

Child Aware Conference 2015
Honouring the Rights of the Child and
Establishing High Expectations from a Family
Dispute Resolution (FDR) Perspective

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Topics

- Establishing high expectations in family dispute resolution and supporting the rights and interests of children
- UN Convention on the Rights of the Child –Articles 12,13,18,19,31,36
- Best Interests of the Child and Family Dispute Resolution
- Underpinning Principles in Child Inclusive FDR (FRC Logan)

Queensland children

At 30 June 2012, there were an estimated 1, 106,884 children and young people aged 0-17 years living in Queensland representing almost one quarter (23.8%) of the state's population

- 625,977 aged 0-9 years
- 480,907 aged 10-17 years

(ABS 3235.0, Population by age and sex, Regions of Australia unpublished data. 2013 figures are preliminary release)

Current research tells us that negative parenting behaviors associated with entrenched long-term conflict and parental relationship breakdown forecasts a myriad of child outcomes that are not geared to the rights of children as described in the Un Convention On the Rights of the Child – and their “best interests” as defined in the Family Law Act 1975 as amended

There is a vast literature on the damaging effects of children's exposure to DFV; to high and enduring conflict and to compromised and abusive parenting. When these continue post-separation the child is at risk

(References: Kelly & Emery 2003, McIntosh & Long 2005, Rendell et al 2000).

“Frightened parenting or frightening parenting damages attachment” (Dr Kim S. Golding: Nurturing Attachments;2014)

In 2006, reforms to the Australian family law system included the introduction of Family Relationship Centres – 65 federally funded centres opened between 2006 and 2008 in major cities and regional areas, as an alternative to Family Court for parenting disputes



FRC's provide family dispute resolution and operate in a family law context supported by social science and collaborate with other family law services to support children and parents/families

Establishing high expectations in Family Dispute Resolution (FDR)

➤ FDR is more than mediation

When the family dispute resolution practitioner advocates children's rights and best interests for safety, healthy development and stronger families as the purpose of family dispute resolution

This includes conversations in FDR about the impact on children and families of violence whether verbal abuse or violent behaviour and what needs to change

At FRC Logan we take an educative approach to informing parents of the *UN Convention on the Rights of the Child*

Ratified by Australia in 1990 and embraced in the Family Law Act 1975 amendments in 2006 as “*best interests of the child*”

AT FRC Logan client engagement is child-focused from the first point of contact and throughout the process to the outcome. Our case management process includes:

- Small group sessions that position participants to be present as *parents* in the FDR conversations.
- 1-1 intake sessions for assessment of suitability for FDR as outlined in *Regulation 25* of the FLA
- 1-1 conversations with parents (grandparents) and children of school age, in a developmentally supportive way, in the context of family separation and quality of parenting and relationships
- Offerings of external referrals for therapeutic and family support, legal advice
- Preparation and planning for parent joint sessions to discuss their children's needs, strengthen quality of relationship and negotiate post-separation parenting plan

We will not proceed with FDR if a parent states they are in fear of harm to themselves or their children if we contact the other parent in relation to family dispute resolution. We can provide support through direct referral to a DV support service, legal assistance and issue a Section 60I Certificate for the family court

Referrals would also include other local family support services such as Intensive Family Support services and SCASP counselling for children

Approximately 80% of parent/child families presenting at intake and assessment for family dispute resolution have been impacted by psychological abuse during the relationship and this continues in a different form after separation

“In the high risk arena, (FDV and enduring high conflict in parenting NW .) frequently at the core of such derailment is the parents own profound and unresolved attachment trauma, often first experienced in childhood and later exacerbated through adult relationship trauma”.

(McIntosh & Moloney: Child Focused Dialogues; 2006)

FRC Logan FDR Practitioners embrace the *UN Convention of the Rights of the Child* as standards for a healthy and just society for children and consequently all human life

We draw parents attention to the UN Convention to introduce a shared platform of principles (beliefs, values and intentions) to inform our thinking and acting for children's best interests – a 'higher common ground' from our own individually learned and lived experience of childhood, relationships and society

We begin from the premise the child's voice is the most compelling to assist parents to find their own child focused and sensitive solutions to conflict and relationship trauma:

- FDR focus is on what children need from their parents for wellbeing, healthy development, safety and secure relationship
- Support for parents to regain or gain a focus on behaving/acting in the best interests of children

We discuss with parents that child inclusive family dispute resolution shows child/ren we respect them and are interested in what they think and feel.

Child/ren tell us they appreciate an opportunity to “have a say” about matters that affect and concern them

We invite children of school age to participate and through conversation, activities and play, children express their own experience, of family, family relationships and separation, parental conflict and “their world view and hopes/wishes”. Each child engages in their own unique way

In child focused FDR practitioner and client engagement purpose becomes:

Improving the child's predicament

Resolving the presenting underlying issues in conflict becomes a secondary outcome of this attention



Actively shifting power away from a conflicted way of relating and not allowing the conversation to be used for mutual berating or undermining of the vulnerable parent

Positioning the child as the most important source of reliable information about what needs to change in the parent's behaviour and parenting

After all, it is the want for relationship with the child and parenting (time) that has brought them to this discussion in family dispute resolution

“Life will impose difficulty and sometimes trauma upon those who are least able to determine their own paths: children. If at these times we can lend children our minds, and build environments for their emotional safety and recovery, we make the load more manageable and less damaging to the developing self.”

Quote: Dr Jennifer McIntosh

As an FDR team, 2012 – 2015 we have consciously **lent our minds**, to build an environment in family dispute resolution at FRC Logan, that supports children’s emotional safety and recovery from the trauma of unresolved high conflict and parental separation and family violence.

We have collectively given considerable thought and debate to discussions about child focused and inclusive FDR to improve outcomes for children post-separation, with the aim to advance our FDR practice (ADR practice experience ranges from 2 to 20 years). This has required a team approach with attention to good working relationships and senior practitioners mentoring and coaching for less experienced practitioners

Family dispute resolution has the potential to be restorative

Practitioner behaviour: beliefs, values, knowledge, skills, experience and communication style impacts on the effectiveness of child informed family dispute resolution

UN Convention and the Rights of the Child

Current research tells us that negative parenting behaviors associated with entrenched long-term conflict and parental relationship breakdown forecasts a myriad of child outcomes that are not geared to the rights of children as described in the UN Convention On the Rights of the Child – and their “best interests” as defined in the *Family Law Act 1975 (Cth)*

UN Convention on the Rights of the Child - Articles

Article 12

Children have a right to say what they think should happen when adults are making decisions that affect them and to have their opinions taken into account

Article 13

Children have the right to get and share information as long as the information is not damaging to them or to others

Article 18

Both parents share responsibility for bringing up their children and should always consider what is best for each child

Article 19

Governments should ensure children are properly cared for and protect them from violence, abuse and neglect by their parents and anyone else who looks after them

Article 31

Children have the right to relax, play and to join in a wide range of leisure activities

Article 36

Children should be protected from any activities that could harm their development

Participant discussion

Article 19

Governments should ensure children are properly cared for and protect them from violence, abuse and neglect by their parents and anyone else who looks after them

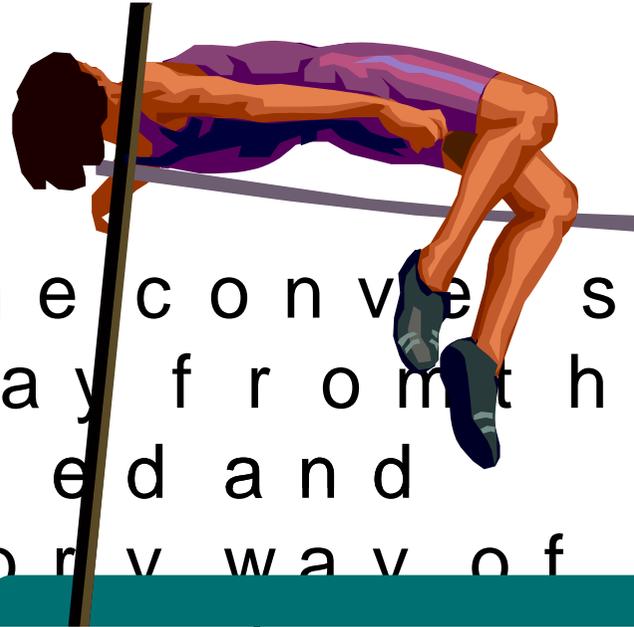
Best interests of the child in family dispute resolution (FDR)

The requirement to participate in family dispute resolution can be a catalyst for behavioural change

For parents to regain sensitivity to and mindfulness of the conditions that erode relationships, and capacity as parents to understand and be responsive to their children's needs for safety, protection, healthy development and happiness

This requires keeping the focus in family dispute resolution on children's rights and best interests and safe and healthy parenting

And the importance of a respectful and co-operative parenting relationship that shows children we respect them and understand quality parenting and relationships are essential to their wellbeing



Taking the conversation
focus away from the
conflicted and
accusatory way of
relating and
communicating when
engaged in family
dispute resolution.

Best Interests of the Child and Family Law Act 1975 – Primary Considerations

- the need to protect children from physical or psychological harm (from being subjected or exposed to abuse, neglect or family violence).
- the benefit to children of meaningful relationships with both parents

Secondary Considerations

- the child's views.
- the child's relationships

Best Interests of the Child and Secondary Considerations

Secondary considerations *continued*

- the willingness, maturity, background and ability of each parent to take on the responsibilities of the best interests of the child
- the likely effect on the child of changed circumstances, including separation from a parent or person with whom the child has been living, including a grandparent or other relatives
- the practical difficulty and expense of a child spending time with and communicating with a parent
- any family violence involving the child or a member of the child's family
- any other fact or circumstance that the court thinks is relevant

A Parenting Plan is made in accordance with the provisions of Section 63C of the *Family Law Act 1975 (Cth)*, and *Shared Parental Responsibility Act 2006, Section 61DA*.

Except as otherwise stated by a Parenting Order, the mother and father have shared responsibility for major long-term issues for the care, welfare and development of the child in relation to:

- Living Arrangements
- Health
- Education
- Religion and Culture

And individually responsibility for day to day decisions and provisions when the child/ren are in their care

We have collated evidence from written participant feedback post-FDR that parents say:

- *awareness of their children's emotional safety and healthy development needs has increased*
- *have a better understanding of how on-going parental conflict can impact on their children*
- *the parenting plan takes into account the emotional security needs of the children*
- *the parenting plan protects their children from physical and psychological harm*

Parents can return for a review after 3 months if they need to and the incidence of this is low. Many return as need for change emerges

During the FDR process we use narrative and strengths based dialogue in conversations that support parents in high conflict to seriously consider the needs of their children for love, safety, secure family relationships and healthy development and find ways for unresolved trauma recovery

- Support
- Encourage
- Empower
- Repair



FRCL's SEER methodology

Underpinning principles guiding
our child aware and child
informed practice in Family
Dispute Resolution at
FRC Logan

Our clinical principles for child inclusive FDR

- The child's voice is considered the most compelling, to assist parents to find their own child sensitive and child focused solutions to disagreements between them
- We support the parents through our process, to achieve readiness to look beyond their own needs and seriously consider the needs of their children. Building on strengths and positioning as parents; focusing on their children, their *best interests*, what they need for happiness and healthy development

Practitioner positioning

De-centred and influential: modelling within the client/practitioner relationship a strengths based practice: beliefs, values and attitudes that support and empower client self-agency and motivates behavioural change towards achieving their goals and safety and security in the child and family relationship

Centred and influential: drawing on resources and information that inform parents of conventions and standards that promote the 'best interests' and the rights of the child

- Our stance is one of respectful curiosity about the child and partnering collaboratively with parents for self agency, solutions focus and behavioural change for conflict resolution and healthy child development
- We support the Child Aware Philosophy & Principles: Australian Institute of Family Studies 2014

Guiding Values

Compassion

Through our understanding and listening to the client's stories, children, parents, others, experiences and eliciting information in an invitational way, bring inspiration, hope and holistic interventions

Respect

Honouring diversity and the uniqueness of each family; valuing contribution to the family dispute resolution process. Viewing the problems as external to the person and not devaluing others

Social Justice

Focusing on the needs and rights of the people we work with and being aware of our own thoughts, feelings and social constructs that can get in the way of treating others with fairness and equality

Working Together and Transparency

Making processes explicit and engaging with clients as the experts in their own lives. Questioning that elicits client knowledge and skill, rather than imposing our own, and sharing information and resources. Inviting feedback from clients and discussing any obstacles perceived to be getting in the way of change

Leading Through Learning and Collaboration

Encourage innovation and support learning by listening to client's experiences and knowledge; bringing the child's perspective.

Allowing space and time for parents to consider the experience of their children and what they need to achieve for their children, through their engagement with the family dispute resolution process

(an FRC Logan adaptation of the Uniting Care Queensland and UnitingCare Community QLD Shared Values)

Through our signatory to the UN Convention on the Rights of the Child we can all act to enable children's rights

Honouring the rights and *best interests* of children requires non-adversarial interventions and collaboration between family law services and family support programs

The quality of family dispute resolution processes and practitioner efficacy is important in establishing high expectations for outcomes for children whose parents are involved in high conflict post- separation parenting disputes and to influence change in Australia's current epidemic of family and DV

Good service integration and organisations that provide sound administrative processes and support professional development and innovation for staff, contribute significantly to the quality of practitioner efficacy in family dispute resolution and high expectations for the quality of life of children after family separation



A child's voice

Is the most compelling for parents to find child sensitive solutions to parenting after separation

Reminds us of the needs of children for safety and security in all areas of their life

Shares important stories about strength and resilience



Brings wisdom, inspiration and hope for stronger families

Encourages innovation and creativity

Can change the world!

Thank you for participating in the session

For further information about child informed and inclusive practice at Family Relationship Centre Logan, Queensland contact:

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FRC Logan  **FAMILY**
RELATIONSHIP CENTRE
HELPING FAMILIES BUILD BETTER RELATIONSHIPS



An Australian Government Initiative

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Session Participants