



Representing Family Lawyers Throughout Australia

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Dear Ms Burridge

Review of Family Dispute Resolution Practitioner Qualifications

Thank you for the opportunity to provide these comments in response to the Skills Council's review of qualifications for family dispute resolution (FDR) practitioners, including the Graduate Diploma of Family Dispute Resolution.

The accreditation requirements for FDR practitioners, including the competency based requirements, are provided in the *Family Law (Family Dispute Resolution Practitioners) Regulations 2008* (the Regulations). Under Regulation 5, an applicant may meet the competency based requirement in a number of ways including:

- Completing the Vocational Graduate Diploma of Family Dispute Resolution;
- Having an appropriate post graduate qualification (e.g. law) and competency in six compulsory units from the Vocational Graduate Diploma of Family Dispute Resolution;
- Accreditation under the National Mediation Accreditation Scheme and competency in six compulsory units from the Vocational Graduate Diploma of Family Dispute Resolution.

As part of the competency assessment requirement, a practitioner must also undergo supervision by an accredited FDR practitioner. One of the key changes proposed in the current Skills Council review is to increase the required number of hours of supervision from 10 to 100. The public documentation issued by the Review provides no explanation for the increase.

FDR practitioners currently come from a variety of fields including barristers, solicitors in private practice, solicitors in government organisations (such as legal aid), mediators, social workers and psychologists in private practice and those employed by large organisations (e.g. Relationships Australia) and government organisations (e.g. Family Relationships Centres). Each of these practitioners brings particular skills to the process and afford parties the opportunity to choose the FDR practitioner best

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suited to their circumstances. In many cases parties, and their case as a whole, benefit significantly from the involvement of legally trained FDR practitioners.

The current requirement to complete 10 hours of supervision (including for nationally accredited mediators) relies heavily on the benevolence and generosity of existing FDR practitioners (and parties prepared to have an additional FDR practitioner involved in their case) or other organisations able to provide an appropriate level of supervision.

The practical effect of the proposed change to 100 hours of supervision will make it very difficult, if not impossible, for legal practitioners in private practice to complete that amount of supervised practice. Further, the likelihood of private practitioners being in a position to offer 100 hours of supervision (and securing sufficient clients willing to absorb that intrusion) would appear to be remote at best.

It follows that employment in large organisations such as Relationships Australia or a Family Relationship Centre may be the only opportunity to secure that level of supervision. This would have the effect of significantly curtailing the background and experience of FDR practitioners and would represent a diminution of the skill base currently available to parties.

We understand from the Attorney-General's Department that in September 2014 there were more than 1700 accredited FDR practitioners. Of this number, approximately 870 were employed by Government-funded/related agencies, 600 were private practitioners and 270 worked both in Government-funded/related agencies and in private practice. We would expect that the number of private practitioners would decrease over time if the supervisory hours are increased to 100.

We are also concerned that the proposed increase to 100 hours appears to be an arbitrary number without reference to, or supported, by research. As noted in the Explanatory Statement supporting the Regulations, the:

'...competency-based approach to family dispute resolution was part of extensive consultations undertaken by the Industry Skills Council in late 2006 and early 2007 and included key stakeholder groups such as the National Alternative Dispute Resolution Advisory Council, legal aid commissions, the Law Council of Australia and Family Relationship Services Australia. The qualifications were subsequently endorsed by the Ministerial Council on Education, Employment, Training and Youth Affairs on 24 September 2007.

Such a significant change in the competency assessment requirement should not be made without proper consideration of its impact across the profession.

The Family Law Section would be happy to further discuss the issues raised in this letter.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Rick O'Brien', written over a horizontal line.

Rick O'Brien
Chair