interview]

## 6.6 Summary

As a process dealing with family violence in a multi-agency, multidisciplinary setting, the establishment and management of effective partnerships is a challenging and resource-intensive part of the CFDR process. Chapter 5 raised some of the issues that arise in the context of different clinical and philosophical approaches to family violence. At a more general level, as noted in Chapter 2, tensions that ranged from being comparatively minor to being so significant that the partnership constellation changed, were evident in each location.

Multi-agency, multidisciplinary practice poses a fundamental challenge to the mode of parallel operation that characterises much family law practice. Hester’s (2011) observation in relation to the different organisational and disciplinary practices that intersect in the context of family violence and child protection in the UK are similarly pertinent to the practice coalition that must form for CFDR: “the particular structures, orientations and approaches in the work of a professional group may create divides between their own everyday and common place assumptions and practices and those of other professional groups” (p. 837). In working together, legal practitioners, FDRPs and



support-based professionals in CFDR reported encountering a range of organisational and disciplinary practices among their partners with which they previously had limited familiarity.

A proactive process of relationship-building, and the introduction of mechanisms such as practice meetings (see also Chapter 2), was required to establish and maintain collaborative and coordinated partnerships. Trust and professional respect underpinned the development of functional partnerships. The evaluation data referred to in this section indicate that further features that contribute to positive partnerships include management support for the concept of CFDR and a willingness to re-consider habitual organisational policies and approaches in order to accommodate CFDR practice. The discussion of logistical complexity highlights the contribution that flexibility and adaptability can make to effective collaboration.

CFDR appears to have made a contribution to achieving greater service integration in the locations in which it has been implemented, with many professionals indicating that their knowledge of and ability to engage with the other partner organisations would be a lasting consequence of their engagement in the pilot. Even in locations where partnership functioning was less than smooth, some agencies indicated that they would continue to work with and refer clients to other agencies in the partnership.

At a more basic level, the nature and setting of the process—involving multiple steps and a complex client group needing to engage with a range of professionals over a protracted period of time—raised a range of logistical challenges. The issue of risk management was discussed in Chapter 5 and is a significant aspect of the client management responsibility in this process. The need for administrative support in coordinating practitioner activities became evident as the pilot proceeded, and a range of measures intended to deal with logistical complexity have been implemented.

Information-sharing is a core and, again, challenging, aspect of collaboration. It is another critical factor in effective risk assessment and management in this area. The evaluation data identify three key general issues in relation to information-sharing. First, it is necessary for clarity about understanding what information can be shared among different professionals. Second, it is important to have agreed mechanisms for sharing information. Third, inter-professional trust plays an essential role as part of the groundwork for sharing information. At a more specific level, there were clearly challenges about the role of lawyers in the information-sharing loop. Practice understandings about what information could and could not be shared with and by lawyers developed over time and in different ways in different locations. In at least two locations, lawyers obtained client consent to share information.

In relation to the exchange of information between lawyers, it appears that in some instances, there was uncertainty about whether the usual practice of lawyers informing each other about the nature of their instructions on matters of fact should be followed in CFDR practice. If applied sensitively and at an appropriate point in time (e.g., prior to the final legal advice session preceding FDR), this practice would support CFDR in important ways. Each lawyer could provide advice based on the alternative accounts for the consideration of their client. Particular care would have to be taken, however, to ensure that this practice occurs in a non-adversarial way and could not be perceived by predominant victims as indicating that they should compromise their position in ways that would affect their own safety and/or that of their children.

The use of protocols to guide practice on information-sharing is another important aspect of pilot operation, underlining the need for clarity in shared understandings and practices. Such protocols support the capacity for clarity and mutual understanding to exist between professionals and between professionals and clients.

## 7 CFDR negotiation in the shadow of family violence

The application of mediation-based processes in circumstances where there has been a history of family violence raises significant challenges to some of the core notions that underpin approaches to mediation. For a range of reasons linked primarily to the power imbalances that ensue from a history of family violence,<sup>26</sup> facilitated processes such as mediation have frequently been thought to be inappropriate for these cases. At the same time, empirical evidence and the practice literature demonstrate that such processes are quite widely applied in circumstances in which family violence has been alleged (Hannan, 2012; Kaspiw et al., 2009; Qu & Weston, 2010). Sometimes the process can be an empowering one for the victim, but sometimes it can engender fear and/or leave the victim in an even more vulnerable position.

Among the features of CFDR that are intended to address this practice reality is the provision of an intensive preparation phase, including legal advice, for all clients. As with standard family dispute resolution, the CFDR preparation process is intended to support the overall aim of assisting parents to improve communication and move towards a position where they are able to self-manage their parenting arrangements into the future.

The analysis in this chapter shows that the level of practitioner skill required to manage mediation in the CFDR context cannot be underestimated. In addition to the multidisciplinary nature of the process being a source of complexity, the characteristics of the clients demand a high level of practitioner experience and skill. Writing about the FDRP role in Australian family law practice generally, Cooper and Field (2008) canvassed the following practice challenges:

The parties are experiencing an emotional and difficult time that may impact significantly on their capacity to positively engage with the process. Some parties are able to come to the family dispute resolution table as rational negotiators who can accept the process ground-rules of respect and cooperative behaviour. Others are extremely volatile and difficult to manage. Difficult parties can upset the balance of the mediation process and the fair treatment of each party, by demanding more time of the practitioner and by remaining entrenched in their initial positions. (pp. 167–168)

This chapter examines the evaluation evidence on the core practice challenges in this area. The chapter begins with an examination of the preparation phases of CFDR and then sets out findings on how FDR is conducted. Discussion on the fairness of the process and the sustainability of outcomes is also included. Some case management data relevant to the issues discussed in this chapter have already been presented in Chapter 4 (see section 4.2.5).

### 7.1 Preparation

As outlined in Chapter 1, a significant aspect of the CFDR model is the level of support that all clients receive in preparation for attempting CFDR. This support includes a pre-mediation appointment with the FDRP for the purpose of assessing capacity and readiness, legal advice sessions, sessions with the support professionals, and

<sup>26</sup> We acknowledge that the notion of power in mediation is multidimensional and complex (Astor, 2005). Our focus in this evaluation is examining the extent to which the evidence indicates that the safeguards applied in CFDR support the participation of people who report a history of past and/or ongoing family violence.

communication sessions with the FDR provider. Referrals to other non-CFDR services may also be made in this phase.

Data presented in Chapter 4 show the level of service applied in these areas to the 63 cases (out of the total sample of 126 CFDR cases) that proceeded into Phase 2. To briefly recap, Table 4.19 reinforces the points made in previous chapters about the lower levels of engagement among male CFDR clients. Further data in Table 4.21 also show that female clients completed a higher average number of legal advice (4.9 appointments) and communication sessions (2.8 appointments) compared to male clients (1.0 and 1.6 appointments respectively).

In relation to non-CFDR referrals, a similarly gendered pattern is evident, with female clients receiving slightly more referrals (42%) compared to male clients (33%) in Phase 2 (Table A2).

For a fuller discussion please see Chapter 4. Additional data are also included in Appendix A.

### 7.1.1 Professionals' assessments of the CFDR preparation process

As data from the Professionals Survey in Table 7.1 indicates, professionals assessed the services provided in the preparation phase as being highly effective across all services and disciplinary groups. At least three-quarters of professionals considered the advice provided by SFVPs, lawyers, MSPs and FDRPs as being very effective or somewhat effective (86%, 84%, 79% and 75% respectively). All four of these services received very few responses that rated them as "somewhat" or "very" ineffective (0–3%). Although fewer professionals rated the services provided by children's consultants as being very or somewhat effective (56%), only 3% rated their work as being very or somewhat ineffective. On this particular issue, a considerably higher proportion of responses were in the "not sure" and "missing" categories compared to the ratings for the other professional groups. This finding probably reflects the relatively lower level of children's consultants' involvement in the CFDR program overall and, as a consequence, the likely lower level of other professionals' familiarity with the work that children's consultants do.

**Table 7.1 Professionals' ratings of effectiveness of services in CFDR preparation phase, Professionals Survey**

Professionals' rating of services	SFVP		Lawyer		MSP		FDRP		Children's consultant	
	%	n	%	n	%	n	%	n	%	n
Very effective	75.0	66	68.2	60	61.4	54	60.2	53	44.3	39
Somewhat effective	11.4	10	15.9	14	17.1	15	14.8	13	11.4	10
Somewhat ineffective	–	–	3.4	3	3.4	3	2.3	1	1.1	1
Very ineffective	–	–	1.1	1	–	–	1.1	2	2.3	2
Not sure	9.1	8	8.0	7	14.8	13	17.1	15	33.0	29
Missing	4.6	4	3.4	3	3.4	3	4.6	4	8.0	7
Totals	100.0	88	100.0	88	100.0	88	100.0	88	100.0	88

Notes: Professionals were asked: "How effective are each of the following professional services in helping parents to prepare for CFDR mediation?" Percentages may not total exactly 100.0% due to rounding.

Professionals' qualitative responses from the Professionals Survey and interviews were also strongly supportive of the preparation phase of the process in laying the ground-work for successful CFDR mediation to occur. Professionals reported that the support offered during the preparation phase provided an opportunity to reality-test parents'

expectations and viewpoints, which resulted in an overall increase in parents' focus on their children's best interests. Data from professionals and parents also indicate, however, that mediations were less successful when parents were not adequately prepared or where parents were not willing to move from their original position. The following statements from professionals illustrate these views:

Overall, the options put forward and agreements subsequently reached in Phase 3 of the CFDR process were more child-focused and more realistic than some of the options the parents were raising at the initial intake. The preparation the parents were required to engage in during Phase 2 gave opportunities for reality-testing, informing the parties about the legislative framework and legal considerations and developing a deeper understanding of the needs of the children, which led to better outcomes and agreements. [FDRP, Professionals Survey]

The co-mediation model with acknowledgment of family violence, clinical and legal support and preparation workshops works really well to support both victims and perpetrators through a mediation process in appropriate cases. Clients are still apprehensive but become settled by the time of the mediation with the assistance of their professional supports. [FDRP, Professionals Survey]

My experience is the attitudes and the positions that people bring to mediations are a lot closer together and they're a lot more able to discuss and negotiate where they've had interaction with the [lead partner organisation] and interaction with the counselling service, which has helped them deal with some of their issues and become a lot more child-focused. [Lawyer, Later stage interview]

There's a lot of stuff happening for the clients, and we know exactly where they're up to. So they're very well prepared for the mediations. [FDRP, Later stage interview]

We've seen of the parents who have stuck through and gone through to the mediation stage [that] there's an increased calmness. There's an increased sense of knowing what's happening and a sense of we actually are starting to build steps towards a future ... We're creating a safer environment for the children. [FDRP, Later stage interview]

This quote reflects an SFVP's experience of the value of providing support for predominant victims in preparation for mediation:

Most of the women I've spoken to, when they've finished we do a bit of a like, "How's it been?" All of them have been having the level of support that the pilot offers and they've all said just that support. Someone who understands and gets all the impacts of DV or gets the way—as in gets, I mean really, really understands—how he continues to maybe manipulate a situation. Many of the women will say, well, people just think I'm dreaming it or I'm being overprotective. So, that's one of the things that I think is—that women can actually—knowing that the people that are supporting them really understand what's going on. [SFVP, Later stage interview]

Support from both legal and men's services were highlighted by this MSP in preparing fathers for mediation:

Yes, as I said before, the legal advice, I think, is good. Yeah, I think to be able to come back to that same person and develop that therapeutic relationship is useful as well ... Because I don't work in that area [mediation]

I'm not sure how it goes usually, but the level of preparedness and the level of them going into that process with their eyes open and having thought about all the different angles and having had so much discussion must have a good impact on how it's going to work out in the end. [MSP, Later stage interview]

## 7.1.2 Parents' perspectives on the preparatory phases of CFDR

Analysis of the qualitative responses from clients who were interviewed or who completed the survey reveals that they were generally appreciative of the preparatory sessions they received, but that some parents had mixed or negative experiences.

During parent interviews and the parent survey, clients were asked what was helpful and unhelpful about their support sessions and experiences during the preparatory phases of the process, and their answers were analysed qualitatively. Almost all clients interviewed or surveyed received multiple sessions with each professional during the preparatory phases in all locations. Clients interviewed were in or had completed Phase 3 of the process, and clients who completed the survey were generally in Phase 1 or 2 of the process.<sup>27</sup> Similar themes emerged in both the parent interview and parent survey data; therefore the data from both studies are presented together in the following discussion.

### 7.1.2.1 Experiences with support professionals

Almost all clients found that their sessions with support professionals in particular were very or somewhat helpful (see also Chapter 5). No clients interviewed rated their experiences with support professionals completely negatively, but a small number of clients who completed the survey found their support professional to be very unhelpful. The features of parents' engagement with support professionals that elicited positive comments included: being provided with explanations of the CFDR process and the family law system, being provided with information about children and separation, and being assisted with communication strategies. Emotional support was also important for some clients.

A male client interviewed for the evaluation indicated that the preparation sessions were the best part of the process:

Through talking to the [support professional] ... I found out I was being ... a bit unrealistic with my demands ... They also got me to take a look at how I was as well. [Parent interview]

Another male client in a different location explained how his understanding of his situation and his ex-partner's behaviour shifted as a result of the preparation sessions:

He gave me alternatives for communication strategies with her ... I did, I guess, change my approach to communicating with her outside of the sessions, and also my thinking around what an acceptable outcome from the process would be. [Parent interview]

Some female clients were especially appreciative of the support they received from their SFVP. One female client observed that her support professional:

was very helpful. [When] we started I think we probably had 5 or 6 sessions at the women's shelter at [location]. I was going there from my shelter where I lived. We were having [a] session so she explained what domestic violence

<sup>27</sup> Analysis of the parents' survey data reveals that, in this study, five parents were in Phases 1 or 2, one parent was in Phase 3 and one parent was in Phase 2 or 3 of the process.

is and gave me materials and basically, you know, explained what all those signs were, because I didn't really know that it is what it is, you know.  
[Parent interview]

And another female client said that:

I was an emotional wreck at that point. Just actually talking to someone for the first ever time, that's when it hit me. She was really good. She's very supportive and let me do what I had to do, but at the same time she communicated the next steps, how they could help, and what they could and couldn't support, that kind of thing. [Parent interview]

In explaining why he found his support professional "terrific", this male client said:

I was able to not only present what I thought my position would be and have his feedback, but also to talk through where he thought there could be issues where I might be emotionally affected ... He was able to keep me grounded and focused on looking for outcomes that were of benefit to our [child]. [Parent interview]

Parents who reported neutral or negative experiences raised a range of varying issues. Some parents interviewed indicated that they didn't have a need for the services offered by the support professional:

[The support professional] obviously supplied me with brochures and things on separation of families and things like that. Yeah, I've probably got to say it was helpful because if I needed that kind of help then it was there. Having that help there if I needed it ... was good to know, I suppose; having the extra support, having total neutral, unbiased support there if I needed it. So I suppose that was good in a way, but me, personally, I didn't feel that I relied on that. [Parent interview]

For this male client, the support professional was of limited assistance because:

I come from ongoing problem[s] and I've seen several of these types of people. I was going over stuff I've already gone over. [Parent interview]

Another parent indicated that she had found the support professional of limited assistance because her views on what would be a good outcome for the children were not shared:

[The support professional] was quite good, but I found that sometimes [the support officer] could be a bit narrow-minded ... For example, [the support officer] just didn't see my point of view because I had previous convictions and [they] just kept mentioning that all the time and [they] didn't really focus on the issue at hand ... [The support professional] was just more looking at it from a society point of view. [Parent interview]

Clients offered mixed views about their sessions with their CFDR lawyers, with about two-thirds of clients viewing their lawyers positively. Some clients were ambivalent about the services received, and a small number found their lawyers to be unhelpful. The opportunity to obtain free legal advice was clearly valued by several parents interviewed, although some also indicated that the level of service they had received was fairly basic.

This male client commented positively about the assistance provided by his lawyer:

I found him to be ... very good—everything was done very professionally.  
[Parent interview]

These statements from two clients indicate they appreciated the level of legal assistance they received:

My lawyer, the experience was very positive again. She was very helpful, she explained what they will do for me, you know, from the legal side of parenting issues, and she gave me a lot of advice and information and booklets, you know, about what to do in a separation situation, you know, from the legal point. [Parent interview]

My lawyer, she's pretty good. She's in the process of drafting all the consents and that up now, so we're getting pretty close to finishing it off. She's been great as well. [Parent interview]

This comment, from a female client, is positive about her experience with her lawyer, even though the CFDR process overall didn't produce the outcome she wanted:

[The lawyer] put my viewpoints forward, but at the end of it, it wasn't successful. It wasn't what I wanted anyway, so yeah ... Yes, I think [the lawyer] did, yes, I think [the lawyer] did a very good job. [Parent interview]

Among the more common issues that parents from different locations referred to in less positive comments about their lawyers were lack of time, or less than timely appointments, reflecting the logistical challenges referred to in Chapter 6. Less commonly reported was a lack of confidence in the advice provided, based on the clients' sense that the lawyer was inexperienced. The following statements from parents reflect these views:

The only difficulty I had was the first mediation session was the first time I'd met my lawyer. I'd never met her beforehand, so it was really only half an hour before to actually do anything. I think at that point I just didn't feel like she offered me anything, to be quite honest. [Parent interview]

Pretty ordinary actually, because I hadn't been contacted by [CFDR lawyer] till I had to ring. [FDRP at service] rang me and said, "Are you right to, you know, take Thursday, and this is on a Tuesday". Yes, and I still hadn't had this contact with ... So, yeah, I met with [CFDR lawyer] 10 minutes before I went in. [Parent interview]

I went and saw her once before it started to mediate and then every time it went to mediation, I'd only see her for like 20 minutes, 15 minutes, before mediation started ... [Parent goes on to discuss that although the lawyer is situated some distance away, they would have been prepared to meet with them at the lawyer's office] and actually sat down and spoke, you know. I just thought that that time really wasn't enough time ... It's just when I went into mediation, like it was kind of rush, rush, rush, get everything ... And I was, like, the solicitor I thought could've got more. We could've spoke about more stuff and actually wait to go in mediation, and me kind of stumbling on stuff. I probably could've actually kind of, like, actually focused on that and, like, I wouldn't have stumbled on stuff. [Parent interview]

I wasn't entirely confident that with him [the lawyer], I felt that he wasn't well aware of the whole system and situation and didn't have that experience. [Parent interview]

A further aspect of the negative experiences of lawyers was identified by this client:

But I just felt like she sat back and was more of an observer than a contributor. But that was true of both of our lawyers to be honest. Neither of them contributed unless they were asked. [Parent interview]



## 7.2 Characteristics and experiences of FDR sessions

This section examines the way in which FDR unfolds in CFDR. In keeping with the intensive nature of the process, multiple FDR sessions are more common in CFDR than standard FDR, as are sessions applying a shuttle approach (where each party is in a separate room and the mediators move between them).

### 7.2.1 Multiple FDR sessions

Analysis of the case management data reveals that CFDR cases were much more likely to have multiple mediation sessions than comparison group cases (Table 7.2). Nearly three-quarters of CFDR cases had two or more CFDR sessions, with more than one-third having four or more sessions, whereas the majority of comparison group cases had a single mediation session.

**Table 7.2 Number of mediation sessions conducted, cases reaching FDR process, CFDR pilot and comparison groups**

Number of mediation sessions	CFDR pilot group		Comparison group	
	%	<i>n</i>	%	<i>n</i>
One	25.9	7	85.0	85
Two	7.4	2	14.0	14
Three	29.6	8	1.0	1
Four or more	37.1	10	–	–
Totals	100.0	27	100.0	100

In data from the request for information study, three locations reported that they conducted multiple CFDR mediations from the start of the pilot as it quickly became clear that the complexity of the cases in CFDR required more than one mediation to resolve matters. Interestingly, discussion among location coordinators at the regular teleconferences influenced the other two locations to also adopt a multi-mediation approach. One of these locations noted that while its standard mediation model is to hold one mediation to streamline the service and decrease costs, CFDR has led them to change their thinking and has necessitated a slower approach and a shift to multiple mediations in the CFDR process. The other location began taking CFDR cases some time after the pilot began and at the time of the RFI had not yet conducted any CFDR mediations. It reported that while they are aiming to streamline the process and achieve a parenting arrangement as soon as possible in each case, they expected to conduct multiple CFDR mediations also. This location has since concluded its first parenting agreement in CFDR in two mediation sessions.

Qualitative data provided insights into the necessity of conducting multiple mediations due to the complexity of most CFDR cases. Insights from professionals and parents indicate that multiple sessions are consistent with the intensive nature of CFDR and the work that is needed to build parents' capacity to participate in CFDR. Some professionals indicated that multiple sessions meant that compliance with agreements, and their effects on children, could be monitored:

Taking time and making a deliberate effort to take baby steps has, for the most part, worked well in enabling parents to reach their own agreement about safe arrangements for children, and better communication between the parents. Hopefully this means that agreements reached and Consent Orders entered into become more sustainable/workable—rather than have orders made by judicial determination and have the parties end up going through



contravention proceedings if they aren't happy with the arrangements and/or haven't been able to work through strategies of better and safer ways to communicate if disagreements pop up. [Lawyer, Professionals Survey]

Parents were generally supportive of taking part in multiple mediations during the process. Some mentioned multiple mediations as allowing sufficient time for both parties to address relevant issues and others noted that they help encourage a calm atmosphere:

[Several] mediations that we had, so, I thought it was done very well. I liked how the mediator explained how it was going to happen and pretty much—I think they sort of went through—just, well I pretty much asked me and [unclear] what I wanted to get out of it and what were the major topics. So pretty much this was the major topic and then the same—gave him a chance to express what he wanted out of it and what his topics were. Then we sort of pretty much prioritised what was the biggest needs and sort of put them in order and, yeah, and start from the top and then went from there and tried. It's another round I suppose. [Parent interview]

Because they were thinking for [ex-partner] to calm down, so stretch it out a bit more, to let time go by. [Parent interview]

We had more than one, but the first mediation took a while. We had to continue with the second. We actually had three. [Parent interview]

We've still got a few mediations to go yet. I'm happy with it. [Parent interview]

A parent who experienced several shuttle mediations explained how the process helped her to feel safe negotiating with her ex-partner and also enabled adjustment of the arrangements in response to the needs of the children over time:

I was a bit concerned about the mediation being together, but then once they decided it was going to be a shuttle mediation, I decided I didn't think I needed it [SFVP present after the first mediation], because I wasn't going to be in the same room ... as my ex-partner ... When we first started, when we did our first mediation, my ex-partner wanted a couple of things put in, like that they'd go to his place on a [night during the week] for a couple of hours and dinner and then come home and they'd ring him every afternoon when I got home from work. By the second mediation, the kids, the kids informed me that they no longer wanted to do the [night during the week], because it interrupted their week too much and that the phone calls, you know, a bit much every afternoon. And they informed me that they didn't want to go any more and I took that into mediation. [Parent interview]

## 7.2.2 Professionals present at CFDR co-mediations

In keeping with the intensive nature of the CFDR process, CFDR mediation sessions for the 27 sample cases that proceeded to FDR were much more likely to have multiple professionals involved than the comparison group (Table 7.3). Co-mediation (involving two FDRPs) was applied in all CFDR FDR sessions, compared with 22% of comparison group sessions. Lawyers for each party were present at all CFDR FDR sessions, compared with just under half of comparison group FDR sessions.<sup>28</sup> Child consultants were more likely to be present for CFDR FDR sessions (11%) than for comparison group FDR sessions (2%). With no support professionals present in comparison group cases, it

<sup>28</sup> In the comparison sample, all of the cases where a lawyer was present occurred in one location. The other comparison group locations did not undertake any FDR sessions where a lawyer was present.

is interesting to note that SFVPs were present more often in CFDR cases (nearly half) than MSPs (just over a third).

**Table 7.3 Professionals and clients present at CFDR/FDR mediation, cases that reached FDR process, CFDR pilot and comparison groups**

Professionals and clients present	CFDR pilot group (%)	Comparison group (%)
Client 1	100.0 <sup>a</sup>	95.0 <sup>e</sup>
Client 2	100.0 <sup>b</sup>	96.0 <sup>f</sup>
One FDRP	–	76.0
Lawyer for Client 1	100.0 <sup>c</sup>	44.0 <sup>g</sup>
Lawyer for Client 2	100.0 <sup>d</sup>	43.0 <sup>h</sup>
Two FDRPs	100.0	22.0
DV service consultant	48.2	–
Men's service professional	37.0	–
Child practitioner	11.1	2.0
Other person	7.4	7.0
No. of cases	27	100

Notes: Percentages do not sum to 100% as cases could have multiple people present at FDR/CFDR process. <sup>a</sup> In 18.5% of these cases, Client 1 was male. <sup>b</sup> In 81.5% of these cases Client 2 was male. <sup>c</sup> In 18.5% of these cases, Client 1 was male. <sup>d</sup> In 81.5 % of these cases, Client 2 was male. <sup>e</sup> In 37.9% of these cases, Client 1 was male. <sup>f</sup> In 60.4% of these cases, Client 2 was male. <sup>g</sup> In 25.0% of these cases, Client 1 was male. <sup>h</sup> In 72.1% of these cases, Client 2 was male.

As Table 7.3 indicates, the number of people present is a significant characteristic of CFDR FDR sessions, which can amount to ten people if each client has a support professional and a lawyer there with them—namely, two clients, two support professionals, two lawyers, two mediators and potentially a child consultant and/or an additional non-lawyer professional advocate. In contrast, mainstream FDR sessions will most often be attended by one FDRP and two clients and, on occasion, lawyers for either or both parties and, even more rarely, a child consultant.

In data obtained from the RFI study, two locations reported that support professionals always attend mediations and the other three locations reported that support professionals attend mediations sometimes but that this is not routine practice. In one of these three locations it was noted that, where a support professional attended a mediation because of a client's apprehension and/or request, it had been very helpful and was an adaptation that the location was further developing. It was also noted that having the support professional either present in the mediation or in the adjacent break-out room could help settle clients. In addition, it was seen as being especially valuable if an MSP could be available during breaks to provide advice to male clients around strategies to manage reactivity.

The qualitative data collected from both professionals and parents reveal a number of differing views of the implications of having so many people in the room. These ranged from the practical (“we had to find a bigger room”) to more nuanced and varying views of the effects on the dynamics of the session. Positive views expressed by professionals and some parents generally related to a perception that the number of professionals present heightened accountability (in relation to clients and professionals). Clients who were predominant victims were also likely to refer positively to feeling supported by the presence of a support professional and/or lawyer. Less positive views suggested that the presence of a “cast of thousands” may be overwhelming for some clients and may pose challenges in keeping professionals focused on the clients. The following quotes illustrate the range of perspectives:

In the CFDR process, you've got a co-mediator model, so you've got the two mediators in the room, you've got the two clients in the room, you've got the two solicitors in the room and you've got the two support workers in the room. [FDRP, Later stage interview]

She said that being in that room with all those people there, because there were the two lawyers, the two counsellors, the two mediators there and then the two clients—so with eight of us there she felt like she was just at a meeting, like [a meeting] where she works ... So, yes, she found having that many people in the room created that feeling of safety. [Lawyer, Later stage interview]

Clients are more likely to agree to something when they believe that their legal rights are not being compromised. That is an okay thing for them to agree to, and therefore having the lawyers in the room adds an element of confidence to the clients because they see that their lawyer is not upset by the things we've said. [FDRP, Later stage interview]

An MSP noted that male clients feel supported in the mediation when their lawyer and support professional are present, as their presence contributes positively to the client's perception of fairness of the process. As he summed up, with both their MSP and lawyer present in the mediation:

I think that's the other advantage, is when the guys actually get in the room and they start doing the FDR process, they feel safe, and they feel like they can say what they need to say. [MSP, Later stage interview]

A female client explained that the presence of several professionals in the room neutralised her ex-partner's tendency to engage in intimidating and controlling behaviour. She was not the only parent to raise this issue:

He had witnesses and he had people [watching]. He cares what people think of him. The whole thing of being in front of people and being liked. [Capacity to intimidate and control] was definitely neutralised. I'm a fairly confident communicator anyway ... and that situation made it even easier. [Parent interview]

### 7.2.3 Type of mediation conducted in CFDR

An issue on which multilateral decisions are made in the CFDR process is in relation to whether FDR takes place face-to-face or with the application of shuttle processes. Shuttle approaches avoid face-to-face contact between the clients, which may ameliorate any feelings of fear and the potential for intimidation to occur. Shuttle approaches are not the only tool available to achieve this aim and need to be carefully considered in relation to other key aims, such as moving clients toward self-management of their dispute.

Table 7.4 shows that shuttle approaches are more extensively applied in CFDR than in comparison group cases, and there were varying approaches applied in different locations. Further analysis of the CFDR case management data reveals that 30% of CFDR pilot group cases were conducted by shuttle mediation only, with the remainder of the mediations being either face-to-face or mixed face-to-face and shuttle mediations (Table 7.5). While noting the small sample sizes, when these data are further analysed by location, most of one location's mediations were shuttle-only mediations, compared to three other locations where the clear majority of mediations were conducted face-to-face. In two of these locations, a single mediation was conducted by shuttle only and in the third location no shuttle-only mediations were conducted. In the fifth location, a single

case had reached mediation at the time of data collection and we do not report further on this location in this particular discussion.

**Table 7.4 Type of CFDR/FDR mediation conducted, cases that reached FDR process, CFDR pilot and comparison groups**

	CFDR pilot group (%)	Comparison group (%)
Face-to-face	66.7	70.0
Telephone/teleconference	3.7	17.0
Videoconference	–	1.0
Shuttle	63.0	19.0
No. of cases	27	100

Note: Percentages do not sum to 100% as cases could have multiple FDR/CFDR process types.

**Table 7.5 Conduct of shuttle-only or mixed-mode CFDR mediations, cases that reached FDR process, CFDR pilot group**

Type of CFDR mediation	%	<i>n</i>
Shuttle exclusively	29.6	8
Face-to-face or mixed face-to-face/shuttle	70.4	19
Totals	100.0	27

Interestingly, the location where the greatest number of parents who were interviewed in Study 5 reported feeling the safest in mediation was the location where the majority of mediations were conducted solely by shuttle and where parents reported that all mediations incorporated shuttle mediation at some stage. However, we also note that shuttle mediation was not absolutely necessary for the majority of parents interviewed to feel safe: in another location, where the majority of mediations were conducted face-to-face, most parents interviewed reported feeling safe in their mediations. Parents' experiences are discussed in more depth below.

The qualitative data from professionals and parents makes it clear that clinical judgments about the dynamics at play, and consequently whether face-to-face or shuttle mediation should occur, are quite complex. The parent data indicate that some predominant victims experienced significant levels of fear, distress and intimidation in face-to-face sessions. This has fundamental implications for whether outcomes are consistent with the ideals of FDR generally and the precepts of CFDR specifically.

The choice about whether face-to-face or shuttle mediation should occur needs to be handled sensitively, in order to avoid the experience reported by one parent who felt pressured to agree to face-to-face mediation:

I found them to be quite pushy in terms of us being in the same room so it could get on quickly, and I wasn't too happy with that at all. I wasn't really satisfied. [Parent interview]

Although interviews with professionals demonstrated awareness of the potential for predominant victims to experience emotional difficulty with face-to-face mediation, data from parents indicate that, in some cases, professionals demonstrated less sensitivity and control than was required. The data from parents indicate that the trauma involved in FDR where there has been a history of family violence cannot be underestimated for a range of reasons. Interviews with predominant victims indicate that being in the presence of their ex-partner reignited feelings of emotional trauma. In some instances, subtle actions by the ex-partner triggered traumatic memories. In other instances, clients perceived that the professionals involved, particularly the mediators, allowed abusive or

difficult behaviour to continue, which affected clients' perceptions of both the fairness and safety of the process. Across all the locations, around half of the predominant victims interviewed reported they felt unsafe during the mediation process because of the predominant aggressor's behaviour. However, it is worth noting, that the majority of these parents nevertheless felt mostly positive about their overall experience in CFDR.

Data from professionals reinforced the point that face-to-face FDR sessions had the capacity to contribute to parents moving forward and overcoming their fears, as this quote explains:

Shuttle ... adds to fear because they haven't confronted their fears, whereas I think that if they're in a room with millions of people, you know, they're sort of buffered by lots of people and usually bad behaviour is suppressed in that situation. [Lawyer, Later stage interview]

An MSP made this comment about his observations of the experiences of predominant victims in face-to-face sessions:

When they go into the FDR sessions and when there's different levels of communication, I'm sure that the victims would know that they're up to their old tricks ... I certainly have sensed that it's not all that comfortable for the women in the victim situation. [MSP, Later stage interview]

One lawyer was proactive in addressing violence with a whole-of-family perspective, after becoming aware of the other party's distress during a face-to-face mediation:

[The other party] has her clinical caseworker there in another room and they were, look, everyone was really sensitive, really good to her [during a face-to-face mediation]. I think, you know, well, what happened for me was [reports observing a response indicative of severe emotional distress if not trauma]. But you know I don't actually think it's a bad thing to understand the [observed response] ... But I did talk to him about how she looked like she was struggling in that, and how scared she looked, and he was, you know. [Lawyer, Later stage interview]

This example of a shift in the predominant victim's capacity to stand up for herself was provided by another lawyer:

I remember looking at one woman, and a guy was saying some horrible, really nasty stuff that was really beside the point, and it was clearly being said just to rattle her and shake her. You know, she stared him down ... and then at that point I sort of thought, you're starting to shake, and I said I think maybe we might need to have a break now. We went out and she was shaking and she was like, "Oh my God". And we were looking at her going ... "Haven't you come a long way?" So for some people, you know, it can actually have a therapeutic benefit, because they can actually talk to this guy by text or by phone to organise stuff for the kids. That doesn't happen if it's just two people and two mediators. [Lawyer, Later stage interview]

Among parents who reported being involved in both types of mediations successively, the direction of the shift reported most frequently was from face-to-face to shuttle. The interview data indicate that this occurred because of issues emerging in the face-to-face mediations, primarily related to safety and, on occasion, the inability of the professionals present to control the mediations and restrict outbursts by predominant aggressors.

Several women reported being grateful for being able to avoid face-to-face contact through shuttle processes and other mechanisms. Interviews with male clients suggested that some were also grateful for the capacity to avoid face-to-face contact, while others indicated that they did not understand why shuttle processes were applied. It is clear

that a high level of sensitivity in monitoring the emotional and psychological impact of these mechanisms is an important part of the professionals' roles in CFDR.

The interview data from predominant victims provide insight into the depth of the emotional difficulties involved in facing an ex-partner in mediation. The following comment highlights this woman's ingrained emotional reactions, triggered despite some years having passed since the separation and the mediation taking place with several professionals in the room:

Emotionally ... I'm a bit messy when it comes to dealing with my ex—so that's probably—wouldn't have mattered where we were ... Whilst we were in the same room, we were surrounded by other people, so I didn't feel threatened by him. But he's certainly an intimidating man and he's very forceful in how he speaks ... which I obviously still react to after all these years. [Parent interview]

Another client regretted not having a support professional there, and her comments also reflect the emotional effect the mediation had on her:

I felt like I needed someone else there with me apart from my lawyer ... There was one point where I just sort of cried because it was a bit too much stress to think that I'm on my own ... Even a family member or something ... The support worker would have made me feel supported ... I don't think I felt emotionally safe, I guess ... I couldn't eat for days and it just felt arduous. [Parent interview]

Another client described feeling emotionally unsafe in the mediation session because of the lack of control in her ex-partner's behaviour:

He pushed at me at an emotional level ... to the point where I was in tears in the room ... They just let that roll to the point where I was in tears and had to leave. [Parent interview]

Some parents interviewed from other locations reported very active responses to the behaviour of predominant aggressors in face-to-face mediations, as this comment indicates:

In that time when everyone was together, it was really apparent that he couldn't hold it together in front of everyone there ... He doesn't listen to anything I say and it was—but the mediators didn't let him get away with it. They kept bringing him back and saying, "But what do you think [participant] is trying to say?" [Parent interview]

The following quotation highlights how professional support can assist predominant victims overcome feelings of trauma and distress in FDR sessions:

The first time I was terrified ... I was absolutely terrified ... But I was actually surprised how, with the support around me ... I could be stronger. I knew I was safe in the room ... I know he couldn't do anything to me. [Parent interview]

This female client described how, with each mediation, she felt stronger. She reported that by the third mediation she felt strong enough to attend the session without her SFVP. This parent reported that because of her emotional distress and feelings of fear, she had agreed to matters in the early sessions that she didn't want to agree to. She also related, however, that the professionals involved monitored her emotional condition and supported the revision of these issues in later mediation sessions:

He can just look at me and I know ... A couple of time[s], I agreed to things that I wasn't comfortable with ... She [the FDRP] knew just by my body

language I wasn't okay with it ... There was another mediation in a couple of months, so it was all sorted out then. [Parent interview]

This female client summed up how the CFDR team worked together to ensure that she felt safe and comfortable enough to attend a face-to-face mediation:

That was another good thing they thought about—even how will I enter the room without seeing him. I think it was [SFVP] who came with me. They all said come a few mins early, or was it [LC]. She arranged it early [for there to be] another room where I could sit and talk to my lawyer and to my counsellor so [ex-partner] arrived separately ... It's not a big room, but they put [me] on one side of the table and he was further away. So they think about those little things. So it was a full room of people so I wouldn't think he was going to do anything. I felt safe—it's just emotionally difficult, overwhelming, to see him there. All the emotions that come back of what I've been through. It wasn't that easy but I felt safe. I would say I didn't have a problem. [Parent interview]

One male interviewee made the following positive observations about how face-to-face mediations were conducted:

Parent: Yes it was done really well. I mean whenever things got too much for us we were able to stop the meetings and go to separate rooms and talk with our individual lawyers. Yes, it was organised very well. It was a bit full-on at first, but as it progressed [name], my ex, settled down a bit more. I think in the beginning she was a bit airy fairy.

Interviewer: Oh, okay, "airy fairy", what do you mean by that?

Parent: Still quite upset about what had happened. She wasn't at ease, comfortable, being—I mean, neither was I. We both were uncomfortable being in the same room with each other. It got better. [Parent interview]

A contrasting view was expressed by this interview participant, who indicated that he didn't understand why his ex-partner was feeling uncomfortable:

And she said that she felt threatened and didn't feel safe, and so I asked "Why is that? Tell me why. What is that makes you feel threatened and not safe?" And then all of a sudden the two mediators said, "Time out, time out. Think we better have a break". You know, I wasn't being angry or hostile or aggressive, but she just wouldn't answer and so they called a time out, you know. And, like, to me, well, this is a big issue here ... And so then I went out of the room and come back in, and they said, "She doesn't wish to answer". How good is that? How are we going to solve anything if we can't talk about these things, you know? [Parent interview]

Parents who were predominant aggressors expressed varied views on shuttle mediation, ranging from positive to accepting that it could be a helpful process to move their case forward. As one male parent summed up:

We don't hate each other, but we're just finding it very hard to live with each other, so they suggested [shuttle mediation] and I went along with that. [Parent interview]

The following example of a positive view of shuttle mediation illustrates how the process can be helpful for managing tensions and enabling mediation to be a less stressful experience, even though it can take additional time:

All round it was pretty good. It took a long time. That's because I sort of had difficulties being in the same room as my ex-partner, so I was in another



room. She would go in first, have her say with my lawyer and her lawyer there in the room, and then she would leave and I would go into the room and listen to what she had to say and her concerns, and I had my say. But it went quite well, I suppose at first I was a bit nervous and suffering from a little bit of anxiety, but I thought it went pretty good. Probably ran a bit longer than I thought but, because of the situation where I couldn't confront her, it just took a little bit longer. But otherwise, things were a lot more casual and relaxed. [Parent interview]

### 7.3 *The nature of the process*

As explained at the outset, FDR is based on the notion that the process supports parents in agreeing on parenting arrangements and is a step in the direction of future self-management. In the context of family violence, this ideal is recognised to be difficult to achieve because of the power dynamics such a history creates in a relationship, at a general level, and more specifically, because of the potential ongoing effects of trauma. An important way in which the CFDR model attempts to address this is via the provision of additional assistance, especially through the direct involvement of lawyers and support professionals, among other mechanisms. This section uses data from professionals and parents to examine perceptions of the fairness and safety of CFDR.

The largely positive views of CFDR mediation processes held by professionals are summarised in Table 7.6. As this table shows, a majority of professionals participating in the survey indicated that both predominant victims and predominant aggressors had an “adequate opportunity to put their side forward during mediation”. Marginally stronger agreement was indicated in relation to predominant victims, with a slightly smaller proportion of professionals indicating that they “strongly agree” (cf. “agree”) in relation to this group of clients. Interestingly, no professionals disagreed that predominant aggressors had an adequate opportunity to put their side forward, while only two provided a negative response (“disagree”) in relation to predominant victims.

**Table 7.6 Professionals' agreement that each party had adequate opportunity to put their side forward during CFDR mediation, Professionals Survey**

Professionals' level of agreement	Predominant victim put their side forward		Predominant aggressor put their side forward	
	%	<i>n</i>	%	<i>n</i>
Strongly agree	37.5	33	33.0	29
Agree	37.5	33	42.1	37
Neither agree nor disagree	–	–	3.4	3
Disagree	2.3	2	–	–
Strongly disagree	–	–	–	–
Do not know/Cannot say	18.2	16	17.1	15
Missing	4.6	4	4.6	4
Totals	100.0	88	100.0	88

Notes: Professionals were asked: “Does each party have an adequate opportunity to put their side forward during the mediation process of CFDR?” Percentages do not total exactly 100.0% due to rounding.

Qualitative data indicate that the main features of the CFDR process that the professionals perceive as supporting fairness are the application of the co-mediation model, the involvement of support professionals and access to legal advice. The following comments illustrate these views:



It has certainly helped to give them a voice. Without doubt it's helped to actually prepare them to be able to make really quite assertive decisions ... and not just be passive participants, which, as an FDRP, sometimes we are quite concerned about; whether the agreement that has been made is made in good faith or is just being made to appease the other parent. It's not something we can really tell. [FDRP, Later stage interview]

They've got their legal support person and their men's worker there alongside them. I guess once they've had an opportunity to actually experience that, they sort of understand that it's all fair and equal. No sides are being taken. [MSP, Later stage interview]

### 7.3.1 Parents' perspectives on fairness and safety in CFDR

As with other issues in the evaluation, the parents' perspectives were considerably less positive, and more mixed, than those of the professionals. Although most parents interviewed were positive about the CFDR process overall, and some were very appreciative of some aspects of the support they received, the data about the conduct of the CFDR mediations indicate a range of views. Overall, a majority of parents felt positively about their mediations, but a significant minority felt mostly negative and one parent felt entirely negative about the process. Interestingly, there is no discernible difference in parents' positive or negative feelings about the mediations based on gender or whether they are the predominant aggressor or predominant victim.<sup>29</sup>

Data from parent interviews also indicated that when parents felt the mediation process was fair, the majority of parents also viewed the overall CFDR process more positively. These data also indicated that where parents achieved the outcome they wanted they were more likely to view the mediation process as fair. Parents who did not achieve the outcome they wanted were more likely to find the mediations unfair. There is no discernible correlation between gender and outcome achieved, but predominant victims reported that they were more satisfied with the CFDR outcomes achieved than predominant aggressors were.

Comments from parents who viewed the CFDR mediation process positively include:

We've still got a few mediations to go yet. I'm happy with it. Actually it's good. It's helped me out a lot. [Parent interview]

[The mediator] said if you're comfortable like that, if you're not comfortable in the same room together then we're not going to force you. They reassured me that if I'm not comfortable with a situation then I can say something, put my hand up and say something if it makes it a little bit more easier for me. ... The best bit is everyone being friendly and helpful. They answered all my queries and questions and listened to my concerns. All the time I was there I was always reassured. [Parent interview]

Some parents, however, felt the process was less than fair:

I got the feeling that her and the other mediator were constantly looking at me like I was a bit of an over-protective mother and a bit of a dickhead. [Parent interview]

Not really. I kind of felt that it was one sided. [Parent interview]

<sup>29</sup> Parents' survey responses broadly followed similar trends to those discussed in regards to the parent interview data, but this interpretation should be treated with caution as the survey dataset is very small ( $n = 7$ ). Only one parent who completed the survey answered that "Yes, they had attended a CFDR mediation", but they did not provide any comments on their views on the fairness or unfairness of the process.

A number of parents reported that the process was fair despite the outcome not being consistent with their position:

I think it was fair, but I just wasn't very satisfied with the outcome because it stayed the way it was ... You know, [the lawyer] knew the outcome before it happened, the outcome happened, but, yeah, that's why I wasn't really satisfied with the outcome, because I just went through it and nothing happened, so ... Nothing for me anyway. [Parent interview]

Another parent thought that both the process and outcomes were unfair and favoured his ex-partner:

It felt as though I was trying to do the right thing, but she could just dismiss it if she didn't agree. And she could come up with proposals that were quite unreasonable and no one would call her on that lack of reason. [Parent interview]

Although a partial parenting agreement was negotiated during CFDR mediation in one case, this parent was ultimately not satisfied with the process and requested a certificate. As the parent sums up:

I was just totally—what's the word—I was just sort of, yeah, lacked confidence in the whole process, the mediation process. To me, it failed me. [Parent interview]

As outlined in Chapter 1, a central aim of CFDR is to maintain safety. The mechanisms through which this is achieved are explained in some depth in Chapter 5 and are dealt with to some extent in the section in this chapter on the application of shuttle mediation. More broadly, the parent data indicate that while a majority of parents felt safe in mediations, a number of parents indicated feeling emotionally unsafe in the sessions and one reported feeling neither physically nor emotionally safe. Predominant victims were more likely to feel unsafe in mediations, with around half of the predominant victims interviewed feeling either physically and/or emotionally unsafe. When asked about their and their children's overall safety during the CFDR process, about half the parents interviewed indicated they felt they and their children were safe throughout the process. Similar to their perceptions of safety in mediations, predominant victims were more likely to indicate that they felt they and their children were not safe at times during the process.

## 7.4 *Agreements*

The case file data reported in Table 7.7 also show that CFDR pilot group cases were less likely than comparison group cases to exit FDR without any agreement being reached (11% cf. 23% respectively). Conversely, partial agreement, reflecting a resolution in relation to some but not all issues in dispute, was more likely to occur in CFDR pilot group cases than comparison group cases (48% cf. 33% respectively), while full agreement was less likely to be reached in CFDR pilot group cases than comparison group cases (37% cf. 43% respectively).

**Table 7.7 Whether and type of agreement reached, cases reaching FDR process, CFDR pilot and comparison groups**

Type of agreement	CFDR pilot group		Comparison group	
	%	<i>n</i>	%	<i>n</i>
Full agreement reached	37.0	10	43.0	43
Partial (written or verbal) agreement	48.2	13	33.0	33
No agreement reached	11.1	3	23.0	23
Missing	3.7	1	1.0	1
Totals	100.0	27	100.0	100

In considering these data, it is also important to keep in mind the nature of the client group involved in this process and the complex nature of the matters being dealt with. Data from professionals, and particularly interviews with parents, reinforced this point, with several parents indicating either that their ex-partner's position was virtually unshiftable or that they themselves were unwilling to shift, and hence accepting the consequences of going to court. This excerpt, from an interview with a mother, illustrates this point, and the parent's acceptance of the inherent limitations in the ability of the process to change her ex-partner's attitude:

That continued, and basically, I don't know, maybe [for] about 2 hours we went backwards and forwards with all of that. Then they eventually said, "Look this is his position, how do you feel about that?" I was a bit of a mess and I said, "I just can't do it. I've already waited, like, eight months to get to this point and he's just stringing it out longer and longer" ... I wasn't very happy, just pretty disappointed with the outcome, I guess, but that's not their doing. They can't make him a sensible person. At that point they reconvened, came back and said, "Look they've decided they can't continue and they'll issue the section 601", whatever it was. [Parent interview]

This father similarly found his ex-partner unwilling to shift her position in mediation:

I definitely felt that I got my views across. Unfortunately, I just don't think my former partner was willing to listen to what was being said about that at the time, and on paper it looked as though she was going to be quite reasonable with what she was offering, but then on the day of mediation she decided to take it all back and just said, "No, I want supervised visits", and that was basically it. She wasn't willing to negotiate unfortunately. [Parent interview]

Another parent, disappointed that the mediation was not successful, was reluctantly preparing to proceed to court:

They tried very hard to make him realise why we were there and to understand the process and all of that sort of thing. He just wasn't willing to budge ... I thought they were very careful with how they dealt with it. It was, had it been, maybe, two different people, it may have worked very well. I'm a big believer that mediation is a good way to go but, unfortunately for us, obviously there was issues that, on the day of mediation, I wasn't aware of. It was extremely hard and extremely costly [undertaking a legal process] and, unfortunately, I have no other avenues left to go. And this is why I thought the mediation process was good, because it gives families that don't have a lot of funding an avenue to do something. I would have preferred that above and beyond going to court, but my hands are tied now. I had to act. I've had to do that, but I don't think that was any fault of the program. I think that was inevitable in our particular case. [Parent interview]

This parent did not feel that the increase in time that their children spent with the other parent—negotiated through the CFDR process—was in their best interests, and was prepared to undertake a court process with a view to getting the time wound back, if necessary:

But [court's] probably where we are going to end up because the other party wants 50/50 with the children, and I personally think that the time that [the other parent] has with them now is too much because [the other parent's] not taking their best interests in hand ... So therefore, yes, let's go to court if that's what [the other parent] wants to do. [Parent interview]

Further aspects of professionals' views on the dynamics involved in CFDR agreements were examined through survey questions asking professionals to indicate their level of agreement with statements relating to the extent to which the parenting agreements made in CFDR worked for predominant victims, predominant aggressors and children. These data are reported in Table 7.8. The most noteworthy feature of the response patterns taken together are the greater levels of agreement that parenting agreements/plans work for children, and this is in keeping with the child sensitive nature of the process (see further discussion in Chapter 8). Response patterns in relation to agreements working for predominant victims are very similar to those for children. Professionals were not quite so positive in their assessment of CFDR agreements working for the predominant aggressor, with fewer than half agreeing or strongly agreeing that this was the case. Complex issues surround the question of how agreements should respond to the needs of either parent but, in family violence cases, particularly to the needs of predominant aggressors.

A qualitative response from the Professionals Survey from an FDRP highlights how the dimensions of the questions are inherently subjective:

Professionally, I think the agreements do work for the aggressor, but for them, they would see it doesn't work for them. [FDRP, Professionals Survey]

**Table 7.8 Professionals' agreement on whether CFDR outcomes worked for clients and their children, Professionals Survey**

Professionals' level of agreement	Worked for predominant victim		Worked for predominant aggressor		Worked for children	
	%	<i>n</i>	%	<i>n</i>	%	<i>n</i>
Strongly agree	14.8	13	5.7	5	14.8	13
Agree	44.3	39	43.2	38	45.5	40
Neither	13.6	12	20.5	18	10.2	9
Disagree	1.1	1	1.1	1	–	–
Strongly disagree	–	–	–	–	1.1	1
Not applicable	17.1	15	19.3	17	19.3	17
Missing	9.1	8	10.2	9	9.1	8
Totals	100.0	88	100.0	88	100.0	88

Notes: Professionals were asked: "The following statements ask you to reflect on the quality of outcomes reached in CFDR agreements. How strongly do you agree or disagree with the following statements: Parenting agreements/plans made in CFDR worked for the predominant victim; Parenting agreements/plans made in CFDR worked for the predominant aggressor; Parenting agreements/plans made in CFDR worked for the child/children."

Questions in the Professionals Survey also examined issues that go to the core of the intentions of CFDR, namely, maintaining the safety of parents and children and assisting parents to move towards self-management (Table 7.9). Responses on whether parenting agreements/plans took concerns about the safety of parents and children into account

were largely positive, with 31% of responses indicating strong agreement and 39% agreement. Responses to a question on the issue of agreement making “it clear for parents about how decisions about the children will be made in the future” were largely positive, but less emphatically so, with one-fifth indicating strong agreement and 42% agreement. Non-committal responses (“neither”) were significantly more frequent in relation to future decision-making than to safety (9% cf. 3% respectively).

**Table 7.9 Professionals’ agreement about whether CFDR affected safety, future decision-making and property matters outcomes, Professionals Survey**

Professionals’ level of agreement	Safety of parents and children taken into account		Parents clear about how decisions about children will be made in future		Addition of property assists parents in finalising arrangements	
	%	<i>n</i>	%	<i>n</i>	%	<i>n</i>
Strongly agree	30.7	27	20.5	18	8.0	7
Agree	38.6	34	42.1	37	27.3	24
Neither	3.4	3	9.1	8	18.2	16
Disagree	2.3	2	2.3	2	3.4	3
Strongly disagree	1.1	1	1.1	1	–	–
Not applicable	15.9	14	17.1	15	34.1	30
Missing	8.0	7	8.0	7	9.1	8
Totals	100.0	88	100.0	88	100.0	88

Notes: Professionals were asked: “The following statements ask you to reflect on the quality of outcomes reached in CFDR agreements. How strongly do you agree or disagree with the following statements: Parenting agreements/plans take concerns about the safety of parents and children into account; Parenting agreements/plans reached in CFDR make it clear for parents about how decisions about the children will be made in the future; and The addition to the CFDR model relating to property has assisted parents in finalising parenting arrangements”. Percentages may not total exactly 100.0% due to rounding.

In keeping with the very positive views of most professionals about CFDR, professionals endorsed the capacity of the process to produce agreements, as this comment from the Professionals Survey shows:

Most parents who reached final agreements want them to be formalised by way of Consent Orders. The agreements have included (but were not limited to) allocation of parental responsibility, safe places for changeover, method and content of communication (between parents and between the predominant aggressor and children) and gradual increases in time between the children and aggressor (where there had been little to no contact for some time following separation). The anecdotal feedback I have received from clients has overwhelmingly been positive about their experience throughout the CFDR process and what results were achieved. Even for clients who were screened out of CFDR (either at the beginning or throughout the process) have still said that they found the process to be very extremely beneficial in helping the family as a whole find a way to negotiate about the children ... The feedback from the high proportion of clients I represent all says the same thing—they do NOT want to end up in Court. Therefore, for clients who are victims of family violence who WANT to be able to negotiate with their ex-partner about safe living arrangements for children, there must be a program like CFDR in place to support, advise and assist these families in being able to negotiate their own agreement. [Lawyer, Professionals Survey]

## 7.5 *Sustainability of outcomes and assisting parents to negotiate arrangements post-CFDR*

One of the key objectives of the CFDR model is to achieve safe and sustainable post-separation parenting outcomes for children and their families.<sup>30</sup> Insights into the sustainability of CFDR outcomes reached in the CFDR process are provided through the case management data and qualitative interviews with professionals and parents, supplementing the survey-based insights reported in the preceding section. The evaluation data indicate that, generally, parenting agreements are being sustained and professionals are positive about the follow-up phases assisting parents to maintain safe and workable outcomes. However, data generated from engagement with parents reinforces the complexity of the cases, with some parents indicating uncertainty about the future of their arrangements.

Some parents also reported uncertainty resulting from a lack of closure of their cases. These parents indicated that after attending a number of mediations, arrangements had still not been signed-off, which was stressful:

I think we finished—we would have finished mediation—I would say it's a least two months ago. I contacted my lawyer from there and asked why it hasn't been finished. I would like to get it signed off so I don't have to go back through it all again. It still hasn't been finalised so ... That's quite possible, in 12 months time I could be doing all this again because nothing's been finalised, which is very frustrating. [Parent interview]

We're still in limbo at that matter. We had to finalise one and we're supposed to have ... It was sort of agreed on during the mediation, but then he's changed his mind now, so we couldn't agree on something on the last one, so it wasn't really finalised on our last session. ... It's been weeks and weeks and weeks. [Parent interview]

Another parent also reported feeling that the service had not provided adequate information on the avenues open to them following the failure of the other parent to enter into CFDR:

It would have been nice to have an outcome. They said he didn't return letters, but not quite sure what happened. Nothing was ever told to me. They just said they were sending a letter so you could go to court. [Parent survey]

For CFDR cases reaching the Phase 4 follow-up stage, information was collected on the extent to which agreements reached in the CFDR process had been maintained. As shown in Table 7.10, the majority of agreements (75%) reached in CFDR had been maintained either in full or partially at the three-month follow-up phase.

<sup>30</sup> See Objective Number 1 in Women's Legal Service (2010, p. 9).

**Table 7.10 Whether CFDR agreement has been maintained, cases reaching Phase 4 follow-up, CFDP pilot group**

Whether CFDR agreement maintained	%	<i>n</i>
Yes	40.0	8
Partially	35.0	7
No	20.0	4
Missing	5.0	1
Totals	100.0	20

In 30% of the CFDR cases that reached Phase 4, Family Court action had been initiated, with half of these cases involving an application seeking to change the arrangements made in CFDR (data not shown). Other matters were proceeding to court to resolve outstanding parenting issues or property and financial matters. As a point of comparison, in only 13% of comparison group cases reaching an FDR process had a Family Court action been initiated (data not shown). This is likely to be attributable to the more complex nature of the CFDR cases, as discussed in Chapter 3.

Along with the case management data relating to the degree to which agreements were being maintained, respondents in the Professionals Survey were also asked about their level of agreement that CFDR follow-up helps to maintain safe and workable outcomes for parents and children. These data are reported in Table 7.11 and show that, while only 45% of the professionals agreed or strongly agreed with this, none disagreed or strongly disagreed. A further 30% answered “not applicable”.

**Table 7.11 Professionals’ agreement that Phase 4 follow-up helps maintain safe and workable outcomes for parents and children, Professionals survey**

Professionals’ level of agreement	%	<i>n</i>
Strongly agree	22.7	20
Agree	22.7	20
Neither agree nor disagree	15.9	14
Disagree	–	–
Strongly disagree	–	–
Not applicable	29.6	26
Missing	9.1	8
Totals	100.0	88

Notes: Professionals were asked: “Please indicate the extent to which you agree or disagree with the following statements about the CFDR program: Follow-up sessions in Phase 4 help to maintain safe and workable outcomes for parents and children”.

Turning now to the program’s success in building capability in parents to resolve issues concerning parenting arrangements in a post-CFDR environment, data from the qualitative interviews and the Professionals Survey have been analysed to shed light on this issue. The following quote from a lawyer speaking about interim agreements touches on this issue of parents resolving disputes after the completion of CFDR:

The complex nature of the matters meant that it was rare for parents to be in a position to finalise arrangements after one FDR session. Parents would usually attend a number of FDR sessions, with the length and detail of plans being expanded on each occasion. It was noted that the ability of parents to negotiate and their attitudes towards each other improved markedly where there were a series of short-term arrangements. In some cases, the



improvement is such that the parties appear to have the capacity to participate in a regular FDR model in the future should a dispute arise. [Lawyer, Professionals Survey]

The following quote from another lawyer, in response to an open field in the Professionals Survey, also illustrates this point:

CFDR doesn't just give parents an alternative to Court in getting Consent Orders, it opens the door to several services (FOR FREE!!!!) that will help clients develop the skills they need to be able to ensure whatever agreement is reached, they have the skills to be able to communicate safely with one another into the future. [Lawyer, Professionals Survey]

Intertwined with future decision-making about children is CFDR's ability to assist parents to improve their communication skills with their ex-partner. In this regard, responses from the Professionals Survey overwhelmingly endorsed the CFDR program, with 85% of respondents either agreeing or strongly agreeing that CFDR assists clients to improve their communication with the other parent about their children (Table 7.12).

**Table 7.12 Professionals' agreement that CFDR assists clients to improve communication with other parent about children, Professionals Survey**

Professionals' level of agreement	%	<i>n</i>
Strongly agree	21.6	19
Agree	63.6	56
Disagree	1.1	1
Strongly disagree	1.1	1
Cannot say/Do not know	12.5	11
Not applicable	–	–
Missing	–	–
Totals	100.0	88

Notes: Professionals were asked: "Now thinking about the CFDR program overall, please indicate the extent to which you agree or disagree with the following statement: CFDR assists clients to improve communication about children with the other parent". Percentages do not total exactly 100.0% due to rounding.

While professionals were generally positive about the CFDR program's ability to assist clients to improve their communication skills and resolve issues post-CFDR, the qualitative data also highlighted the challenges that arise in translating mediated agreements into parents' daily lives. Professionals identified that ongoing communication and future decision-making can be an issue in this context:

Where a case proceeds to mediation, clients are able to reach agreements about the majority of their children's issues. We are finding, however, that clients continue to struggle with communication and decision-making arrangements even when there are clear agreements in place. This makes sense when considering the past relationships, the lack of trust in one another, and the patterns of communication which are difficult to break. [FDRP, Professionals Survey]

Other professionals acknowledged that, while they were positive about CFDR processes and the outcomes reached, they had concerns about adherence to agreements, particularly by predominant aggressors. The following statement illustrates this point:

The agreements reached during mediation sessions are very good, well-considered agreements that keep the best interests of the children and safety at the forefront. However, where the agreements are not adhered to by the



parents, it poses problems. Where the legal practitioner then does not recognise that the behaviour of the aggressor is not in accordance with the agreement, but does not seem address it with the aggressor, continued negotiation becomes difficult. Where family violence is being perpetrated, it can be in the best interests of the children that the agreement needs to be changed to reduce time to limit the impact of the aggressors behaviour. Where the legal practitioner for the aggressor is effective in dealing with their client, it would be far more likely that the agreements would be adhered to and the parties can then build on those agreements. [Lawyer, Professionals Survey]

Concerns about ongoing contact with predominant aggressors were also raised:

Predominant victim clients feel empowered by the process, but [are] still untrusting and [feel] unsafe with the implementation of parenting agreements. In some cases the predominant aggressor appeared to use the children as a tool to punish the predominant victim. Often the developmental needs of the children were overlooked. [SFVP, Professionals Survey]

Some parents also reported positive experiences of the CFDR program in improving their communication and overall relationship with the other parent. Around half of the parents interviewed reported at least some improvement in their communication with their ex-partner following the CFDR process. Parents who were predominant aggressors were more likely than those who were predominant victims to report an improved level of communication. A number of parents who were predominant aggressors also reported that they had changed aspects of their behaviour, and some predominant victims also reported that their ex-partner's behaviour had positively changed following CFDR.

Parents reported a number of reasons for the positive changes in parental relationships, including: gaining a better understanding of their children's and the other parent's viewpoints; learning strategies to control their frustration and to communicate more effectively with the other parent; and receiving advice regarding their expectations of the parenting arrangements that were likely to be negotiated. Changes around improved communication included use of a communication book rather than verbal contact, and limiting the number of exchanges and keeping them brief (whether in person or via telephone, text or email). Clearly, though, for some parents their relationship with their ex-partner was not improved, with these parents reporting no improvement in communication and some predominant victims reporting ongoing harassment and violence occurring throughout CFDR. In cases where communication had not improved, some parents reported that the separation was relatively recent and/or that at least one parent had not accepted the separation. In these cases, ongoing family violence during the CFDR process was also more likely to be reported. The following quotes from parents (both predominant aggressors and predominant victims) illustrate the parental relationships discussed above:

I've found, because obviously before [CFDR] we weren't talking at all and that was what the problem was. And, yes, since the mediation and with the counselling and that, with the family relationships, I don't know, it's been great. It's really helped me ... [Ex-partner] is talking to me face-to-face, which is good. We can start making a few decisions regarding the children. [Parent interview]

We communicate now. We weren't, I guess, when this first started, but I think with time wounds tend to heal a little bit and people start to move on. But, yeah, I believe that the communication's pretty good and I think the process has certainly helped that; putting us in a room where we're talking

about something that we're both interested in and passionate about—that being our kids and the wellbeing of them and the best thing for them. So I think it's definitely helped. [Parent interview]

It's just nice for me to be able to pick up the phone and send him a message and not get abused. That we can talk and be civil to one and other. [Parent interview]

The thing was, like, I could get extra help for myself, like other counselling sessions with different people, all things like that. It's the information, how to go about things without getting angry and [unclear] and thinking the right way. I just found that very helpful. [Parent interview]

So, yeah, I'm a bit calmer than I have been. I'm not up and down all over the place. I know that we've split up and it's hit home, so I've just got to now be as calm and collected as I can be and just try and work together the best that we can for the kids. [Parent interview]

I did, I guess, change my approach to communicating with her outside of the sessions, and also my thinking around [what] an acceptable outcome from the process would be. [Parent interview]

The child psychologist told him how the kids were; that it actually clicked to him, so I think that's what changed him. That's probably what made this process a little bit easier; that he wasn't as angry and it wasn't directed sort of at me. So it made it a bit easier, this process. But the child psychologist helped with opening his eyes to the situation. [Parent interview]

## 7.6 Summary

This chapter has examined the way in which the agreement-making process unfolds in CFDR in light of the history of family violence involved in the cases. All aspects of the CFDR process, including preparation, the mediation approach applied (shuttle or face-to-face) and the number of mediation sessions conducted, reflect a more intensive deployment of resources than non-CFDR cases. For example, 74% of CFDR cases involved more than one mediation session, compared with 15% of comparison group cases. The involvement of support professionals and lawyers in the phases preceding FDR is perceived by professionals to lead to parents being better prepared for mediation than in non-CFDR processes. Many, but not all, parents found their support professionals and lawyers to be of significant assistance in the process.

In relation to the actual process and experience of FDR in the CFDR pilot, it is clear that engagement in the process, including being in the presence of their ex-partner, can cause significant distress to predominant victims. Where this is handled sensitively and where support is provided and appropriate clinical judgments are made about the conduct of the FDR sessions, the data from parents indicate that the process can be safe and can empower parents to make appropriate arrangements for their children and take steps toward self-management. Where this is not the case, however, the process is unproductive and potentially traumatic from the perspective of one or both parties. The evidence on the extent to which CFDR has assisted parents to resolve their matters is mixed. There were some parents who reported coming out of the process with workable agreements and an improved capacity to communicate with their partner. The reports of some predominant aggressors interviewed were particularly encouraging in this regard. On the other hand, there was also evidence of some parents being left either with “loose ends” to deal with, or no agreement at all, and being uncertain about their next steps.

The efficacy with which the professionals in the process work together as a clinical team is critical in determining whether the process is safe and productive or unsafe and unproductive. The accounts of some parents interviewed suggest that on some occasions the professionals underestimated the level of fear and distress experienced by some parents in the process. In some instances, the parents' accounts suggest that the professionals were not sufficiently attuned to the dynamics between the parents to maintain sufficient control of the process.

The potential presence of several different professionals in the mediation sessions in CFDR exemplifies the way in which practice in the CFDR setting challenges the approaches that are applied in non-CFDR settings. With multiple professionals in the room in mediation, the need for clarity in understanding the role and responsibility of each professional in the process—among both the professionals and clients—is critical. A lack of such understanding—where professionals fail to understand the boundaries of their own role and that of other professionals—has the potential to undermine the process and compromise client wellbeing. The evaluation data indicate that areas where such understandings require refinement in some locations include the way in which lawyers interact with their clients and the level of control exercised by FDRPs in responding to client behaviour. In both these areas, CFDR practice is likely to demand different responses than non-CFDR practice. A further area where explicit understanding should be negotiated is in relation to clients' expectations of their lawyer's role and the role of the mediator. Parent reports in each of these instances suggest a need for clearer explanations of these issues. Such explanations can only be confidently provided when the professionals have mutual understandings of how they work as a group and the nature of the boundaries of professional behaviour in that setting.

## 8 Children and child focus in CFDR

The question of child focus in the CFDR model is a critical aspect of the evaluation criteria. The CFDR model envisages that case management decisions will be made in consultation with an experienced child consultant in relation to the processes that will be used to examine children's needs in CFDR (WLS, 2010, pp. 18–19). In standard FDR practice, two specific mechanisms may be employed to emphasise the centrality of the child's needs and interests. One approach involves “child-focused practice”, which “create[s] an environment that supports disputing parents in actively considering the unique needs of each of their children” (Moloney & McIntosh, 2004, p. 72). It does not entail direct contact with children. A more specialised approach is child-inclusive practice (CIP), in which a child consultant spends time with the child both to assist them and to understand their “core experience” and to consider how to assist the parents to understand “the essence of their child's experience” (Moloney & McIntosh, 2004, p. 73).

As outlined in Chapter 2, the application of CIP in CFDR was an area of significant variation, and in one location there was tension between the lead agency and one partner concerning the extent to which CIP was applied in CFDR cases. This issue reflects one of the areas where, as discussed in Chapter 6, CFDR practice challenged organisational approaches in some locations. The CIP process was only employed to a significant extent in one location. In other locations, child-focussed approaches, as defined above, were applied. In this area, it was clear that the contributions of each of the professionals involved was critical in maintaining attention on the children. In particular, the men's support professionals (MSPs) played an important role in working with fathers in this area, as did lawyers in, for example, working with expectations of “50/50” care. Consistent with other issues dealt with in this report, the views of professionals on the question of child focus are more positive than those of parents, which are significantly mixed.

### 8.1 *Children's ages*

In considering the question of child focus, it is important to bear in mind the age profile of the children in the families that used CFDR. (see Chapter 3). Information collected as part of the case management profiles indicate that in those cases where a child consultant was not involved, the children's ages was recorded as one of the reasons for this decision in around one-third of CFDR pilot and comparison group cases (Table 8.1). Moreover, it was also clear that a significant number of children were engaged in counselling or other therapeutic processes outside of the CFDR process (see discussion in 8.2). This was often a further rationale for not directly engaging them in CFDR processes.

**Table 8.1 Reason for not involving a child practitioner, CFDR pilot and comparison groups**

Reason for not involving child practitioner	CFDR pilot group (%)	Comparison group (%)
Child/children not old enough or sufficiently mature to participate	34.2	36.6
Child/children have not expressed a clear wish to participate	7.3	31.3
Not safe to do so	22.0	14.3
Parents would not give permission	2.4	4.5
Parent unable to be protective and emotionally available to the child/children	2.4	2.7
Child/children likely to have been pressured to express a wish for a particular arrangement	–	0.9
Telephone service—not applicable	–	0.9
Other reason <sup>a</sup>	36.6	17.9
No. of cases	41	112

Note: Percentages do not sum to 100% as cases could have multiple reasons for why a child practitioner was not involved. <sup>a</sup> For CFDR cases, the most common other reasons given included an assessment that a child practitioner was not suitable or the CFDR case had screened out before this assessment could be made. Similar other reasons were given for comparison group cases, along with “no child practitioner being available on site”.

## 8.2 *Approaches to child-focused and child-inclusive practice*

Child consultants were involved in a significant minority (14%) of CFDR pilot cases,<sup>31</sup> compared to 4% of comparison group cases. In Phase 1, 9% of CFDR pilot cases had referrals to Supporting Children after Separation Programs (SCASPs) and 7% had referrals to counsellors, including family violence counsellors. In Phase 2, 11% of CFDR pilot cases had referrals to SCASPs and 5% had referrals to family violence and other counsellors.

As noted above, approaches to CIP were varied. At the time the evaluation data collection was finalised, two locations had conducted CFDR involving CIP. Two further locations were proceeding on the basis that CIP would be applied in particular cases where the case team decided it was appropriate, but no such decision had yet been made. One location, TDRS, was not intending to apply CIP as it is a telephone service that does not provide CIP. Child consultants are available to assist child-sensitive practice if required in all five locations,<sup>32</sup> and they may be involved in speaking with parents to give general information about children who have been in similar situations, or in providing advice to the CFDR case team on child-focused case management.

One location has established clear protocols for incorporating child-focused practice and/or CIP into its case management at an early point. In this location, a generalised child-focused discussion at the first case management meeting leads into a formal consideration of whether it is appropriate to involve CIP or not at the second case management meeting, when sufficient engagement with the parents has allowed professionals to develop a sense of how the children might be doing. Children may also be referred into a children’s counselling program at this stage. If a case is single-party, referral to counselling for the children and the parent follows the same protocol. While CIP is always considered at this location, it is also acknowledged that in some cases applying CIP will be assessed as being not safe or otherwise inappropriate.

<sup>31</sup> Brisbane Telephone Dispute Resolution Service (TDRS) was excluded from the analysis of child consultant data as involvement of the child consultant was not applicable for telephone service. Also noted is that information about the participation of child consultants was missing in 44% of cases.

<sup>32</sup> In Newcastle, there is no separate child consultant; instead, other staff have child consultant qualifications.

Initially, a one-off appointment with the child consultant was offered as part of the CFDR program at the location in question. But it was found that parents were at times requesting further feedback and, for this reason, subsequent sessions were sometimes arranged. CIP was also adapted to occur in a more integrated way, with the child consultant attending case management meetings and providing condensed feedback to the case team. In addition, parents routinely received their child consultant feedback separately rather than jointly (as it was reported would normally occur in standard FDR). It was felt that in the CFDR program separate feedback sessions enable each parent a better opportunity to listen to information specifically directed toward them and to ask questions in an open and safe environment. It was also seen to represent a more child-focused approach in CFDR cases, as children's perceptions, needs and attachments could be relayed in ways more attuned to preserving their safety. In some cases, referral of children into children's programs was also used to allow children the necessary space and time to cope with re-engagement with a parent and allow the service to monitor how the child is handling the process.

Professionals' views in favour of CIP, even for quite young children, are exemplified by this quotation:

Regarding age 4, children's contributions can be valuable from the age at which they have the verbal capacity to describe their experience. This experience can confront both the victim and perpetrator with the effect of their conflict on the child. Relating that experience has little to do with maturity, but it is important for parents to hear that their children are afraid, scared, upset, peed in my pants. CIP [should be on a] case-by-case [basis] because sometimes the biggest benefit is for the children to be heard by the CIP and the information goes no further. Sometimes the information needs to go to the parents, depending on their capacity to receive it (wisdom, skill and magic). [FDRP, Professionals Survey]

One location reported that while CIP had not initially been envisaged as necessarily part of the CFDR model, the length of the pilot had allowed them sufficient time to engage in robust discussions with their partner organisations and to develop their thinking and practice around CIP. At this location, no CFDR cases had included CIP at the time of data collection. However, the location coordinator reported that examining the question of CIP in the context of CFDR meant the agency had re-evaluated its approach and was examining how CIP principles could be applied to its practice more widely.

[This dialoguing] is changing our practice ... a real benefit of CFDR pilot has been that, during the length of the pilot, that has really developed our thinking ... we became convinced that in appropriate cases, it's a better approach ... I think ultimately the child-inclusive practice consideration is a core part of [CFDR]. [Location coordinator, Request for information and Later stage interview]

### 8.3 *Child focus: Professional views*

Qualitative and quantitative data indicate that most professionals believe that CFDR supports a focus on children's needs and interests. Most view this as a core aspect of each professional's engagement with the parents through each step of the process. Survey responses to a range of questions related to children indicate largely positive responses on the part of professionals, and qualitative insights confirm that in this area, as with others discussed in earlier chapters, the focus on safety, a teamwork approach and the intensive support for parents, were integral to maintaining focus on the needs of the children in CFDR.

Positive views about child focus in CFDR are perhaps best illustrated by data from the Professionals Survey, where almost 90% of respondents agreed or strongly agreed that CFDR is child-focused. As shown in Table 8.2, only a very small percentage of professionals disagreed that this was the case. Further analysis (not shown) of the response patterns to these questions show a stronger affirmative response in locations where CIP is applied. In locations where CIP was applied more frequently than in other locations, 43% of professionals strongly agreed (agree: 48%) that CFDR is child-focused. In locations where CIP is not applied frequently, professionals were less likely to strongly agree (35% strongly agree cf. 52% agree) with the proposition.

**Table 8.2 Professionals' agreement that CFDR is child-focused, Professionals Survey**

Professionals' level of agreement	%	<i>n</i>
Strongly agree	38.6	34
Agree	50.0	44
Disagree	1.1	1
Strongly disagree	1.1	1
Cannot say/do not know	6.8	6
Missing	2.3	2
Totals	100.0	88

Notes: Professionals were asked: "Now thinking about the CFDR program overall, please indicate the extent to which you agree or disagree with the following statements: CFDR is child-focused". Percentages do not total exactly 100.0% due to rounding.

Professionals also reported generally positive views on the ability of CFDR to improve parents' focus on the best interests of children, with more than three-quarters of professionals agreeing or strongly agreeing that this was the case (Table 8.3).

**Table 8.3 Professionals' agreement that CFDR improves parents' focus on the best interests of the children, Professionals Survey**

Professionals' level of agreement	%	<i>n</i>
Strongly agree	36.4	32
Agree	39.8	35
Neither agree nor disagree	12.5	11
Disagree	2.3	2
Strongly disagree	1.1	1
Cannot say	8.0	7
Totals	100.0	88

Notes: Professionals were asked: "Thinking about parents who are receiving services in the CFDR program, please indicate your level of agreement with the following statement, based on your experiences at this stage of the program: CFDR improves parents' focus on the best interests of the children". Percentages do not total exactly 100.0% due to rounding.

## Professionals' views on parents' focus on children's best interests: A comparison with AIFS evaluation of the Legal Partnerships Program

As part of the AIFS evaluation of the Legal Partnerships Program, professionals participating in this program were also asked if they felt the program improved parents' focus on the best interests of the children. The Legal Partnerships program involves legal service organisations partnering with Family Relationship Centres to offer information sessions, legal advice, and in some cases legally assisted mediation, to assist clients to resolve their post-separation parenting disputes.

Comparison of the data from the Legal Partnerships Program and the CFDR pilot reveals broadly similar trends. At the time of the AIFS evaluation of the Legal Partnerships Program, 64% of FRC staff and 92% of legal services staff agreed or strongly agreed that the program improved the focus on the best interests of the children, compared to 76% of CFDR professionals.

Source: Moloney et al. (2011)

### 8.3.1 Child focus in CFDR processes and outcomes

Professionals also indicated largely positive views on how effective the CFDR process was in meeting the needs of children. When asked to reflect on this issue, 71% of professionals reported that the CFDR process was very effective or somewhat effective (Table 8.4). A significant minority of respondents (21%) also indicated that they were not sure about the effectiveness of CFDR in this regard. The professional group that was most likely to report a "not sure" response was FDRPs (31%); however, this response type was reported across all professional groups, with managers (13%) being the least uncertain about this aspect of CFDR (data not shown).

**Table 8.4 Professionals' rating of effectiveness of CFDR process in meeting the needs of children, Professionals Survey**

Professionals' rating of effectiveness	%	<i>n</i>
Very effective	37.5	33
Somewhat effective	33.0	29
Somewhat ineffective	2.3	2
Very ineffective	1.1	1
Not sure	20.5	18
Missing	5.7	5
Totals	100.0	88

Notes: Professionals were asked: "How effective is the process of CFDR in meeting the needs of children?" Percentages do not total exactly 100.0% due to rounding.

As reported in Table 8.5, when asked to consider child focus during the mediation phase of CFDR, a majority of professionals (63%) also agreed or strongly agreed that children's needs are adequately considered and addressed during the mediation process of CFDR. Few disagreed, but around a fifth felt they were not in a position to say.



**Table 8.5 Professionals' agreement that children's needs are adequately considered and addressed in the CFDR process, Professionals Survey**

Professionals' level of agreement	%	<i>n</i>
Strongly agree	29.6	26
Agree	33.0	29
Neither agree nor disagree	9.1	8
Disagree	3.4	3
Strongly disagree	1.1	1
Do not know/cannot say	18.2	16
Missing	5.7	5
Totals	100.0	88

Notes: Professionals were asked: "Please indicate the extent to which you agree or disagree with the following statement: During the mediation process of CFDR children's needs are adequately considered and addressed". Percentages do not total exactly 100.0% due to rounding.

Examination of responses in relation to questions about child focus in the parenting outcomes negotiated in CFDR reveals similar trends, with 60% and 65% of professionals respectively agreed or strongly agreed that parenting agreements made in CFDR worked for the children and that children's needs were adequately considered in the outcomes reached in such agreements (Table 8.6). Related data were also reported in Chapter 7, with the point being made that professionals were most likely to agree that parenting arrangements worked for the children, with similar levels of agreement in relation to predominant victims and lowers levels of agreement in relation to predominant aggressors. The data presented here contrast response rates in relation to the extent to which agreements work for children with those in relation to whether children's needs were adequately considered. Professionals were more likely to "strongly agree" (27%) that children's needs were adequately considered compared to whether parenting agreements worked for children (15%), perhaps reflecting a hesitancy to express a strong opinion on an issue on which they may have limited ongoing information.

**Table 8.6 Professionals' agreement on whether CFDR outcomes worked for children and whether children's needs were adequately considered, Professionals Survey**

Professionals' level of agreement	CFDR outcomes worked for the children		The children's needs were adequately considered	
	%	<i>n</i>	%	<i>n</i>
Strongly agree	14.8	13	27.3	24
Agree	45.5	40	37.5	33
Neither	10.2	9	8.0	7
Disagree	–	–	1.1	1
Strongly disagree	1.1	1	1.1	1
Not applicable	19.3	17	15.9	14
Missing	9.1	8	9.1	8
Totals	100.0	88	100.0	88

Notes: Professionals were asked: "The following statement asks you to reflect on the quality of outcomes reached in CFDR parenting agreements. How strongly do you agree or disagree with the following statements: Parenting agreements/plans made in the CFDR program worked for the child/children; and The child's/children's needs were adequately considered".

Insights from qualitative data generated from engagement with professionals indicate that three aspects of the CFDR process are particularly relevant in reinforcing the

centrality of children's interests. In locations where CIP processes are applied, these are seen as another important tool in the armoury, but are clearly not seen as necessary or appropriate in all locations. In all locations, whether CIP is or is not applied, the three features of CFDR that were seen to reinforce a child focus were:

- the focus on dealing with family violence and safety;
- teamwork; and
- the intensive support for parents in the process.

In relation to family violence and safety, the explicit focus on identifying and dealing with these issues was seen to support processes and outcomes in which the safety and needs of children were priorities. In areas where CIP was applied, the ability to examine the children's experiences in regard to family violence and safety was seen as an additional mechanism for understanding the circumstances of the family, particularly the children, and for working with parents to understand how this affected the children. However, even in locations where CIP was not applied, it was clear that the effects of family violence on the children was a central part of each professional's concern in dealing with the parents. It was also clear that ensuring that children received therapeutic help was a core concern, and a significant number of the children were receiving such help outside of the CFDR process:

I do think that domestic violence and the acknowledgement the parents have made have been far more readily placed on the table when children have also made some acknowledgements of what they've seen and heard. Sometimes parents become aware of that. Sometimes it's not safe for parents to know that ... There is strength in saying the kids need this to be safe. [FDRP, Later stage interview]

It seems to be that things are more open and transparent and there is, for everybody involved, a notion that you can't just do this, that or the other, and hope that it might go unnoticed ... The power and control issues are much more clearer and clarified and named and accepted. [SFVP, Later stage interview]

The collaborative aspects of the CFDR program were also seen as important in maintaining a child focus. The contribution made by MSPs (particularly in instances where these professionals work closely with lawyers) was viewed as being important for focusing the attention of predominant aggressors on the needs of the children, particularly in the context of expectations of outcomes involving equal shared time between parents. Similarly, two aspects of the role of support professionals working with predominant victims were seen as particularly important from the children's perspective: the first was monitoring the safety of children through the ongoing process of risk assessment management, and the second was through supporting women to advocate for parenting arrangements that maintained their children's safety:

One of the strengths of the programme—and I guess we'll get into that a bit later—has to do with some of flexibility in the information-sharing. I was able to be involved as a listener in the child-inclusive feedback ... with the father ... I wrote down notes and when we talked in subsequent sessions I could remind him of this. I think that was really helpful in getting him to a child focus; toward understanding that some of these issues are residing within the [child] and not so much put upon [the child] by his ex. [MSP, Later stage interview]

So the dads aren't feeling like it's all the professionals against him and coming up with a decision. It's actually, well, dad, you've heard what your

kids have to say, now let's work with that. So that's been quite important.  
[Lawyer, CIP location]

Every time I speak to them, there will always be a question about whether there are any specific safety issues that have arisen since [we last spoke] ... Sometimes you are even talking through what some of the safety issues are [for] the kids that might not be apparent to the women immediately; for instance, horrible changeovers which are horrible for the women, but the children would be affected by that too. [SFVP, Later stage interview]

I guess there has been [moves to] validate mum's concerns, and then women have maybe chosen not to do contact because it's unsafe ... I've been able to encourage women to seek counselling and support for the kids ... as well ... We do focus very much on what's going on for the kids as well as mum.  
[SFVP, Later stage interview]

The intensive nature of the support provided in the pilot, and the time taken to work with parents and children, were seen by professionals from all disciplines involved in CFDR as making an important contribution to ensuring child focus. For example, a child consultant in a location where CIP was applied talked of the advantages of having multiple sessions with children in CFDR:

I can space out my feedbacks because I get multiple opportunities to deliver a feedback or messages from the kids with the parents ... It has a bigger impact on the parents and the kids as well, because parents have sort of more time to absorb the information. I've got more time to clarify any issues that might come up or questions they might have about recommendations I might give as well ... Because I have that ongoing role with the family, I think it helps with ongoing and sustained change ... with the kids. I can continually check in on how they are going. [Child consultant, Later stage interview]

A lawyer indicated that multiple FDR sessions meant that the effects of particular arrangements could be monitored and adjusted prior to resolution:

It's great because it offers these little trial times where one person or a couple might agree [on particular arrangements] ... [but] it's fairly soon that you're back and it's like an inbuilt review process. [Lawyer, Later stage interview]

As the response patterns to survey questions relating to children reported above indicate, most professionals view CFDR as being child-focused; however, a small proportion hold contrary views. In some instances, this is related to a view that CIP processes should be more generally applied in CFDR cases and that not doing so has the capacity to compromise the ability of the program to meet children's needs. However, even in locations where the application of CIP has not generated significant controversy, a small minority of professionals indicated that they perceived a lack of child focus in the way matters they had been involved in were handled. For example, a lawyer dealing mainly with predominant aggressors made the following observation:

There wasn't a great deal of focus on the children, strangely enough, or on their needs ... At some point I felt the children were almost superfluous to the conversation. [Lawyer, Later stage interview]

## 8.4 *Child focus: Parents' perspectives*

Views among parents who engaged with the evaluation on the question of whether the CFDR process was child-focused were very mixed, regardless of whether CIP had been

applied in their case or not. However the majority of parents who were interviewed or completed the survey regarded the CFDR process as child-focused or believed their children's needs had been adequately considered. Overall, parents were more likely to express the view that the CFDR process was child-focused when the outcome was consistent with their position than when it wasn't. The following quotations, contextualised with information about process and outcome, reflect the range of views and experiences.

A parent whose CFDR experience included CIP and produced an outcome consistent with her own position, and who was positive about CFDR overall, said of her own experience of CIP:

It was good just to, I think, hear it myself from another party [the child consultant] how my kids are feeling and what they really want out of it, which is good. Even though I could see it, it sort of made me aware too, like I need to step back and really think about it as well, because, yeah, it's different when you hear it from somebody else, even though you're seeing it yourself. [Parent interview]

She also expressed the view that the child consultant assisted the other parent to understand the position of the children:

I think because then he saw the child psychologist. Even though I had been telling him things, the child psychologist told him how the kids were—that it actually clicked to him. So I think that's what changed him. That's probably what made this process a little bit easier, that he wasn't as angry and it wasn't directed sort of at me, so it made it a bit easier, this process. [Parent interview]

The following quote summarises the experiences of another parent where CIP was applied. She expressed positive views about the CFDR process overall, even though she reported that because of the obduracy of her former partner it did not produce an outcome in her case:

The wrap-up session after the psychologist had a session with my [child]. That was good because it gave us both the opportunity to hear face-to-face together what was going on with our child. We both got to relate to the same issues and consider what we could do [to] work together to impact that. So that worked really well. [Parent interview]

Another parent whose CFDR process did not include CIP nonetheless indicated that she found the process child-focused. It produced an outcome consistent with her position, which was for the children to spend some regular time with their father. She described the shifts in understanding brought about by CFDR in this way:

Parent: He's finally realised that he needs to spend certain time with the kids and he's enjoying the time he's spending with them now ... He's come along in this mediation process.

Interviewer: Do you think the children's needs were considered during CFDR?

Parent: They were, because I actually asked them all along the way what they wanted ... They were part of the process, but on the outside, if you know what I mean. [Parent interview]

In contrast to these positive views about child focus, with or without CIP, were views from a number of parents who indicated they did not believe the children's needs had been adequately considered.

For example, the following parent indicated that he had hoped to get equal shared care of his children, but left CFDR without any agreement at all. Although he was positive about the process in general, he had this to say about the question of child focus:

There was an attempt to ensure that we were reminded that what we said and did and what we were thinking should be child-focused. That was very explicit and repeated, but, as I said, I don't think that the proposals that were put forward were scrutinised, challenged or considered in light of what was in the child's best interests. [Parent interview]

Some data suggest that children may be in a position of being subjected to subtle and not-so-subtle pressure from parents on an ongoing basis. Some parents interviewed indicated that they elicit information from children about their time with the other parent. While concern for the child may underpin these enquiries, they nevertheless place additional pressure on the children and may also be used as a means to exert ongoing power. For example, one parent regularly discussed with the children what they did at the other parent's house and didn't feel that they undertook enough outdoor activities while there:

So that is not in the best interests of the children, but if you bring that up at the CFDR they're not interested. [Parent interview]

Another parent reported that:

I've spoken to [my children] this evening about it ... So I've had to sit down with my eldest [child] tonight and say that [child's] not to hide anything from me and to tell me, update exactly what is going on. [Parent interview]

## 8.5 Summary

This chapter has addressed the question of child focus in the CFDR process. In framing the summary of the material considered in this chapter, it is also important to reiterate some points made in earlier chapters. Several broad-level issues impinge on the question of child wellbeing in the context of the circumstances of the families who used CFDR. The CFDR process involves a complex client group, some of whom present not only with issues related to family violence, but also mental health problems and substance addiction. The way that parents are managed in the context of these issues has significant bearing on the extent to which child wellbeing is maintained and improved. In this context, the intensive nature of the support provided to parents who engage with CFDR teams, including those parents involved in single-party cases, also supports child wellbeing. Similarly, the approach to risk assessment and risk management described in Chapter 5 means that the children's safety and wellbeing are better protected at a time of crisis and upheaval in their lives. The intensive nature of the support provided to parents in making parenting agreements in CFDR FDR processes should also lead to better outcomes for children. As set out in Chapter 4, the CFDR sample had lower rates of children in shared cared compared to the comparison group.

A wide range of issues impinge on the question of children and their best interests. The material in this chapter has focused on examining the data that specifically relate to a child focus in a procedural sense, as well as addressing the overall question of whether agreements are child-focused on the basis of data obtained from professionals and parents. It is important to note that the CFDR model developed by Brisbane Women's Legal Service reflected a cautious approach to the involvement of children in CFDR processes. The application of CIP processes was not specifically envisaged in the model due to the concern to ensure that the safety of children was maintained and that children were not subject to processes that could expose them to emotional abuse or pressure. More generally, as practice has developed in Family Relationship Centres since the 2006

reforms, discussion about how CIP processes can be applied to support children in matters where there are concerns about child safety has gathered pace (eg., Hannan, 2012; Petridis & Hannan, 2011).

The discussion in this chapter indicates that the application of CIP-based processes has occurred regularly in only one location. In another location, the application of CIP has been contentious. Discussions between the lead organisation and a partner organisation have continued throughout the evaluation period and appeared to have produced an agreed way forward as this report was being written. In other locations, CIP was applied infrequently or a child-focused approach was relied upon. A significant proportion of the children in CFDR families were involved in external therapeutic processes.

Professionals were generally positive about the capacity of CFDR to produce child-sensitive outcomes and agreements that worked for children. Parents' views were more mixed, however the majority indicated they thought the process was child-sensitive, whether or not CIP was applied.

## 9 Conclusion and implications

This report describes the results of an evaluation of CFDR. The evaluation employed a mixed-method approach comprising seven different data collections: interviews and focus groups with professionals, a survey of professionals, interviews and a survey with parents, and case file data based on a sample of CFDR cases and a Comparison group sample of non-CFDR cases.

This chapter draws together findings from the empirical evidence set out in the preceding chapters to address the core evaluation questions, namely:

- What challenges and advantages arise from the inter-disciplinary nature of the model?
- Is the safety of children, parents and professionals adequately maintained in the Pilot program processes?
- Is the safety of children and parents adequately maintained in the arrangements produced as a result of the application of the model?
- Do the processes applied in the Pilot adequately address power imbalances between the parents?
- Are the outcomes reached in the Pilot consistent with the best interests of children?

Discussion of these questions is preceded by some evidence-based observations that will inform understanding of the overall findings of the evaluation.

### 9.1 Preliminary observations

The CFDR Pilot was developed in response to a perceived need in the family law system for a non-court based mechanism for resolving post-separation parenting disputes where there has been family violence. Recent empirical evidence demonstrates that a significant number of parents in this situation are using FDR. In some circumstances appropriately delivered standard FDR may be adequate, and in other circumstances this approach appears to be falling short. Concerns that arise in the latter set of circumstances relate to whether the process itself maintains safety, whether it produces outcomes that reflect genuine (rather than coerced) agreements and whether these outcomes are in the best interests of children. A further set of concerns relates to families who present with both previous and ongoing concerns about family violence and safety whose matters remain unresolved despite their engagement with FRCs or similar services. The evidence suggests that some of these families may be experiencing difficulties over a protracted period of time with limited assistance. A substantial proportion (53% of mothers and 45% of fathers interview in wave 2 of the Longitudinal Study of Separated Parents) of separated parents report emotional abuse continuing after separation (Qu and Weston 2010) and a number of studies have highlighted an association between separation and its aftermath and familicide against a background of family violence (eg most recently Walsh et al 2012).

The CFDR model was developed to address the concerns arising from these circumstances. It provides a case-managed process with an emphasis on risk assessment and management involving multiple professionals, including lawyers, specialist support professionals (including men's support professionals and specialist family violence professionals) and child consultants. A feature of the model is a formal focus on careful screening and assessment from multiple perspectives with strong emphasis on ensuring that matters not amenable to resolution through FDR are identified and linked up with other services (WLS Inc., p. 35). In a number of respects, the CFDR Pilot is at the cutting edge of family law practice. In setting out to offer parents affected by family violence, intensive pre-FDR and FDR supported by high levels of collaboration between relevant

agencies, CFDR it is at the frontier of dispute resolution practice. In working towards offering an integrated family law service to people affected by family violence, CFDR is attempting to “de-fragment” what is recognised to be a deeply fragmented system (e.g., Australian Law Reform Commission, 2010; Family Law Council, 2009). Finally, it is being applied in a context in which significant philosophical and disciplinary divisions are evident but substantial inter-professional good will is also obvious (e.g., Rhoades, Astor, Sanson, & O’Connor, 2008; Moloney, Kaspiw, De Maio, Deblaquiere, & Horsfall, 2011).

### 9.1.1 Caseload and outcomes

From the time the Pilot commenced operation in late 2010, to the close of data collection for the evaluation on 31 August 2012, the five Pilot sites collectively completed 126 cases with 27 of these cases having reached mediation. Of these cases, mediation resulted in a partial agreement in relation to parenting issues in 13 cases (48%) and full resolution in 10 cases (37%). For those cases where an agreement was reached, shared cared arrangements were more likely in the Comparison group (22% of children) compared to 10% of children in the CFDR sample. Other families exited at various points and for varying reasons.

The number of cases dealt with across the Pilot locations is significantly less than the caseload that was anticipated (estimations of 100 cases per location were provided in the initial phases) when the Pilot was implemented. The evaluation data suggest several inter-related issues may be pertinent in considering why this is so. The evaluation findings underline the complexity (logistical and otherwise) of implementing the process and the protracted time-frames (211 days for CFDR cases cf 99 days Comparison Group cases to reach mediation) the CFDR Pilot entails. It is also clear that the dynamics around referrals and client engagement contribute to this picture, with locations reporting that referrals were slow to build (in some cases referrals weren’t sought to any great extent in the initial phases of the Pilot) and that engaging both parents in a matter posed significant challenges for almost half of the files opened. It is possible if data were collected over a longer time frame than that permitted by these evaluation time-lines, a different picture may emerge as pilot practice becomes refined. There were some indications in reports by locations to the National Steering Committee meeting in November 2012 that the collective case-load was increasing. The modest pace of momentum in accepting clients and finalising arrangements means that data are not able to address the longer term outcomes for clients of the Pilot process.

A further question flows from the limited number of cases, and more particularly, the limited number of agreements made in CFDR: that is, whether the process should be seen primarily as an FDR service, or a service focussed more on referral and support with FDR (and possible agreement) as an ancillary component of the process. In considering this question, it is important to acknowledge that CFDR produced full or partial agreements in a higher proportion of cases than Comparison group processes: only 11% of CFDR matters that proceeded to mediation produced no agreement compared with 23% of Comparison group cases. It is also important to acknowledge that insights based on these data are tentative, given the small number of cases in the CFDR sample.

A further important issue relevant to considering the nature of the CFDR process is the significant proportion of the Pilot files (49%) were single-party cases (cf 31% Comparison Group). This mainly reflected situations in which the second party in a matter refused to engage with the processes instigated by the first party’s contact with the CFDR service, or in which the second party was never invited due to safety concerns. While the evaluation data indicate that CFDR cases overall involve particularly complex dynamics, single-party cases were more likely to involve a previous history of involvement with



child protection departments (15% cf. 6%). Single-party cases also received significantly more support in the CFDR process than such cases in the Comparison group. It was found that 86% of these Comparison group cases received no service beyond intake processes as against 19% of CFDR cases. Just over half of the CFDR single-party cases received multiple services as a result of their engagement with the process compared with 1% of Comparison group cases. In practice, the focus of CFDR is significantly wider than dispute resolution: the proportion of single-party cases and the level of service they receive highlights the wider role of CFDR as a support and referral mechanism.

The evaluation data also underline the intensive nature of the service provided in CFDR two-party cases, with clients in these cases having multiple appointments with legal advisors and support workers. Nearly three-quarters of the CFDR cases that reached mediation had more than one mediation session (compared with 15% of Comparison group cases) and 37% had four or more sessions (none in the Comparison group had four or more). CFDR matters were dealt with over a significantly longer time frame than Comparison group matters (99 days), with CFDR matters taking, on average, more than double (211 days) the amount of time from intake to mediation.

### 9.1.2 Moving forward

The empirical evidence is used to address the evaluation questions directly in the next sections. A series of “implications” points are made after the substantive discussion of the questions in each section. These points are intended to highlight suggested actions should a CFDR-type process be funded on an ongoing basis. Any such decision is a matter for government.

A core aspect of the implications discussed in the next section is the formulation of Practice Guidelines should a more intensive process such as CFDR receive further funding. It is envisaged that the application of the guidelines would be limited to the CFDR-type process. The rationale for the guidelines arises from some of the core findings of the evaluation, particularly those that relate to the challenges of collaborative practice in a multi-agency, multi-disciplinary setting. The guidelines are intended to explicitly describe the elements of CFDR practice as a means of generating common understanding of roles, responsibilities and approaches. They would support the development of an understanding among practitioners and agencies of CFDR as a mode of practice different from the mode of practice usually applied in the respective agencies’ other operations.

The proposal for guidelines not only responds to the findings of the current evaluation, but also flows from insights from other research on inter-disciplinary practice. In the family law context, Rhoades, et al. (2008) identified two features of successful inter-disciplinary collaboration that are particularly pertinent in the CFDR context: (i) practice is based on a clear division of expertise and (2) professionals involved have a ‘shared understanding of each professional’s different roles, responsibilities and work practices and congruent expectations of the dispute resolution process’ (18–19).

In considering the evaluation findings, it is important to appreciate that the data on which they are based were collected from five Pilot sites (including one where implementation was delayed), which were operating within a new process in a complex organisational and practice environment that evolved over the period of the Pilot. The intensive nature of the establishment phase has been documented in this report. What has also been described in this report is the adoption of flexible approaches to respond to key practice challenges that emerged as CFDR practice developed. Further shifts in practice approaches could be informed by the findings of this report. For example, refinements in capacity to make clinical decisions made about the types of cases accepted into the process could influence the mix of ‘single-party’ and other cases in the

process. Similarly, development of practice experience among groups of professionals in each location could over time produce shifts in the proportions of cases that proceed to mediation and emerge from mediation with agreements in place. Further, changes in the case-load profile of a CFDR-type process could be influenced by decisions in relation to case priority and allocation of resources, depending on the objectives to be achieved by any allocation of further funding.

Given the complex nature of CFDR practice and the Pilot caseload, it is evident that cases require different approaches depending on the particular dynamics involved: some cases may need expeditious handling but it may be appropriate for others to unfold over time. The implications points are framed to reflect the evaluation findings that highlight effective practice.

In considering the findings of this evaluation, one further issue should be noted: the legislative environment changed significantly on 7 June 2012 after which the main substantive provisions of the *Family Law (Family Violence and Other Matters) Act 2011* made important amendments to the parenting provisions in Part VII of the *Family Law Act 1975* (Cth). These provisions are likely to have changed the advice-giving, negotiating and decision-making dynamics in the types of cases dealt with in CFDR to a significant extent.

## 9.2 What challenges and advantages arise from the interdisciplinary nature of the model?

The quality of the collaborative relationships between the professionals and agencies working in the CFDR Pilot is integral to determining whether or not it operates effectively. Establishing effective collaborations in the partnership is a significantly time- and resource-intensive exercise. It also adds to the logistic complexity of the CFDR process because of the need to coordinate client contact with multiple professionals and case-management and other communication activities between multiple professionals.

As explained in Chapter 2, the partnership constellation in one location changed because of a number of issues between the partners that could not be resolved. The evaluation evidence indicates that the quality of the service to clients was compromised because of these tensions. In other locations, tensions of varying levels of significance (some quite minor) and over varying issues were also evident, but these did not become so significant as to compromise the overall functioning of the partnership and were resolved through discussion. An issue that arose in several locations related to approaches to family violence and to the application of different philosophical constructions, in some cases underpinning different clinical decisions. In a further location, discussions over the application of child-inclusive practice continued throughout the evaluation period (see chapters 2 and 8 for further discussion).

The advantages of multi-disciplinary practice include the capacity to provide a more holistic and comprehensive service to clients. Clinical decisions are the shared responsibility of the professionals in the team, with insights from the specialist family violence professional (SFVP), men's support worker (MSP) and the case manager/FDRP feeding into decisions about case progress. Access to legal advice also strengthened the service provided to clients by providing them with information about their legal position.

The area of information sharing as an aspect of collaborative practice was complex, particularly in relation to what information could be shared by and with lawyers. Different approaches were adopted in various locations, but the practice of lawyers routinely obtaining consent to share information, which applied in one location, would seem to have particular strengths. A further practice related to information sharing, and

concerned with client management and collaborative practice more generally, was having SFVPs and MSPs attending legal advice appointments with clients. Where this happened, the teamwork approach appeared to strengthen the program's ability to manage client expectations in the CFDR process.

More generally, many professionals working in the CFDR Pilot indicated that the experience of working in the Pilot had strengthened their understanding of the way the other practitioners operate. Many also indicated it had improved their ability to work collaboratively.

### 9.2.1 Implications

There is a range of implications that can be drawn from evaluation findings concerning the inter-disciplinary, multi-agency nature of the partnership (chapters 2 and 6 particularly):

- The start-up phase of such a program is likely to be intensive and require considerable resourcing. Significant effort should be put into developing the capability of professionals and organisations to operate in CFDR prior to clients being accepted into the service.
- Leaving administrative type matters to professionals is clearly an inefficient use of resources. Therefore funding models should include provision for administrative support for case and client management.
- Partnership formation should be carefully considered and significant groundwork occur to ensure that all professionals involved understand their respective roles, professional obligations and practice models. A past history of successful co-operation will accelerate the process of partnership formation.
- Training should include in-depth mechanisms to assist participants to deal with issues such as role differentiation and conflict management. Such mechanisms could include training exercises based on simulated cases to expose professionals to a variety of different situations and to road-test their capacity to deal with them as a group. The exercises should be designed to raise challenging practice issues and build understanding of the role of each professional in responding to the challenges.
- Memoranda of Understanding governing the partnerships might include clauses dealing with the management and resolution of disputes involving the partners, with provision for recourse to externally supported dispute resolution mechanisms.
- Protocols concerning information sharing require ongoing development. These protocols could build on work already done in the area and include attention to issues such as the following:
  - the circumstances under which lawyers might seek consent to share information with other professionals;
  - other professionals continuing to develop protocols regarding how and in what circumstances it will be in the interests of individual clients and their families to share information with legal and non-legal CFDR professionals; and
  - ways in which lawyers might exchange information about what their instructions are in relation to relevant facts (i.e., family violence, child safety) prior to FDR sessions.

### 9.3 *Is the safety of children, parents and professionals adequately maintained in the pilot program processes?*

It is clear that an intensive focus on risk assessment and risk management is applied throughout the CFDR process. An active process of risk management takes place as risks escalate and abate as the matter proceeds through its various steps. Safety planning is an important part of the work that support professionals undertake with clients, but it was not clear whether adequate safety planning occurred in all instances (for example, some predominant victims interviewed reported not having developed a safety plan). Different approaches to risk assessment were applied in different locations and Pilot services.

SFVPs and MSPs play particularly important roles in risk assessment and management. There were some case examples that provided evidence of both SFVP and MSPs actively assisting clients to manage their emotional states as the process progressed. This is intensive and challenging work. However, the evidence of more intensive support being provided to predominant victims reinforces the known challenges of engaging men in the use of support services, evident throughout the relationship support sector generally, but especially where there has been a history of family violence.

Some evaluation evidence highlighted the area of risk assessment and management as a field where different philosophies and approaches could create tensions and conflict within the partnership. In most instances these were effectively managed and resolved. However, there is also evidence that some clients felt emotionally unsafe (and in one instance physically unsafe) in FDR sessions. The potential for such proceedings in standard FDR or CFDR to trigger emotional trauma should not be underestimated. It is clear that processes around risk assessment and management and making clinical judgments about the conduct of FDR are areas in which particular challenges arise in multi-disciplinary, multi-agency practice. Where practitioners work effectively as a clinical team, CFDR practice has the potential to reduce the possibility that clients will be placed in unsafe and traumatic situations. Moreover, it is also evident that more experienced professionals felt greater levels of confidence in their own capacity to deal with family violence.

#### 9.3.1 Implications

Based on the findings described particularly in chapter 5 and 7, we suggest if CFDR is to be continued, that:

- Practice guidelines be developed that specify the necessity to always develop a safety plan for predominant victims, including information about what to do in an emergency and the provision of a list of telephone numbers (police, crisis services, legal advice lines).
- A uniform risk assessment framework, addressing how risk assessment is to be conducted with predominant victims and predominant aggressors, be applied in CFDR. The framework should explicitly address the safety of children. It should specify that where professional views about the level of risk disagree, case management decisions should be based on the higher risk assessment.
- All professionals working in CFDR have extensive experience and demonstrated commitment to working in the family violence field (we suggest a minimum of five years' experience of practice in their core discipline would be preferable). Practice guidelines and organisational approaches should specify a need for particularly intensive clinical supervision. Clinical decisions in areas related to ethical dilemmas or uncertainties should not be made without input from a supervisor.

- Intensive common training in the area of family violence and the application of a common risk assessment framework should continue to be provided to all professionals. The training should specifically include information on the most recent research and clinical evidence about perpetrator behaviour and victims' responses and best practice approaches to perpetrators. The training should also equip professionals to recognise and respond to signs that clients are experiencing trauma.

## 9.4 *Do the processes applied in the pilot adequately address power imbalances between the parents?*

Several aspects of the CFDR model are intended to ameliorate the power imbalance that may affect the capacity of the parties to participate effectively in FDR. These include rigorous screening and assessment of suitability of matters for FDR, support by the SFVP and the MSP, the availability of legal advice for each parent, the application of a co-mediation model and a staged approach to the mediation over several sessions. The evaluation evidence suggests that each of these elements makes a contribution to assisting parties to participate effectively to varying extents in contexts where effective collaboration is occurring between the professionals. The role of lawyers and MSPs appears to be particularly important in adjusting expectations and there was evidence suggesting that where these professionals see clients together there is a greater possibility of shifts in attitude occurring. There are also inherent limitations in the extent to which entrenched attitudes and behaviour patterns can be shifted in the short to medium term, and this was also evident from client experiences and trajectories.

Three issues in relation to the evidence about the conduct of FDR in the CFDR process merit particular mention. The first is that in the location where the *prima facie* position was that mediation would occur via shuttle, no clients reported feeling unsafe. The second is that the interview data from parents who have been predominant victims reinforces the potential for FDR to trigger or directly cause emotional distress. Clinical judgments must always take this potential into consideration. The third is that there were instances in which predominant victims reported feeling threatened and emotionally unsafe, notwithstanding the efforts on the part of professionals to ameliorate power imbalances. Equally, however, there were reports from predominant victims indicating that they gained a sense of empowerment from participating in FDR where they felt supported by the professionals involved.

### 9.4.1 Implications

Based on the findings primarily presented in chapter 7, we suggest that the proposed practice guidelines:

- indicate that it is preferable for SFVPs and MSPs to be present at at least one legal advice session;
- emphasise that in controlling the process, mediators have an obligation to act protectively to inappropriate behaviour or indications that a party is experiencing distress;
- support the approach of mediation occurring over several sessions;
- specify that mediation always commences with individual sessions and if necessary adopt an ongoing shuttle mediation methodology as the preferred approach; and ensure that for face-to-face mediation, there is clear evidence that it will not trigger or cause further trauma and that both parties indicate and continue to indicate that they are willing to proceed in this way.

## 9.5 *Are the outcomes reached in the pilot consistent with the best interests of children?*

The evaluation data enable this question to be addressed in both broad and narrow terms. Construing the term “outcome” broadly, the evaluation evidence suggests that as, a process in which careful attention is paid to the question of whether FDR is an appropriate process for the resolution of parenting disputes in family violence matters, CFDR heightens (but does not guarantee) the possibility that the appropriate process for considering arrangements consistent with ‘best interests’ will be applied in any given matter. It also increases the possibility that where a matter proceeds through to FDR, or is screened out earlier, the parents and the child will be linked in with other support services. Where a matter proceeds through CFDR, the question of children’s safety—which is an important aspect of the best interests principle—should also receive greater scrutiny than it otherwise might.

It is important to underline the point that outcomes, in the narrower sense of parenting arrangements being agreed, were reached in only 18% of cases in the Pilot process across the five locations. In some instances, these outcomes were reached with the application of CIP processes but in most instances a less specialised approach to achieving child focus was applied. Children whose matters were dealt with in CFDR had a greater chance of a child consultant contributing to the decision about process and outcome than children in the Comparison group, but this still occurred for a minority of cases in the CFDR sample: 11% of cases that had reached a mediation process and in a still smaller minority (2%) in the Comparison sample.

On this basis, the evaluation data support the modest conclusion that CFDR is a step in the right direction. It is important, however, not to lose sight of the fact that the more intense level of support provided to parents contributes to better risk management for children and increases the possibility that both parents will be better able to focus on the children’s needs.

### 9.5.1 Implications

Based on the findings discussed in chapters 4 and 8 particularly, we suggest that the proposed practice guidelines set out an agreed approach to the application of Child Inclusive Practice, including:

- circumstances in which it should and should not be considered;
- the particular aims of the CIP process in the CFDR context; and
- that CIP should be applied by experienced practitioners with a significant level of expertise working with families affected by past or current family violence and concerns for child safety.

## 9.6 *Further questions*

This evaluation has provided an almost unprecedented opportunity to closely examine a family law process for families affected by a past and/or current experience of family violence. Data from professionals, parents and case-files have contributed to the Evaluation of CFDR, a cutting edge program involving challenging practice issues and complex professional and client dynamics. A particularly important part of the evaluation evidence base has been the opportunity to gather data from parents who used the CFDR process. The findings set out in this report have highlighted areas where further research could usefully inform policy development and practice approaches in the context of the

existing evidence base generated by this evaluation and other empirical evidence.<sup>33</sup> On the basis of this evaluation research, we suggest three areas that are worthy of further examination:

- The experiences of parents who use non-CFDR mediation processes against a background of past or current family violence. The Evaluation of the 2006 family law reforms and the associated Longitudinal Study of Separated Families, Waves 1 and 2 have established that parents affected by a past and/or continuing history of family violence use FDR processes to a significant extent. The data generated by interviewing parents for the current evaluation suggests that even in CFDR, purposely developed with these circumstances in mind, some parents experience considerable emotional difficulty, even trauma, in mediation. The extent to which this happens in non-CFDR mediation processes, and the consequences of this, merit further examination.
- The longer-term trajectories of parents and children who have been involved in mediation based processes against a background of past and/or current family violence. The limited extent to which a longer-term perspective on the circumstances of the CFDR clients could be accommodated within the time-frames for this evaluation was referred to earlier. It would be of significant policy and practice interest to examine on an in-depth basis how such families fare over the longer term including questions such as: the extent to which agreements are maintained, and whether parent-parent and parent-child relationships improve or deteriorate, over a longer time period.
- The short and longer-term trajectories of the families in single-party cases dealt with in CFDR and non-CFDR family law processes. The current evaluation highlights the significant level of support provided to these families in CFDR. This raises several issues worthy of further scrutiny, including: what happens over the longer term for CFDR single-party cases and what impact their involvement in CFDR has on service use in the longer term? What happens to parents in non-CFDR single-party cases and what is their longer term service use?

Additionally, with regard to the funding of a CFDR-type service on an ongoing basis, we suggest further evaluation of its implementation take place within an appropriate time-frame if this occurs. In light of the complexity in the Pilot programs highlighted by this evaluation, further empirical examination of the impact and efficacy of the service is justified.

<sup>33</sup> These suggestions are designed to complement research currently in train including the Survey of Recently Separated Parents 2012 and wave 3 of the Longitudinal Study of Separated Families.

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## Abbreviations

AGD	Attorney-General's Department
AIFS	Australian Institute of Family Studies
CFDR	Coordinated family dispute resolution
CIP	Child inclusive practice
DV	Domestic violence
FV	Family violence
FDR	Family dispute resolution
FDRP	Family dispute resolution practitioner
FRC	Family Relationships Centre
MSP	Men's support professional
RFI	Request for information
SFVP	Specialist family violence professional
TDRS	Telephone Dispute Resolution Service

## Appendix A: Case management data—Referral patterns and comparison of outcomes

### *CFDR referrals in Phase 1*

Data on the number of referrals made during Phase 1 of the CFDR pilot are presented in Table A1. Between 17% and 43% of CFDR cases had one or more referrals made during Phase 1 of CFDR. CFDR cases where Client 2 was male had the lowest proportion of referrals made during this CFDR phase.

**Table A1 Referrals to other services during Phase 1 of CFDR, by client and client gender, CFDR pilot group**

Referrals made	Client 1		Client 2	
	Male (%)	Female (%)	Male (%)	Female (%)
No referrals made	66.7	57.1	83.5	81.0
1 referral made	28.6	27.6	14.6	19.0
2 or more referrals made	4.8	15.2	1.9	–
Total	100.0	100.0	100.0	100.0
No. of cases <sup>a</sup>	21	105	103	21
Average number of referrals during Phase 1 of CFDR	0.38	0.62	0.20	0.19

Note: <sup>a</sup> Data on the gender of Client 2 was missing in two cases and have been excluded from this analysis. Percentages may not total exactly 100.0% due to rounding.

### *CFDR referrals in Phase 2*

Data on the number of referrals made during Phase 2 of CFDR pilot are presented in Table A2. Between 33% and 42% of CFDR cases had one or more referrals made during Phase 2 of CFDR. A higher proportion of cases where Client 1 was female had one or more referrals made compared to cases where Client 2 was male.

**Table A2 Referrals to other services during Phase 2 of CFDR, by client and client gender, CFDR pilot group**

Referrals made	Client 1		Client 2	
	Male (%)	Female (%)	Male (%)	Female (%)
No referrals made	–	58.0	67.4	–
1 referral made	–	24.0	22.5	–
2 or more referrals made	–	18.0	10.2	–
Total	–	100.0	100.0	–
No. of cases <sup>a</sup>	13	50	49	13
Average no. of referrals during Phase 2 of CFDR	–	0.66	0.43	–

Note: Due to small sample size, frequency of preparation sessions for Client 1 males and Client 2 females are not reported in above table. <sup>a</sup> Data on the gender of Client 2 was missing in one case and have been excluded from this analysis. Percentages may not total exactly 100.0% due to rounding.

## Referrals during the preparation phase of FDR (comparison group)

Analysis of data relating to client referrals during the preparation phase for the comparison group reveals that the most common referral for Client 1 males was referral to a legal service (29% of cases), followed by referral to a mental health counselling/service (16% of cases) and men's support professional (10% of cases). Fewer than 6% of cases had a referral made to each of the other seven services or programs for which data were collected.<sup>34</sup> In terms of referrals to other service types, in 5% of cases, Client 1 males were referred to other programs or services, such as children's contact centres or Men's Line (data not shown).

The pattern of referrals for Client 1 females was quite similar, with 29% of cases involving a referral to a legal service at this stage of FDR. In 14% of cases, Client 1 females were referred to a DV service, and in 13% of cases, referrals to a mental health service were made. As with Client 1 males, there was a low proportion of cases with other referral types in this phase (fewer than 5% of cases for each of the remaining services or programs for which information was collected). Other referrals for Client 1 females included financial counselling, police and women's refuges (data not shown).

Data on the number of referrals made during this stage are presented in Table A3. The most striking aspect of these data is that almost double the proportion of cases where Client 2 is female had one or more referrals made (21%), compared to cases where Client 2 was male (11%). Referrals during this phase were much less common for children, with 4% of cases having a referral made for children.

**Table A3 Referrals to other services during preparation phase of FDR, by client and client gender, comparison group**

Referrals made	Client 1		Client 2	
	Male (%)	Female (%)	Male (%)	Female (%)
No referrals made	59.1	64.8	89.0	68.6
1 referral made	22.9	19.0	9.6	15.2
2 or more referrals made	18.0	16.2	1.4	6.2
Total	100.0	100.0	100.0	100.0
No. of cases <sup>a</sup>	105	142	136	105
Average no. of referrals during preparation phase of FDR	0.69	0.65	0.13	0.54

Note: <sup>a</sup> Data on the gender of Client 2 was missing in six cases and have been excluded from this analysis.

## Comparing arrangements at intake with final agreed arrangements (comparison group)

Table A4 compares final agreement parenting arrangements with those at intake for those 138 comparison group children who had a final agreement outcome. A similar analysis was not reported for CFDR children due to small sample sizes. As can be observed, 75% of comparison group children who spent most time with their mother at

<sup>34</sup> The Study 4 comparison group form collected information about whether clients were referred to one of ten services or programs: Supporting Children after Separation Program/similar program; Parenting Orders program/similar program; Parenting After Separation Program/similar program; Men's service; DV service; Legal service; Family support service; Mental health/counselling service; Drug and alcohol service; and Child protection service. There was also scope for case managers to write in other services or programs to which clients were referred.

intake were also in this arrangement as part of the final agreed arrangements. The same proportion (12%) of children had moved to shared care arrangements or had no agreement reached.

The majority of children (91%) who spent all their time with their mother at intake were in final arrangements where they spent most of their time with their mother and some time with their father.

While noting that we only had information on a small number of children (17 children) who were in shared care arrangements in the final agreement, all children in this arrangement at intake also had this as their parenting arrangement in the final agreement.

**Table A4 Comparison of parenting arrangements at intake with final agreement parenting arrangements, comparison group**

Parenting arrangements at intake	Final agreement parenting arrangements					Totals	
	All time with mother, no time with father (%)	Most time with mother (at least 66% of time) (%)	Shared care (35–65% with each parent) (%)	Most time with father (at least 66% of time) (%)	Not in agreement (%)	%	<i>n</i>
All time with mother, no time with father (%)	3.0	90.9	3.0	3.0	–	100.0	33
Most time with mother (at least 66% of time) (%)	–	74.7	12.0	1.3	12.0	100.0	75
Shared care (35–65% with each parent) (%)	–	–	100.0	–	–	100.0	17
Most time with father (at least 66% of time) (%)	–	–	–	–	–	100.0	7
All time with father, no time with mother (%)	–	–	–	–	–	100.0	6
Total no. of children							138

Note: Due to small sample sizes, final agreement parenting arrangements for children who spent most time with their father at intake (7 children) and all time with their father at intake (6 children) have not been reported.