Resolving disputes over child care and protection

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Family decision making in the New South Wales Children's Court.

The New South Wales Government is currently reviewing the *Children (Care & Protection) Act 1987* (the Act). In late 1994 a Review Advisory Reference Group and Legislative Review Unit (LRU) were established to conduct the review. As a result of the Royal Commission into the NSW Police Service a great deal more public attention is now being paid to the course that government is taking in responding to the vexed issue of child abuse within the community.[1]

Despite the 'stranger danger' aspect focused on by the Wood Royal Commission, in the vast majority of cases, children are physically or sexually abused by members of their own family. Child welfare law struggles with the inherent contradiction that the family is both the safest and most dangerous place for children within society. The Review examined a broad range of decision-making options in an attempt to come to grips with the conundrum that child protection involves: both maintaining children in and removing them from their families.

One of the options considered is Family Decision Making (FDM) conferences. An FDM conference is a meeting or series of meetings involving the members of a child's family network. The purpose of FDM conferences is, first, to acknowledge that the primary role in caring for and protecting children and young people lies within the family group and, secondly, to take a significant step toward increasing family participation in child protection decision making.[2] In his opening address to the Family Group Conferencing Seminar held in Melbourne on 6 November 1996, Chief Justice Nicholson maintained that 'family group conferencing is a tool in aid of reaching better decisions, and agreements which have a greater chance of succeeding.'[3] Further, he claimed that the strength of the family group conferencing model lies in the key interpersonal actors in the child or teenager's life being actively involved in the process of problem solving rather than being the passive recipients of so-called expert intervention.[4]

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FDM conferencing was first introduced as a legally sanctioned child care and protection practice in New Zealand under the *Children, Young Persons and their Families Act 1989* following a ministerial inquiry into the over representation of Maori children in state care.[5] During 1994–95[6] the Victorian Government funded a FDM pilot project, but as yet has not included FDM conferencing in legislation.[7] The South Australian *Children's Protection Act 1993* provides for FDM conferencing as part of the child care and protection process while Tasmania included FDM conferencing in the *Children, Young Persons & Their Families Act 1997.* In New South Wales a pilot FDM conferencing project, under the auspices of the Department of Community Services (the Department) and Burnside (an agency of the Uniting Church in Australia providing services for families and children) is currently being conducted.[8]

Current decision-making practice in NSW

Decision making is central to the child protection process. Under the Act there are two formal decision makers in the child protection process in NSW: the Director-General of the Department and Children's Court magistrates. The Director-General and her delegates alone decide whether a care application is to be made to the Children's Court on the grounds that: adequate provision is not being made or is likely not to be made for the care of a child (s.10(a)), or a child is being or is likely to be abused (s.10(b)). Both the Director-General and persons responsible for a child, usually parent(s), can make a child care application based on the ground that there is a substantial and presently irretrievable breakdown between themselves and the child (s.10(c)). Clause 19 of the *Children's Court Rules 1988* makes it mandatory for a conciliation conference to be convened between the subject child and their parents before a finding can be made on the ground of irretrievable breakdown. However, there are no requirements laid down for the conference and no necessity for family members, other than parents, to be included in the conciliation process.

Once an application is before the Children's Court, the magistrate must be satisfied to a very highly probable standard of proof (s.70(2)) that the child is in need of care before an order can be made under the Act. If this standard is not reached then the application is dismissed (s.72(1)(a)). Should there be a finding that a child is in need of care, then an order accepting undertakings from the person(s) responsible for the child can be made (s.72(1)(b)). A supervision, custody or wardship order can only be made if the magistrate believes there will be a significant improvement in the standard of care being given to the child (s.72(1)(c)(i)-(iii)). The

making of a care order under s.72(1)(c) can effectively leave a child:

- under the supervision of the Department but still in the custody and under the guardianship of their parent(s),
- in the care or custody of relatives, friends, or a non-government organisation but still under the guardianship of their parents,
- placed in short-tern or long term substitute care, or
- placed with parents or relatives as a ward under the guardianship of the Minister for Community Services.

Although the Act states that the court 'shall inquire into the matter' (s.72(1)), decisions of the NSW Supreme Court[9] clearly uphold the view that proceedings in child care cases are adversarial in nature, a contest between parties which requires the magistrate to adjudicate on the evidence presented by the parties, and little more. Parents (as 'persons responsible') and the subject child may become parties to proceedings as of right (ss.65)(1) and (2)). Children are normally separately represented. Grandparents, adult siblings, aunties, uncles, cousins, neighbours and family friends, on the other hand, can only participate in the court process if they can satisfy the court that they are 'concerned persons' (s.65(2)). Any objection by the Director-General, a parent, or the child makes it much more difficult for an individual, even a close relative, to obtain leave to be joined as a party. Proceedings in child care cases are closed to the public (s.67) and, unless contacted by parties to the proceedings, relatives and friends are unlikely to become aware that they are on foot.

A distinguishing feature of the Wood Royal Commission's proceedings, in contrast to hearings before the NSW Independent Commission Against Corruption, is that they were open and inclusive, not exclusive, of the community. Very few people are aware of what transpires in care proceedings before the Children's Court, a situation which often leads to unfounded speculation in the media[10] and effectively alienates the general public from the child protection process. When public revelations are made regarding extreme abusive behaviours against children the community responds in shock, reacting in a manner which tends to overlook much of the positive productive work accomplished by government departments, non-government organisations and the Children's Court. Relatively few people know much at all about the wide range and large number of child care and protection cases passing through the Children's Court.

Safeguards for children

In an attempt to avoid perpetuating the alienation that has historically arisen from the systematic removal of Aboriginal children from their families and communities by welfare authorities, the NSW Parliament included an Aboriginal placement principle in the Act (s.87): an Aboriginal child is not to be placed in the custody or care of another person unless 'the child is placed in the care of a member of the child's extended family, as recognised by the Aboriginal community to which the child belongs'. If such a placement is not practicable then a series of other steps are prescribed by the section. Importantly, no Aboriginal child is to be placed unless members of the child's extended family have been considered as possible full-time carers. There is no similar provision in the Act to maintain non-Aboriginal children within their extended family and community. Section 73(3) of the Act requires the court to give consideration to placing a child with a member of his or her own cultural group but there is certainly no requirement that family members be considered at all.

Section 87 of the Act was put in place to prevent the government employing administrative and judicial powers to create yet another stolen generation, to repeat the gross abuses perpetrated in the name of assimilationist policies against Aboriginal people. Placement principles should also be developed and applied in relation to the familial and cultural needs of non-Aboriginal children. Currently the Act does not require the Department or Children's Court to achieve a thorough, or even a general, understanding of a child's familial network prior to the making of an administrative or court order. Under the Act, children are being placed in short-term and long-term foster care with strangers without administrative or judicial decision makers being required to properly satisfy themselves that there is no suitable placement within the extended family or friendship network that might meet the child's current and future needs.

The Australian Bureau of Statistics defines 'family' as 'two or more persons who live in the same household and are related to each other by blood, marriage or adoption'.[11] Within this definition there is a broad range of family structures: nuclear, extended, single-parent, step, blended, mixed, etc. It is essential, regardless of whether or not the FDM conferencing option is utilised, that before an administrative or judicial decision is made, a decision maker comes to some understanding of the subject child's family and community structure. A comprehensive familial and cultural profile should be created on any child who may be placed outside their immediate birth family on a permanent basis as a result of the exercise of an administrative or judicial power.

Profiles should only be dispensed with in the short term where a child's immediate safety is threatened. Once the profile has been obtained then no final administrative or judicial determination should be made until members of the child's own familial and social network have had the opportunity to exercise their prerogative in making provision for the welfare and protection of a dependent member. In other words, the child's socio-familial group needs to be accorded the right to fulfil its obligation to one of its members, to make a decision with respect to a child's future, subject to final scrutiny by the Department or the Children's Court.[12] Administrative or judicial intervention should only occur when FDM decisions endanger the care or safety of a child.

LRU Discussion Paper

Discussion Paper 1 on Law and Policy in Child Protection issued in 1997 outlined a range of strengths and weaknesses associated with FDM conferences. To some extent I have already raised some of the strengths[13] but will now address the weaknesses identified by the Review.

1/ This model could be a very expensive exercise which may not advance the welfare of the child.

Costs can be characterised in many ways. For example, there are both immediate short-term and recurrent long-term costs to the community for the care of children. Having a child supported by friends and relatives within their own birth family or else placing a child within their extended familial network is far less costly for the community than providing for all the needs of a child until he or she reaches adulthood. The costs associated with contacting family members and arranging a conference may be sizeable. But, if such a conference is successful in placing the child within his or her own

familial network, these costs are a small price to pay for the huge savings in recurrent expenditure associated with maintaining a child in substitute care on a full or even part time basis.

In his assessment of FDM programs, Paul Ban found that family members are more than willing to spend their time and money if they believe that their attendance and contribution at the conference will be valued by professionals and benefit the child.[14] Of course, if as a result of being maintained within his or her family a child does not receive the 'optimum care' and subsequently falls into a life of crime then the expense to the state is considerable. This argument is offset somewhat by statistics which indicate that children raised in substitute care are likely to experience a troubled adolescence and adulthood, often involving drug abuse, crime and gaol; certainly a disastrous and costly result for the state, not to mention the child.[15]

2/ FDM could be dominated by the professionals or adult family members who have their own interests to protect. The child could be lost in the decision-making process and the outcome of the process may not necessarily be what is most advantageous to the child.

By permitting members of the familial network to make decisions in relation to an abused child, the state may simply be endorsing the existing power relationships within the family which, in all probability, led to the crisis for the child in the first place. Without some form of intervention the child is likely to be returned to the same abusive or neglectful situation with an increased likelihood that the child will not disclose abuse in the future. Professionals who do not intervene to bring about change but seek instead to mediate and conciliate can seriously compromise a child's safety.[16]

There is no getting around this claim. However, the reality is that in an overwhelming number of cases, children removed from their families choose to, and do, return to their own family, usually within a very short period of time.[17] Children have a need, a strong desire, to grow and develop in their own birth family. Except in the most serious cases of abuse, it is incumbent on the community to do all that it can to maintain a child, if not within his or her own family unit, then within their extended familial and friendship network.

3/ If an FDM conference is unsuccessful it may serve as another obstacle in the resolution of the case. Time devoted to the conference could further delay the eventual court proceedings. The New Zealand experience is that on average, an FDM conference takes 36 days to organise.

It certainly takes time to arrange and coordinate an FDM conference that will include at least a representative sample of the extended family and friendship network. However, many children placed in state care move through a long series of unsatisfactory placements, never finding a stable family situation. Taking a little more time to ensure that all familial options are exhausted has a two-fold purpose: first a viable family option may be uncovered and, second, when the child examines the records as an adult to see what steps were taken to maintain them within the family, the state will be able to demonstrate that it exercised its duty of care by exhausting all family placement and support options before being forced to resort to permanent removal.

4/ It could raise the issue of due process. It is mandatory (in New Zealand) for an FDM conference to be held prior to the commencement of court proceedings. In current NSW legislation the court process has two distinct stages: establishing whether the child is in need of care, and resolving the issue of placement. In the FDM conference these two processes are merged,[18] and it is the conference which determines whether the child is in need of care. If that issue cannot be resolved then the matter would have to be referred to court in any event.

Due process is essential for the maintenance of a stable legal system. However, nowhere in the Act does it state that there must be a two-stage procedure, that is, establishment and placement. It is the case that magistrates in the Children's Court have generally followed this two-stage course because it offers an orderly method of dealing with the legislative tasks in the Act but it is not a requirement. So long as the procedure followed in terms of each step is open and clear, then due process can be maintained. What occurs in an FDM conference may not be on the public record but the decision certainly is, and the Parliament can make this decision administratively and judicially reviewable. Even when an FDM conference is unsuccessful, the fact that an FDM procedure was followed can assist the judicial decision maker in his or her deliberations and, most importantly, demonstrate to the child, parents and extended family that all familial and social options were exhausted.

5/ This FDM model also raises the issue of natural justice. It is the Care and Protection Co-ordinator's prerogative to determine who should participate in the conference. In cases involving sexual abuse the Co-ordinator may decide that the alleged perpetrator should not be present at the conference and he or she is accordingly denied the right to be heard. Thus there may be no opportunity for him or her to contest the fact that he or she abused a child. The family care meeting model in South Australia was transplanted from New Zealand where it had been introduced with Maori cultural structures in mind. There is no counterpart of the 'whanau' or family system in South Australia and the model does not fit easily into existing social structures.

Natural justice in the context of Children's Court proceedings requires that all parties, including the child and parents are accorded the right to present their case to the decision maker. Within the context of an FDM conference no such right can be safeguarded given the very nature of the process. All decisions of an FDM conference could be made subject to ratification by the Children's Court. This safeguard would provide the opportunity for any aggrieved party to be heard.

It is unfortunate but perhaps understandable that the LRU Discussion Paper presented the FDM conference option in an unfavourable light. The Paper strongly implies that the FDM option is suitable only for those migrant communities that actively promote the extended family,[19] but that for the mainstream 'Australian' family, which is generally understood to be overwhelmingly nuclear, any thought of setting out to draw in extended family members and friends in the care and protection decision-making process would be a wasted effort.

By coupling the cost associated with organising an FDM conference with the picture of an isolated nuclear family and then setting both these factors against a background of ever decreasing federal and state budgets for social and child welfare, the Discussion Paper effectively sidelines FDM as a viable child care and protection option for NSW.[20] To a large extent this pessimistic view of mainstream Australia's willingness or capacity to participate in a FDM process is challenged by the results of the Victorian FDM pilot programme which found that family or friends consistently outnumbered

professionals in attendance at conferences,[21] averaging six family members at each of the pilot conferences.[22]

Although a significant number of families in the Australian community undoubtedly experience a high degree of isolation, before determining the best placement for a child in need of care, every decision-maker should be satisfied that reasonable steps have been taken to identify a child's family and friendship network. Even if no options arise from such a search it is important that it is carried out as a vital step in the development of a viable case plan. Leaving the family out of decision-making processes has created an extremely dysfunctional child care and protection system in NSW that relies to an inordinate degree on a single community option, that is, state intervention and foster parenting.

The fear that patriarchal power, predominant in most families, will simply be replicated unchallenged at FDM conferences is certainly a real concern. It is essential that FDM conference facilitators and children's advocates be trained and accredited to ensure that they have an insight into and capacity to respond to marked power imbalances during FDM conferences. There are undeniably shortcomings in the FDM conferencing model in relation to patriarchal power. Even so, when a reasonable proposal is generated from within a family for the care, protection and welfare of a child, which can be scrutinised by the state so that it at least meets a minimum child care and protection standard, then it is certainly to be preferred to an alternative which sees the child removed from his or her own familial environment. Human beings need to belong, and no matter how loving and competent foster parents may prove to be, that complete sense of connection is extremely difficult to achieve in a non-familial placement.

It is clear that a small number of children are abused while in substitute care. As a child protection worker, the author experienced the trauma of removing children from their families because of abuse and neglect only to discover at a later date that they were sexually abused while in foster care. Such negative child protection outcomes, together with the high frequency of children running away from foster care in order to return to essentially abusive situations in their own homes, soon makes one realise that we require many more options to maintain children, if not within their own family then, within their own familial or friendship network.

Conclusion

FDM conferencing is not the panacea for the ills of the child welfare and protection system. It is just one option that should be made available with proper resourcing and legislative and administrative support.[23] The New Zealand model may not be suitable for conditions in New South Wales but, with a degree of testing, review and modification, there could be an FDM model to suit NSW conditions. For example, given the vast distances and dispersion of families throughout Australia, FDM may make more effective use of communication technology, thereby reducing transport costs and time taken to complete conferences.

The creation of a legislative framework that permits a group of individuals bound together by blood, marital relations or friendship, to become legitimate decision makers, empowered by the state to transform consensus into *act*-uality, to 'decide' the future care and control of children (who may themselves be participants in FDM), raises a host of questions, not least being: should FDM assume an alternative or possibly primary[24] role, or absolutely no role at all, in resolving disputes in child care and protection cases? FDM is a form of alternative dispute resolution and, like mediation, is based on substantive not procedural justice, 'shifting emphasis to results rather than rules'.[25] While the range of ADR methods employed in other countries, and even in other Australian states, may not be wholly suited to the socio-legal environment in New South Wales we should not be afraid to invest time in studying other systems and to adopt those procedures which serve to increase the efficiency and effectiveness of decision making and ADR processes directed at child care and protection.

There should be a range of options in the child protection arsenal, specifically spelt out in legislation. If FDM is not implemented through legislation and is instead subsumed under the general heading ADR, then it is less likely to be utilised due to budgetary and time constraints. The current system of child care and protection has alienated both the family and community. It is most important that the family be empowered to make decisions in relation to the care and protection of its members. Only once this decision-making process fails to protect a child from harm and neglect should the administrative and judicial powers of the state be brought to bear.

References

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2. Fraser, Sarah, and Norton, Jenny, 'Family Group Conferencing in New Zealand Child Protection Work' in *Family Group Conferences — Perspectives on Policy and Practice*, Joe Hudson, Allison Morris, Gabrielle Maxwell & Burt Galaway (eds), The Federation Press, 1996, p.37.
3. Opening Address to the Mission of St James and St John Family Group Conferencing Seminar, 6 November 1996, Melbourne, The Hon. Justice Alastair Nicholson, AO RFD Chief Justice Family Court of Australia, p.2.
4. Ref. 3, above, p.3
5. Ryburn, Murray and Atherton, Celia, 'Family Group Conferences: Partnership in Practice', (1996) 20(1) *Adoption & Fostering* 16.
6. Family Group Conferences in Protection and Care — Program Document, Department of Human Services, Victoria, May 1996.
7. Although there is provision for pre-hearing conferences: s.82A and B *Children and Young Persons Act 1989 (Vic.)*.
8. Mondy, Linda, Family Decision Making Pilot Program, Issue 3, July 1997 pp 3-4.
9. *Talbot v Minister of Community Services* (1993) NSWLR; *Hartingdon v Director-General of the Department of Community Services (1993)* 17 FamLR 126.
10. Despite the fact that under s.67(1)(b) of the Act, news media have a right to report on proceedings unless the court directs otherwise.
11. Australian Bureau of Statistics, Canberra, 1982, p.1 in Victory, Michael, *The Family Extended Marriage, Family & Divorce in Australia*, CIS Publishers, 1993, p.2.
12. Whether it is the Department or the Children's Court which assumes this role will depend very much on the legislative framework the Parliament puts in place, but FDM conferences could be utilised at various stages of the administrative and judicial child protection process.
13. LRU Discussion Paper on Law and Policy in Child Protection, 1997. *Strengths: 1/ The model uses resources within the family to solve family problems. It is a powerful way of confronting and exposing the issues of the family and forcing all parties involved to focus on the needs of the child. 2/ It involves the family in the decision making process. The family generates the plan. Because the family own the plan they are more likely to take responsibility for carrying it through. 3/ It may increase the chances of the child remaining at home or in his or her own extended family or community network by using the resources of the extended family to provide respite care and other assistance to the family. 4/ The model may succeed in accommodating the needs of children and families from ethnic communities where extended family and close-knit community structures are the norm.*

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have regard to the fact that the reasonable expectations of both the landlord and the tenant are predicated by the landlord's obligation to act in accordance with its 'principal objective'.

An application for a determination of market rent would not be entirely satisfactory. It would involve a steady progression by way of appeals from the Tribunal to the District Court to the High Court. An even if the Court ultimately decided that the rent should be reduced, the order would not apply to excessive rents that were paid or payable before the application was commenced. Nor would it apply to tenants who were not parties to the application. However, it seems that, until the *Housing Restructuring Act 1992* is repealed, there is no other way of challenging the Government's state housing rental policies in the courts.

Future housing policy: another survey?

Part of the problem is that the Government does not recognise that there is a problem. The Minister of Housing refuses to acknowledge the findings of the various non-government surveys that have been conducted. And it may be that these small scale surveys do not provide us with enough information to justify some of the criticisms that have been made of the reforms.

It is submitted that, whatever we do, we need more information. Our present situation may be likened to that in 1935 when, in response to widespread concern about the housing situation, the Government passed the *Housing Survey Act.*[13] This Act commissioned a comprehensive survey to be conducted by Borough Councils and other Local Authorities to find out about the type, construction and condition of dwellings, the presence or absence of proper sanitary, washing and cooking facilities, the number of people occupying dwellings, the degree of overcrowding, the storage of food and the provision of light, ventilation, yard and air space. All towns over 1000 people were required to complete the survey.

The survey disclosed problems of inadequate housing and overcrowding. It led to the development of housing policies which aimed to address these problems and which resulted in the acquisition of land by the state, the construction of quality houses and the letting of those houses at subsidised rents to tenants on lower incomes.

These reforms were in response to accurate information about housing problems. The present reforms were introduced without any qualitative research being done to justify them. A survey on the scale of that commissioned in 1935 should give us a good basis for future housing policy. Decisions on the housing policy of a nation are too important to be made on the basis of ignorance.

References

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2. See Petrie, K.L., 'The Housing Restructuring Act 1992 — A major change in direction', LLM research paper, 1994, p.13 for discussion of the points system
3. See Alston, A., *Residential Tenancies,* Wellington, Butterworths, 3rd edn 1998, pp.1–4.
4. Petrie, K.L., above, pp.6–7.
5. Hon. John Luxton, Minister of Housing, 'Housing and Accommodation: Accommodation Assistance', 30 July 1991.
6. Stephens, Bob, 'Housing Expenditures and the Incidence of Poverty in New Zealand', Victoria University of Wellington, New Zealand, 1996, p.4. An earlier version of this paper was delivered at the Ministry of Housing's Research Conference in May 1994 and published in the Conference Proceedings.
7. Waldergrave, Charles and Sawrey, Richard, *The Extent of Serious Housing Need in New Zealand.* Published as part of the Ministry of Housing's Research Conference Proceedings in May 1994; NZCCSS (New Zealand Council of Social Services) 1994–95, p.12.
8. Unreported judgment of Williams J, Auckland High Court 1996, M.538/94. A considerably abridged version of the case has been reported in [1997] 2 NZLR 474. References in this article are to the unreported judgment.
9. Mention should be made of the Social Policy Research Unit, The Family Centre, Lower Hutt, Wellington, which has carried out a number of valuable surveys on housing and policy.
10. 'A legitimate expectation may be created by the giving of assurances, the existence of a regular practice, the creation of machinery for a hearing process, the consequences of the denial of the benefit to which the expectation relates or the satisfaction of statutory conditions, but legitimate expectation has been held not to rise as something inherent in the subject matter': Taylor, (1991) *Judicial Review,* para. 13.06, p.256.
11. at 64. His Honour referred to Lord Brightman's statement in *Chief Constable of the North Wales Police v Evans* [1982] 1 WLR 1155 at 1173: 'Judicial review is concerned not with the decision, but with the decision making process. Unless that restriction on the power of the Court is observed, the Court will in my view, under the guise of preventing the abuse of power, be itself guilty of usurping power'.
12. As Williams J himself said at 88, 'Nevertheless, the authorities just discussed indicate the approach which should be taken to this cause of action'.
13. *Housing Survey Act 1935.* The 'Long Title' of the Act is as follows. 'An Act to require certain Borough Councils and other Local Authorities to make Housing Surveys within their respective Districts, preparatory to the Inauguration of a Dominion Housing Scheme'.

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14. Ban, Paul, 'Implementing and Evaluating Family Group Conferences with Children and Families in Victoria, Australia', in Joe Hudson et al., above, ref. 2, p.143.
15. 'The Drift of Children in Care into the Juvenile Justice System: Turning Victims into Criminals', A Discussion Paper by the NSW Community Services Commission, Surry Hills, NSW, December, 1996.
16. It is the case, though, that in the NSW Burnside Pilot FDM program, as in New Zealand, statutory workers can veto a family plan if they believe it is not safe for the child. In 90% of cases, New Zealand statutory workers have supported plans families have produced. Hirst, J., Family Planning.Community Care, 9-15 May, 1996.
17. Bullock, R., Little, M., and Millham, S. Going Home — The Return of Children Separated From Their Families. Aldershot; Dartmouth, 1993, p. 67 referred to in 'Family Group Conferences in Child Welfare Services in England & Wales' by Peter Marsh & Gilliam Crow in Family Group Conferences — Perspectives On Policy & Practice editors Joe Hudson et al, ref. 2, above, p.156.
18. This is not the case with the NSW Burnside Pilot FDM program which focuses solely on developing action plans for placement.
19. See ref. 12.
20. Fortunately, after considering the feedback from its Discussion Paper the Legislative Review recommended that Alternative Dispute Resolution (ADR) should be available as an early intervention strategy (3.5) and that ADR mechanisms provided for in the Act should include family group conferences (3.6), 'Review of the Children (Care and Protection) Act 1987 — Recommendations for Law Reform', November 1997.
21. The Evaluation of Family Group Conferences: A key to Family Centred Practice in Child Protection. Health and Community Services, August 1995, Victoria, Australia p.15.
22. Swain, Phillip, 'Safe in Our Hands — The Evaluation Report of the Family Decision Making Project', Mission of St James & St John, Melbourne, 1993, referred to by Paul Ban in Joe Hudson et al (eds), ref. 2, above, p.143.
23. As is the case with the establishment by the NSW Government of the Youth Justice Conferencing Scheme in accordance with the *Young Offenders Act 1997.*
24. Alexander, Renata, 'Family Mediation: Friend or Foe for Women?', (1997) *Australian Dispute Resolution Journal,* November p.255.
25. Woo, Lokki, 'Sweet & Sour Law: Does Chinese Mediation Suit the Australian Palate?' (1996) 7(2) *Polemic* Issue 91.