Alternative modes of delivery for family dispute resolution: The Telephone Dispute Resolution Service and the online FDR project

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ABSTRACT

This paper provides an overview of the national Telephone Dispute Resolution Service that has been operated by Relationships Australia Queensland since July 2007. The document applies an operational and clinical perspective to the achievements of the service and an overview of the Online Family Dispute Resolution Project which was funded by the Attorney-General's Department to develop and evaluate online technologies, including video-conferencing, for clients of the Telephone Dispute Resolution Service.

Following changes to Australia’s Family Law system in 2006 separated parents in dispute about their children can apply to a family law court for a Parenting Order only after obtaining a certificate from a certified family dispute resolution (FDR) practitioner which states that genuine effort has been made to resolve the dispute through a FDR process. To support these changes, the Australian Government funded the establishment of 65 Family Relationship Centres (FRCs) around Australia between 2006 and 2008. The purpose of the centres is to act as a source of information and advice to assist families at all stages of their lives, with a focus on providing FDR to separated parents. The Family Relationship Advice Line (FRAL) was also established in 2006 to complement the services offered by FRCs, ensuring anyone who cannot access a centre could receive help.

Key words: Family Law; online family dispute resolution; online mediation; telephone mediation; Relationships Australia Queensland; separation; parenting; cross border disputes

THE TELEPHONE DISPUTE RESOLUTION SERVICE

Operating as a component of the Family Relationship Advice Line (FRAL), the Telephone Dispute Resolution Service (TDRS) commenced service delivery in July 2007 and is a national, telephone-based family dispute resolution (FDR) service. The TDRS is operated by Relationships Australia Queensland (RAQ) and is funded by the Australian Government under the

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1 This article includes excerpts from the Online Family Dispute Resolution Final Report – Development and Evaluation of Online Family Dispute Resolution Capabilities, 30 March 2011, Relationships Australia Queensland, prepared for the Commonwealth of Australia Attorney General’s Department.

2 The main exceptions to this requirement are urgent cases and cases in which there are allegations of child abuse or family violence.


Family Support Program (FSP). Service delivery is provided between 8 am and 8 pm Monday to Friday and between 10 am and 6 pm on Saturdays (local times in all states and territories), excluding national public holidays.

The TDRS assists clients with parenting and property disputes, although property is only dealt with if parenting issues are also in dispute. For clients who require an interpreter, the Telephone Interpreter Service is utilised and for those who have a hearing or speech impairment, the National Relay Service. A fee schedule exists, although a wide range of exemptions apply and clients can request a fee reduction if they are unable to afford the cost. As with any service funded under the FSP, the TDRS will not deny services to any person on the basis of their ability to pay fees. FDR sessions are conducted by accredited Family Dispute Resolution Practitioners (FDRPs) located at the RAQ Client Contact Centre in Brisbane and also located in RAQ regional venues. Remote service delivery is made possible by the use of electronic client files available across a secure network and the cost-effectiveness of internal VoIP telephony installed across all RAQ venues.

The TDRS provides a child-focused, FDR service that is available by referral from the FRAL Parenting Advisers or from Managers or Practitioners of Family Relationship Centres (FRCs) or other FDR services funded under the FSP. Clients of the Parenting Orders Program are also able to be referred. Referral to the TDRS is usually made by warm-transferring the caller using a dedicated phone number that is provided to referring services. Referrals can only be made after an initial assessment that the caller might benefit from FDR and that telephone is more appropriate than face-to-face as a mode of service delivery. There are no prescriptive criteria required by the TDRS in making a determination that telephone is more appropriate. Rather, a case-by-case assessment must be made as there are many considerations that may be relevant, including the distance between the parties, access to other FDR services, the hours the parties are available. There may also, be disability, literacy or language issues that prevent or dissuade the person from accessing face-to-face services.

Sometimes cases are referred to the TDRS because safety concerns or Domestic Violence Orders mean the parties cannot or should not meet face-to-face. Conversely it may be that telephone is not appropriate if one or both of the parties do not communicate well over the telephone, or the telephone has been previously used as a tool in domestic violence. Or it may be an important choice for one or both of the parties to discuss parenting arrangements face-to-face, despite living in different locations, and one or both may be prepared to travel significant distances to attend face-to-face services.

These issues are some of the considerations that might be explored by the Practitioner before referring a client to the TDRS. The TDRS process includes continual screening and assessment and if it is later determined the parties might benefit from face-to-face services, an appropriate referral is made, including if an assessment is made that the parties might benefit from a child-inclusive process.

When a caller is first warm-transferred to the service they are greeted by a TDRS Operator who will explain the FDR process and if the caller wishes to proceed, will register the caller as a client and book an Intake session. Following the registration process, an Information Pack is forwarded to the client by email or mail, including details about the FDR process, Certificates and Parenting Plans, along with other resources that may assist with preparing for FDR. The Intake session is a screening and assessment process, scheduled for one hour with each client. The FDR sessions are scheduled for two hours, with second and subsequent sessions available if required. In cases where FDR is assessed as appropriate, a facilitative, child-focused model of mediation is used in which the FDRP will assist the parties to develop and prioritise an Agenda and to explore the issues, generate options, negotiate and to reach agreement. Any agreements that are made during the session are typed and a copy is forwarded to each of the parties in the form of
Parenting Agreements. The parties are informed throughout the FDR process about how to formalise their agreements into a Parenting Plan or Consent Orders, and referrals can be made for legal advice or other support if required.

It is usual for FDR to be conducted as a joint session where the parties and the FDRP can all hear each other and speak in a teleconference. However a number of alternate modalities are available to assist in addressing actual or potential power imbalances, including shuttle mediation where the parties are on separate lines and the FDRP toggles between the different lines, and co-mediation with the FDRPs located together or in separate locations. The presence of interpreters and support people and/or lawyers can also be facilitated. In cases where there is, or has been, family violence, the TDRS is able to consider referring the case to the Coordinated FDR (CFDR) pilot that is currently in progress. The TDRS is one of five locations across Australia and the only telephone-based FDR service that is participating in the pilot which was developed by the Women’s Legal Service in Brisbane and is funded by the Commonwealth Attorney-General’s Department. The pilot is focused on developing a multidisciplinary approach to FDR within a system, framework and structure that supports a focus on safe processes and outcomes and is being evaluated by the Australian Institute of Family Studies. CFDR is a case-managed process that involves providing clients with access to professionals from the TDRS and from a Domestic Violence service, a Men’s service, and two legal services, all providing service-delivery by telephone.

Providing effective FDR services by telephone requires a particular set of competencies to be honed or added to the mediator’s skill set. FDRPs working for the TDRS are provided with the training and support to build skills specific to the telephone environment that include working with co-mediators, active listening, rapport building, interpreting silences and tones, verbal acknowledgements, controlling language, time keeping, and the ability to do all of this whilst operating the telephony and note-taking. In addition to building a specialised set of micro-skills, the staff soon become adept at responding to all manner of situational circumstances that can arise when delivering a telephone service. The day-to-day interruptions that can occur in the home, a child that needs immediate attention, the flush of a toilet, the discovery (or suspicion) of an undisclosed person in the room, or a mobile telephone suddenly dropping out of range, are just some of the situations these FDRPs become equipped to deal with.

The Online Family Dispute Resolution Project

Over the past 4.5 years the TDRS has delivered more than 13,000 Intakes and 3,000 FDR sessions and has become established as a unique, national provider of telephone-based FDR services in the family law sector. This experience and the existence of established infrastructure made the TDRS an ideal site to explore the use of online technologies and in 2009, RAQ was funded by the Commonwealth Attorney-General’s Department to develop and evaluate online family dispute resolution (OFDR) capabilities, including video-conferencing, for existing clients of the TDRS. The scope of the project included the development of an online Intake and FDR capability and an evaluation of pre-FDR education for TDRS clients prior to the joint session, an additional intervention frequently used in FRCs. A number of interim reports were provided to the Department during the life of the project and a final evaluative report was provided on 30 March 2011.

5 ‘Towards a Coordinated Community Response in Family Dispute Resolution’: A model to pilot FDR for families where past or current family violence exists. Prepared by Women’s Legal Service Inc. (WLS) Brisbane in consultation with the Attorney-General’s Department, Commonwealth, 2010, p 3.
A multi-disciplinary approach was applied to manage the development and implementation of the project with the working group incorporating internal stakeholders from practice, technology, research and finance. Sub-committees were appointed at relevant stages of the project to provide input (and report back to the project committee) regarding specific areas of expertise, for example in relation to cultural considerations.

A preferred communication integration company was identified after a 4 month selection process as the company that could best meet the requirements of the system within the technological infrastructure, operations and values of RAQ. The brief was to provide a secure, safe and controlled online space in which to conduct OFDR. The final product is web-based and therefore highly accessible. The system is able to be operated across most platforms (Windows, Mac, Linux, Solaria and others) and only requires an internet browser and connection, Adobe Flash Player and a web-camera. Testing with some success was undertaken using mobile devices, but further development and testing is required to ensure seamless use of OFDR technology with mobile devices. Geospatial mapping of client data from over 3 years of the TDRS operations indicated that the majority of TDRS clients would have access to the communication infrastructure required by the OFDR system. The costs to clients, apart from data transmission (which depends on individual internet provider fees), are negligible.

Installation and customisation of the OFDR technology was impacted heavily by the unprecedented nature of the system requirements – namely a complex integration of web conferencing, telephony infrastructure, audio conferencing and a Secure Access Gateway. Whereas web conferencing systems ordinarily aim to provide end users with maximum flexibility, transparency and some degree of control, this system required a safe, secure online environment (in particular, ensuring confidentiality of client information) controlled mostly by the FDRP. Extensive internal resources were required to test and progress the development of the technology relating not only to security, but also aesthetic, audio and other considerations.

User accessibility and usability were key considerations in developing the technology, as was the security of information being shared, the flexibility of functions within the interface and overall continuity and reliability of the mechanism through which the service would be delivered. Features successfully integrated into the technology include:

- video streaming so that each participant can safely see and communicate with the other;
- screen features including small windows (pods) which can be scaled, resized and repositioned and hold a variety of information;
- visual sharing of information, including document sharing, online demonstration and whiteboard feature;
- ability to record notes which can subsequently be emailed to the FDRP; and
- secure access to functionalities via FDRP authorisation.

Prior to commencement of the service, a toolkit was developed to help determine user (FDRP) competence and site (technical) readiness, and this informed further training and site preparation. Training in the use of the technology and in the development of practice skills required to successfully deliver the service was provided to individuals and to staff in group settings.

Throughout the project (and beyond), a rigorous research process has been undertaken that involved several independent studies led by RAQ’s research team. These studies have centred on implementation; client readiness; staff readiness; staff training evaluation; the client experience of OFDR; the role of pre-FDR education; and cultural considerations. The results of studies are promising, in that both staff and clients have been motivated and able to use online technologies for service delivery. Moreover, individuals from diverse backgrounds such as Aboriginal and
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Torres Strait Islander clients and staff are enthusiastic and willing to work out ways to adapt and adopt online technologies to improve services to vulnerable and disadvantaged individuals and groups who require complex services.

In addition to improving access to services in Australia, the OFDR system can be utilised by individuals anywhere in the world where a computer can be connected to the Internet. The TDRS regularly deals with cases that involve at least one of the parties living overseas. These cases are sometimes referred by the International Social Services and have included international parental child abduction or more commonly, a separated parent who has returned to their country of origin. The option to enhance the FDR process in cross-border disputes via the use of the online technologies has raised interest locally and internationally. Earlier this year, representatives from the Attorney-General’s Department participated in a special Committee meeting at The Hague on the practical operation of the Child Abduction and Child Protection conventions.

There was a great deal of interest in the OFDR project from delegate countries and this later led to two staff members from RAQ travelling to the Hague to meet with staff from the Permanent Bureau to discuss and demonstrate the system. RAQ was also invited to present a session to introduce online mediation at a workshop held in Brussels, which for the first time brought together family mediators from 21 countries across the European Union who practice in cross-border disputes. The workshop was funded by the European Union as an innovative project to build networks and develop a common model of co-mediation for these often complex cases.

The OFDR project has allowed the development of an accessible, relevant and user-friendly online alternative to traditional forms of mediation. As evidenced in RAQ’s experience and research findings throughout the project, this technology presents a unique opportunity for the sector to provide cutting edge, reliable and secure online services to clients and to remain at the forefront of this technology into the future. 2012 represents an exciting year for RAQ and for clients and staff of the TDRS, as alternative modes of delivery for FDR continue to evolve from the traditional models of telephone mediation, providing better processes and outcomes for families who need those services.