

13 May 2021

CCS Accreditation
Attorney-General's Department
3-5 National Circuit
BARTON ACT 2600

By email: ccsaccreditation@ag.gov.au

Question 1 Are there any reasons why an accreditation scheme for CCSs, that captures both staff and the service itself, should not be established?

Relationships Australia supports policy objectives including:

- delivery of child-centred, safe, high quality services in a timely way
- extension of regulation from being limited to government-funded CCS to all CCS, ensuring at least minimum common standards of safety and quality, and
- professionalisation, where that currently does not exist in the sector.

However, Relationships Australia is concerned that key aspects of proposals described in the consultation paper might compromise achievement of these objectives, and could lead to an array of unintended consequences that harm children.

Accordingly, our response to this question includes an alternative proposal, described at section 1.6.

In our submission responding to the 2018 ALRC Discussion Paper (ALRC DP86), we supported an ALRC proposal to accredit CCS workers and impose Working With Children's Checks. That submission was made in an environment where there seemed to be policy and political appetite to effect (and appropriately fund) transformative policy and programme reform in the family law system. In that context, the ALRC proposal seemed reasonable. However, the ALRC's final report and Government's response to it has led us to refine our position to better reflect the more constrained policy environment.

1.1 The nature of the problem

Relationships Australia respectfully suggests that the problem lies not with services that have, despite years of grave under-funding, delivered safe and effective services, but with providers who are not subject to regulatory oversight because of the absence of contractual or other obligations.

Accreditation or any other new oversight framework should be directed to providers who operate a CCS but would not otherwise be subject to independent oversight as a matter of law.

Children's contact services (CSS) are critical facilities that can support the development of healthy relationships between children and both parents, in situations of high family fragility and volatility. CCS have been chronically and severely under-funded for decades, leading to consequences such as the long wait lists that have driven desperate families away from

under-funded, under-resourced services and towards private services which are not subject to quality and safety regulatory frameworks. The funding announcements in the 2021-2022 Budget are extremely welcome and Relationships Australia thanks the Government for turning its attention to the over-subscribed services.

1.2 Maximising the value of the additional funding announcement in the 2021-2022 Budget

The root cause of families resorting to unsafe, poor quality and unregulated services will not be removed by further financial and regulatory imposts on Government-funded services. Rather, the Government's response should be two-fold:

- provide sufficient funding to enable safe, timely, accessible and high quality services to be delivered to children across Australia; the 2021-2022 Budget announcements are extremely welcome, but the magnitude and duration of under-funding has been such that it is unlikely to be sufficient to fully meet the demand/supply mismatch while enabling high quality services, and
- impose regulatory oversight that deters profiteering while providing safeguards equivalent to those imposed contractually upon government-funded providers.

Thus, there would be two groups of providers: government-funded and government-accredited. Accreditation requirements should be no more than is necessary to ensure parity of safety and quality with government-funded services. This parity would mitigate the supply/demand mismatch, enabling greater choice for families, who can be confident that regardless of the CCS they work with, comparable minimum standards will apply. More detail on Relationships Australia's alternative proposal is at section 1.6.

Were Government minded to reap the fullest potential economic, health and social benefits of CCS' potential, it could implement the suggestion made in Relationships Australia's submission responding to Discussion Paper 86 published by the Australian Law Reform Commission in its inquiry into the family law system (ALRC DP86):

... if the proposal [in ALRC Discussion Paper 86] to establish Families Hubs, incorporating CCSs, is not implemented, we would vigorously urge Governments, as a matter of urgency, to fund these services to move beyond providing supervised contact to services that support parenting excellence, with gradual reductions in services to families as their parenting capacity is supported and promoted by the CCSs. Relationships Australia is mindful that this would involve considerable expenditure; however, the current pattern of spending money on short-term supports [throughout the family law system as a whole] for fragile families in crisis only guarantees an ongoing need for recurrent spend. It does not enable the community to reap the benefits of healthy families (separated or intact) or enjoy the downstream savings delivered by lower expenditure on health and intergenerational social welfare dependency. Properly funded and re-conceptualised CCSs, whether as part of Hubs or post-order supportive services would:

- collaborate with other supportive services

- manage transitional arrangements for families, and
- offer long-term support for higher needs families with complex needs (something not addressed by current CCSs operating as standalone services). (pp 40-41; footnotes omitted; emphasis added)

Services that simply offer supervised contact, with nothing more, have a valid place in the family law services environment. They do not, however, offer families experiencing multiple co-morbidities a pathway out of their difficulties, and thus represent significant missed opportunities to build parenting capacity and strengthen parent-child relationships. Were such opportunities to be pursued, transitions to unsupervised contact could happen earlier and more often, alleviating the need for intensive (and expensive) supports over lengthy periods. For example, some families' needs would be better met by appropriately-skilled and experienced CCS staff delivering services such as parent coaching.

As noted in our responses to Questions 13-15, CCS operate at a critical stress/opportunity point to effect long-term transformation of family relationships. If conceptualised and funded to their fullest potential (as we have described in previous submissions), CCS could be the critical intervention to disrupt intergenerational cycles of violence, abuse and a range of other co-morbidities that impose huge cost burdens to society, through, *inter alia*:

- diminished economic participation
- lower educational attainment
- adverse health outcomes for children and adults
- ongoing welfare dependency (contributed to by the preceding factors), and
- reliance on expensive legal services, such as courts.

At the time of writing, it is unclear whether the additional funding announced in the 2021-2022 Budget will be sufficient to:

- meet additional compliance costs imposed by additional accreditation requirements
- enable Relationships Australia organisations to cease subsidising CCS operations from savings or revenue from other services, as has been required for some years, and
- enable Relationships Australia organisations to halt other 'band aid' measures in place to manage supply/demand mismatch.

However, given the magnitude and lengthy period of under-funding, it would be naïve to suppose that the almost doubling of existing funding will enable existing or new CCS to realise their potential to serve children in need. Further, there is a risk that the announcement of new funding will incentivise profiteering, unless accreditation is designed with great care and implemented with an independent and appropriately-resourced regulator.

We look forward to having opportunities to discuss with the Government how that additional funding can most effectively be used to deliver safe, high quality services to children.

To avoid unsafe outcomes for children, Relationships Australia organisations currently subsidise their CCS (including to pay for salaries, clinical supervision, and capital works) from other services and from their savings, because of our recognition that these services are vital to children's wellbeing. This is unsustainable, and Relationships Australia is concerned that the imposition of additional compliance costs deriving from the consultation paper proposal would result in service closures, with severe and negative consequences for children who depend on available services to have meaningful relationships with both parents.

Sometimes, our organisations use caps on the duration for which services are provided to a child. However, many families are unable to maintain parent/child relationships without CCS support, and we consider it unethical to cease services and leave children without a means of having contact with their parents. Indeed, some families (such as those in which there has been sexual abuse of a child) may never progress from high vigilance, through a continuum of incrementally reduced vigilance, to self-management of contact.

1.3 Accreditation and compliance costs

Accreditation, regular audits and governance are expensive. For example, Relationships Australia Queensland notes that current costs of HSQS Recertification are around \$25,000 for initial certification and \$18,000 for maintenance. ISO accreditation adds a further cost of \$10,000/\$7,000 pa, respectively. Currently, government-funded CCS deliver other government-funded services, and are subject to multiple and overlapping compliance costs not borne by non-funded services. Efficiencies could be gained by Commonwealth, State and Territory governments collaborating to streamline the number of compliance schemes to which they required service providers to be subject; this would be preferable to short-term efficiencies gained by sustaining unrealistically low funding levels and not investing in services that could provide long-term psycho-social and health benefits.

1.4 Wages, salaries and management costs

At the time of writing, it is unclear whether management time and input, and the requirements to pay penalty rates to workers, have been taken into account in the Budget, or whether the additional funding will be sufficient to enable existing or anticipated CCS to offer the full suite of services described in the consultation paper.

Management time and input should also be reflected in the funding envelope. For example, managers experience particularly intense workloads on Fridays and Mondays to manage pre and post weekend scenarios. Management time in dealing with complaints is not recognised in the funding envelope. Complainants are often litigious, and often experience the co-morbidities that the data shows to be endemic in families experiencing entrenched conflict or family violence.

1.5 Inadvertent and unintended consequences of consultation paper proposal

Relationships Australia has identified unintended policy consequences as flowing from the proposal described in the consultation paper.

Our major concern relates to imposing costs that force closure of existing government-funded services, while increasing incentives for profit-driven enterprises if accreditation is not designed and implemented appropriately.

1.5.2 *The importance of regulatory policy that reflects complexity, risk, and moral hazard*

The pitfalls of inadequately designed and implemented regulation were illustrated with horrifying clarity through the Royal Commission into Aged Care Quality and Safety. In considering reform to CCS, Government should pay close attention to the fraught interplay between, on the one hand, a policy objective of providing high quality, safe and timely services to vulnerable members of our community, while allowing the operation of market forces and, on the other hand:

- *de facto* or *de jure* self- or co-regulation (*de facto* self-regulation arising from regulatory inertia, disengagement and/or under-resourcing)
- over-reliance on 'tick a box' and process-driven, output-focused regulation
- industry-funded and/or inadequately resourced and unempowered regulators
- lack of appropriate investigative powers and resources
- lack of a suite of calibrated regulatory responses
- regulators with multiple roles which may inherently conflict (eg if a regulatory body were also to be tasked with providing ongoing training and development)
- regulators who are not trained or equipped to use the full array of investigative powers and regulatory responses available to them, resulting in a passive, supine regulatory culture.

It is relatively straightforward for governments to legislate highly prescriptive conditions for gaining and maintaining accreditation to carry out any given activity. But in the absence of a suitable regulatory framework, children will be harmed and no Royal Commission can undo such harm.

For further discussion, please see our response to Question 19 (especially section 19.2).

1.5.3 *Financial sustainability*

The following elements give greatest cause for concern in relation to how unintended consequences may affect financial sustainability:

- accreditation compliance costs (see section 1.3)
- wages/salaries - while wages and salaries are not commensurate with the skill and experience needed to provide these services, or the risk profile of doing so, they remain a significant driver of the cost of operating a CCS (particularly so because of the inherent need to offer services on weekends and in the evenings, which requires payment of penalty rates)

- the costs of purpose built facilities that meet safety and quality standards
- capacity to collect fees/co-payments – not-for-profit providers are more likely to attract clients who are not in a position to pay fees or co-payments and, consistent with economic gradients of psycho-social health, are more likely to attract families needing high vigilance support over extended periods.

Further, Relationships Australia is concerned that the proposal to mandate Certificate IV for CCS workers could inadvertently put downwards pressure on funding CCS, de-valuing the additional funding announced in the 2021-2022 Budget. For reasons including Australia's well-documented and persistent gender pay gap, remuneration already fails to reflect the complex and high-risk nature of the work and the skills and expertise of those who currently perform that work in government-funded CCS. Funding calibrated on the basis of Certificate IV qualifications as sufficient (as the 2021-2022 Budget funding may well be) would make operation of CCS increasingly untenable, thus also tending to reverse the desired professionalisation of CCS and providing less assurance that children receive safe and high quality services. Expertise, skills and experience of CCS workers is neither a safe nor appropriate place to cut costs and find savings, directly or otherwise.

1.5.4 Prescribed qualifications may inadvertently 'de-professionalise' CCS

The consultation paper proposal suggests imposing a Certificate IV in Community Services as a core qualification for CCS workers. We consider that such a requirement could inadvertently undermine Government's objective of professionalisation of CCS. Such a requirement would downskill the workforce for many current government-funded providers. For example, across the Relationships Australia federation, sessional CCS staff are usually degree qualified in relevant disciplines such as education, psychology and social work. Team leaders and programme support workers are required to hold qualifications that reflect the complexity of their roles.

1.5.5 Prescribed qualifications may lead to closure of CCS in disadvantaged areas of great need

As indicated in our responses to other questions posed by the consultation paper, rural and remote providers are already encountering serious difficulties in recruiting and retaining suitable practitioners across a range of service domains. These difficulties have been aggravated by contract uncertainty; while Relationships Australia welcomed the announced extensions in 2020, the failure of government to execute these in a timely way limits the benefits sought to be achieved by the extension in terms of certainty of funding for organisations. Relationships Australia is committed to working in regional, rural and remote areas, recognising that there are fewer resources available to people in these areas, and that they live with pressures, complexities and uncertainties not experienced by those living in cities and regional centres.

1.6 Alternative proposal

As foreshadowed in section 1.2, Relationships Australia proposes a two-stream system, in which:

- providers receiving government funding ('funded providers') continue to be subject to oversight of safety and quality through the Children's Contact Services Guiding Principles Framework, while receiving funding commensurate with the array and quality of services provided, and
- providers not in receipt of government funding ('non-funded providers') are subject to an accreditation system that:
 - imposes minimum safety and quality standards that are equivalent to the standards applying to government-funded CCS through the existing Guiding Principles Framework and/or standards applying to children's services in the relevant state/territory, and
 - is overseen by an independent agency with sufficient resources and appropriate investigative and sanction powers
- partial or complete exemptions are available in areas which would otherwise have little or no access to CCS, provided that a core group of safety requirements are met.

Courts and FDRPs should be permitted to refer families only to CCS within one of the preceding categories.

At time of writing, it is unclear whether the additional funding announced in the 2021-2022 Budget would be sufficient to address long-term demand/supply mismatch problems while also accommodating additional compliance costs and resourcing an oversight body.

The emergence of unregulated providers has been caused by the chronic under-funding of CCS at least since 2005. The solution to unprofessional, unsafe operators is not to impose additional regulatory obligations and compliance costs that will further drain, and potentially force the closure of, providers currently delivering safe services within an oversight framework established by grant agreements.

1.7 If Government proceeds with consultation paper proposal

As noted above, Relationships Australia supports policy objectives including:

- delivery of child-centred, safe, high quality services in a timely way, and
- professionalisation where that currently does not exist in the market.

Accordingly, should Government not be minded to accept the alternative proposal offered by Relationships Australia, the consultation paper proposal could be enhanced as follows.

1.7.1 What should be accredited?

The name 'CCS' does not reflect what CCS offer. 'Contact' suggests passive babysitting, and is outdated. Any accreditation system must recognise that CCS provide therapeutic interventions, as well as providing information to inform judicial decision making. CCS provide both short term crisis observation and advice for court as well as complex, long term support for families who struggle to transition to independent management of ongoing contact. Currently, families with are driven towards unregulated, expensive CCS to comply with court orders. Those families are

at risk of monetary stress that draws them into a spiral of crisis and hardship. Relationships Australia is committed to ensuring that social and financial disadvantage is no barrier to accessing vital services.

If Government were to proceed with the consultation paper proposal, Relationships Australia would support accreditation of services, with a condition of accreditation being to ensure that all staff have qualifications and experience required to fulfil their roles (see our response to Question 13). The focus should be on the organisation rather than on the qualifications of individual practitioners, recognising that CCS workers exist within a complex service eco-system, and that:

- the overall quality and safety delivered by a service is demonstrated not by qualifications attained by individuals, but by delivery of outcomes, and
- the risk of delivering CCS is not appropriately borne by each individual working for a provider, but by the provider as an entity.

1.7.2 Recognition of existing accreditation

Further, if an organisation is also accredited for like services, then that should be taken into account in accreditation requirements (eg Relationships Australia Tasmania is already accredited as a child safe and mental health organisation). Accreditation costs should then be reduced accordingly.

1.7.3 Resourcing accreditation

Accreditation does not, by itself, guarantee safe, high quality services. This has been shown in other systems where under-resourced and/or captured regulators have failed to detect and (where detected) act upon grievous and systemic safety and quality breaches (for example, the aged care system, the banking and finance sector). Accordingly, any accreditation system must be adequately funded, independent and have appropriate investigative and coercive powers.

Problems created by long-term under-funding are not solved by simply layering an accreditation scheme over the top of a system that has been neglected and stressed to breaking point. They are solved by ongoing, adequate funding based on realistic and rigorous costings of what it actually costs to deliver safe, high quality services.

Relationships Australia notes that there is no provision in current arrangements from which to meet accreditation costs; at time of writing, it is unclear whether the additional CCS funding announced in the 2021-2022 Budget will meet the costs of accreditation to government and to providers.

1.7.4 Accreditation and complaints

The consultation paper does not seem to directly invite views as to an appropriate accrediting body and/or regulator. However, identifying, resourcing and empowering bodies to carry out these functions are necessary preconditions to the success (in safety and quality terms) of any accreditation scheme.

Government must be centrally and actively involved in accreditation. We acknowledge that this involves significant workload and significant risk; however, Government's active involvement is merited because, if those risks materialise, consequences will be most directly felt by children, for whose safety and welfare government has a well-established and publicly mandated responsibility. It is inappropriate for government funders to seek to outsource oversight of quality and safety of services delivered to particularly vulnerable community members.

However, Relationships Australia acknowledges that a range of existing entities offer accreditation and audit services. The Attorney-General's Department could establish the quality framework and identify accrediting organisations with which services can contract. For example, Relationships Australia Queensland has state government accreditation and pays for audit services against the Queensland Standard Human Services Quality Framework. Relationships Australia Queensland uses existing accreditation organisations which contact (with prior consent) clients to ask set questions, review file notes, and audit the physical venue as well as policies and procedures. Relationships Australia Tasmania is subject to an existing licensing system for children's services; Relationships Australia Victoria has child safe standards mapped to the national principles. Any one of these existing models could be extended for current purposes.

Relationships Australia suggests that the Attorney-General's Department could establish the quality framework and identify accrediting organisations with which services can then contract.

Question 2 Are these the right principles for CCS service delivery and therefore should underpin the accreditation requirements for providing, or working within, a CCS?

Relationships Australia organisations broadly support these principles, subject to the following comments.

2.1 The centrality of children's voices

We are pleased to see that 'child focus' leads the list of principles in the consultation paper. However, 'child focus' is not necessarily congruent with ensuring that children are included and their voices heard commensurate with their development and the magnitude of the interest that they have in the delivery of safe and high quality CCS. Relationships Australia notes that, while the CCP acknowledges that children are the primary clients, there is no mention of eliciting or hearing their voices, although the voices of both parents must be heard, in accordance with the neutrality principle. We suggest that this principle be augmented to recognise the importance of engaging with children, as required by the Convention on the Rights of the Child, in accordance with the findings of the 2018 AIFS report, *Children in separated families: Family law systems experiences and needs* (Carson, R., Dunstan, E., Dunstan, J., & Roopani, D. [Children and young people in separated families: Family law system experiences and needs](#)).

2.2 Clarifying how the principles will be applied

The relationship between various principles could be clarified.

The child's needs and welfare are said to be 'the primary considerations' and the child's 'best interests' are 'the paramount concern' and safety is said to be 'paramount'. The relationship

between 'primary' and 'paramount' is unclear - are these concepts intended to be synonymous, and is there a difference between a child's needs and welfare and their safety?

There is also potential conflict between safety and neutrality. For example, if a CCS declines a service to a parent on a particular occasion, because of safety concerns, then a parent may complain that this indicates a breach of the neutrality principle. Or if a CCS refers a parent to – or even suggests that a parent approach - an anger management or alcohol and other drugs programmes, that parent may complain that such a referral or suggestion indicates bias against them and is therefore a violation of the neutrality principle. Such complaints are not uncommon.

Perhaps these principles could be simplified and clarified to enshrine the child's best interests (including their safety, needs and welfare - and their voices) as paramount. The needs, welfare and voices of parents should be secondary, as should be the obligation on providers to be neutral. That obligation should be expressly limited to neutrality in the sense of the CCS not becoming an advocate for one parent against the other.

2.3 Safety

Relationships Australia would further suggest that safety be defined to expressly include emotional safety, and that attention also be paid, in framing the principles, to the potential for parents engaging in coercive controlling behaviour, and in systems abuse.

2.4 Collaboration

Relationships Australia is committed to working collaboratively, and engages with local and peak body organisations to deliver a spectrum of prevention, early and tertiary intervention programs with older people, men, women, young people and children. We recognise that often a complex suite of supports (for example, family support programs, mental health services, gambling services, drug and alcohol services, and housing) is needed by people affected by family violence and other complexities in relationships.

Relationships Australia notes that current funding envelopes significantly constrain CCS in acting collaboratively (some more than others, depending on exigencies of each location). At time of writing, it is unclear that the funding announced in the 2021-2022 Budget will be adequate to support collaborative work as contemplated in the consultation paper. Given the duration and magnitude of under-funding for CCS, it is probable that the additional money will be exhausted by mitigating the persistent and substantial demand/supply mismatch.

The language used in the consultation paper suggests that Government contemplates CCS as acting as *de facto* hubs as described by Relationships Australia to the various recent family law inquiries. If this is the expectation, then funding must be sufficient to enable it. In any event, imposing this requirement on CCS (whether funded or not) will do very little to overcome the entrenched silos that we have previously described as being an often insurmountable barrier to families with complex needs. The siloes with the greatest impact on our families are the product of government institutions and hierarchies (eg silos between family law, family violence, child protection services). Only governments can dismantle them.

It is egregious to expect not-for-profit services to overcome a problem that derives from government systems and agencies and which, despite access to significantly greater resources

and opportunities, governments have been conspicuously unable or unwilling to address meaningfully; see, for example, the slow progress made to implement – as between the family law courts and the Australian Tax Office - superannuation splitting arrangements for families affected by family violence.

2.5 Accessibility

Relationships Australia welcomes the references to accessibility, client diversity and cultural sensitivity. We would respectfully suggest that ‘accessibility’ be made more explicit as to what Government considers to be barriers to accessibility. For example, does this include accessibility from perspectives of geographic equity and the digital divide (noting, for example, that families affected by violence and other co-morbidities may face compounding barriers to access online resources)?

Relationships Australia is very pleased to see that the 2021-2022 Budget allocates funding for new CCS. This will certainly promote accessibility of services.

We would welcome the opportunity to discuss in more detail with Government how locations for new services will be determined. We consider that geographic equity is key to delivering accessible services.

2.6 Accountability

Accountability to children, families and funders is an important principle, and provides conceptual anchoring for requirements such as those concerning providing reports, complaints mechanisms and transparency through providing information for the proposed register of CCS.

Question 3 Are there alternative principles that should be considered?

Relationships Australia respectfully suggests that a further principle be included – that of choice. This is closely related to, but fully congruent with, accessibility. Like accessibility, choice can and should be conceptualised through lenses of location, cultural fitness, fee levels, breadth of service offerings, faith-based or secular, mode of service delivery (eg face-to-face, online, blended).

Because CCS are so central to how client children and their parents experience post-separation family life, Relationships Australia considers it important to offer choice where practicable (recognising that, in some areas, it will not be). Further, parents who are attending services for multiple issues may want to one provider for CCS and another for other issues.

Question 4 Should there be a centralised list or register of CCS providers available to use and what information should be publically available on the register?

4.1 Value of a list

Relationships Australia considers that a public, up to date resource would be useful for parents and for courts. A public, up to date resource could support parents to exercise choice (see our response to Question 3, in which we suggest that ‘choice’ should be included as a principle underpinning CCS). The list should be available online, in multiple languages and accessible

formats, as well as being accessible for those clients without access to safe, reliable and private internet connection.

4.2 Contents of a list

The list should be supported by a robust search engine (for online searches) and include:

- status (whether government-funded or not)
- location (but not the address) of the service (to stop people arriving without an appointment, which can create safety issues and otherwise disrupt service delivery to families using the CCS at the time)
- contact details (when, who, how)
- waiting list time, to be regularly updated
- whether a CCS caps length of service
- kinds of service offered – eg changeover/back, supervised contact, group supervised contact, on/offsite (eg Relationships Australia New South Wales does not offer offsite services because of safety concerns), staggered arrivals, online and blended visits
- any limitations on acceptable referral sources (eg Relationships Australia New South Wales does not accept referrals with final orders from court, seeing its role as being to offer a safe environment for a parent to visit their child while staff prepare observational notes to inform judicial decision-making)
- information about non-compliance and whether a CCS has been sanctioned
- where applicable – presence of workers who are Aboriginal or Torres Strait Islander people, who identify as belonging to cultural groups, and accessibility arrangements
- other relevant accreditations (eg as a child safe organisation)
- policies relating to fees and charges, and
- policies relating to providing reports (including to whom, and on what basis, reports will be provided, and whether fees are charged, and how such charges are set).

Question 5 Are there other preferred ways to provide for the accreditation of CCSs within the Act, or other preferred terminology or definitions?

Relationships Australia refers to its response to Question 1, in which it makes a counter-proposal (see section 1.6).

Question 6 Are there any possible unintended consequences or implications of these definitions [noting that the intention is to only capture CCSs in the family law context?]

Yes. Relationships Australia refers to its response to Question 1, in which it describes unintended consequences that may flow from the proposal described in the consultation paper (see section 1.5).

Question 7 Do you agree that these key service components should form the minimum a family can expect to receive from an accredited CCS? Is there anything missing? Is there any aspect that may not be appropriate for a minimum service component, and if so what is the reason for this?

7.1 Mandated service components may conflict with underpinning principles

No. Relationships Australia considers that prescribing 'minimum', or universally guaranteed, services, could hamper CCS in complying with the principles described in Question 2 of the consultation paper; in particular, the paramountcy of the child's best interests and the principle of safety. CCS must have the flexibility and discretion to decline to provide any or all of the components to all or particular families at all times or on particular occasions.

For example, some service providers do not offer offsite visits at all (Relationships Australia New South Wales does not). Offsite service delivery limits the degree to which the CCS can control the environment in which the visit will take place, and the extent to which it can be confident of ensuring the child's safety, and the safety of others (including staff).

Please see also our response to Questions 21 and 22.

7.2 CCS are not resourced to operate as Families Hubs

On page 11 of the consultation paper, it is stated that 'A key function of CCSs is to assist families to access the range of support they need.' Relationships Australia is on record as strongly supporting multi-disciplinary, collaborative services, which would – *inter alia* – offer a full array of services and referrals. We have suggested a model of Families Hubs (see our submission to ALRC DP86).

The existing funding envelope, even with the very welcome additional funding announced in the 2021-2022 Budget, is unlikely to overcome the consequences of decades of gross under-funding, or enable CCS to realise their full potential.

We would welcome the opportunity to discuss in greater detail how the additional funding could best be leveraged to meet Government's clear policy intentions to improve the mismatch of demand/supply and offer more children safer ways to develop and maintain relationships with their parents.

7.3 Accessibility constraints and mandated minimum offerings

Relationships Australia notes that some services may face insurmountable challenges in offering a full suite of services. These may include:

- cost of delivery in different regions
- availability of transport services
- cultural knowledge
- access to safe, reliable and private internet services, and
- ability to recruit and retain suitable workers.

Perhaps a regional/remote subsidy could be considered for relevant services.

7.4 Reviews

Relationships Australia recommends that providing regular reviews of progress and feedback to families be recognised as a discrete service component.

Question 8 Should a requirement of accreditation be that the CCS is able to offer all of these practices to ensure that the practice used is determined based on the risks and level of vigilance required, as determined through intake and ongoing assessment? If not, why not?

Relationships Australia refers to its response to Question 7.

Question 9 Are the service safety features of the Guiding Principles Framework an appropriate minimum standard for a CCS accreditation scheme?

Relationships Australia considers that these features offer an appropriate minimum, provided that prescribed minimum standards are sufficiently flexible to accommodate varying physical and safety features based on location, nature of services offered, and practical considerations.

Question 10 What 'evidence' should a CCS be required to provide to demonstrate that they comply with the required minimum service safety features?

Relationships Australia suggests that an accrediting body could seek:

- documentary, photographic and video evidence verifying the asserted safety features (in light of COVID-19 restrictions, perhaps virtual 'site audits' could be developed, for both announced and unannounced audits, on weekdays, evenings and on weekends), for example, showing entries, exits, car parks, number and location of duress alarms, lighting around premises
- all policies and protocols including, but not limited to, those relating to screening and assessment of families, risk management measures and procedures, staff training and clinical supervision
- report pro formas
- templates of service agreements that will be offered to families
- evidence of other relevant (and potentially equivalent) accreditations, and
- police checks and working with children checks for staff (including casual and sessional staff).

Question 11 What might be an appropriate body for dealing with complaints of CCSs or their staff?

Relationships Australia considers that receiving and appropriately acting on complaints is core business. In the first instance, complainants should be encouraged to make their complaint to the service itself.

For example, Relationships Australia New South Wales has an established internal complaints process which can involve a number of clinicians and operations staff, as needed. The governing body of the organisation can handle complaints of extreme sensitivity, as required.

For government-funded services (as described in the alternative proposal at section 1.6), existing complaints mechanisms are fit for purpose.

For non-government funded services (as described in the alternative proposal at section 1.6), the appropriate body should be independent and without conflict of interest. Relationships Australia does not consider ACCSA to be appropriate as either an accreditation or complaints-handling body, because of its role as a peak body. Accreditation and quality assurance are specialised areas. ACCSA would, however, be well-placed to assist the Attorney-General's Department to develop standards and could develop and deliver training programmes.

Question 12 What else should be required of a CCS to satisfy the requirements of an accreditation scheme?

Relationships Australia considers that non-government funded CCS (as described in the alternative proposal at section 1.6) should be required to:

- report to the accrediting body (as described in the response to Question 1) regularly on feedback from children, parents, court staff and Independent Children's Lawyers
- support staff to complete a prescribed volume and content of ongoing professional development during accreditation periods or at prescribed review points
- report on continuous improvement, contract management, and governance (including clinical governance), and
- undertake system reviews relating to matters such as privacy and security of client information, employee information, review of decision-making.

Question 13 Would the Certificate IV in Community Services be an appropriate qualification required of CCS practitioners? Is this qualification sufficient? Should elective units such as those noted above, be compulsory for CCS practitioners?

As indicated in our submission responding to ALRC DP86, Relationships Australia fully supports the policy intent to raise standards, expectations and ensuring staff of CCS can manage the complex and high risk dynamics.

Many parents accessing CCS tend to be litigious, querulant and experiencing multiple co-morbidities. Relationships Australia Queensland notes that the same families use multiple elements of their services (eg mental health, family violence services, other post-separation services), and that CCS operates at a critical stress point for long term transformation of family relationships. This underscores the importance that CCS employ skilled, experienced workers who have the training and insight to recognise and most effectively leveraged those opportunities within the CCS environment.

In that submission, Relationships Australia supported the imposition of high – and uniform – standards for these services, which work with some of the most fragile and complex

families (see pp 113-114 of <https://www.relationships.org.au/about%20us/submissions-and-policy-statements/australian-law-reform-commission-review-of-the-family-law-system>). That submission was made in an environment where there seemed to be policy and political appetite to effect (and appropriately fund) transformative policy and programme reform in the family law system. However, the ALRC's final report and Government's response to it has led us to refine our position to better reflect the more constrained policy environment.

Relationships Australia notes the views expressed by survey respondents to its online survey in September 2018, *The voices of children in the family court*.¹ More than 50% of survey respondents thought that people working with children during family disputes should be a psychologist or social worker with experience and skills in working with children. More than 13% thought the minimum requirement should be a three-year psychology or social work degree and a further 10% reported that people working with children during family disputes should have a minimum of five years' experience in working with children. Only 6% of survey respondents considered a legal or dispute resolution qualification was sufficient.

13.1 Focus on organisational capacity, not individual credentials

As noted in our response to Question 1 (at section 1.7), were Government to implement the arrangements contemplated by the consultation paper, Relationships Australia would support accreditation of services, with a condition of accreditation being to ensure that all staff have qualifications and experience required to fulfil their roles. The focus should be on the organisation rather than on the qualifications of individual practitioners, recognising that CCS workers exist within a complex service eco-system, and the overall quality and safety delivered by a service is demonstrated not by qualifications attained by individuals, but by delivery of outcomes.

13.2 The Certificate IV in Community Services is insufficient to serve as a core requirement

Were Government to implement the consultation paper proposal, Relationships Australia considers that the Certificate IV in Community Services does not equip workers to have sufficiently specialised or sufficiently advanced knowledge and skills to deliver on the policy objective of professionalisation.

Instead, Relationships Australia proposes the development of a specialist CCS worker qualification, with a core of subjects for all workers delivering CCS services and additional subject requirements for supervisors and coordinators. Under this proposal, CCS workers would be required, either at entry or during a probation period, to undertake a Certificate offering knowledge, skills and expertise in:

- child protection
- child development, particularly the key risks and considerations for children 0-4 years of age (early childhood qualifications and experience should be well-regarded)
- de-escalating difficult situations

¹ Conducted in September 2018.

- identifying risk
- trauma-informed practice, including the impact of trauma on children
- family, domestic and sexual violence, including coercive controlling behaviour and systems abuse
- recognising and responding to a crisis
- working in a family law environment
- intake processes, including child orientation
- assisting families to progress to self-manage contact
- children's rights, incorporating children's voices in service delivery, and management of child refusal
- mental health
- observational note taking
- managing child refusals, having hard conversations with children
- parental alienation
- working therapeutically in non-therapeutic services
- psycho-education, and
- adjunct services such as parenting order programs and other post separation services.

Leaders, managers and supervisors should, in addition, be offered education and training in:

- clinical supervision skills
- responding to querulant clients
- more advanced understanding of Australia's family law system, and its interaction with family violence, child protection, mental health and criminal justice systems
- more advanced knowledge of mental health
- social and cultural determinants of health
- training in liaising with lawyers, courts, ICLs
- giving evidence in court, and
- relationships between state court intervention orders, family court orders, bail conditions.

As discussed in our response to Question 1, imposing a Certificate IV requirement as a blanket qualification for all CCS workers could undermine the reform objective of professionalising CCS. Such a requirement would downskill the workforce for many current government-funded providers. For example, across the Relationships Australia federation, sessional CCS staff are usually degree qualified in relevant disciplines such as education, psychology and social work (see section 1.5.4).

13.3 Recognition of existing qualifications and prior experience

As stated in our response to the ALRC Discussion Paper, Relationships Australia considers that there should be a mechanism by which to recognise prior experience for existing CCS staff – and funding allocated to cover the costs to providers of staff who must complete training to continue their employment.

We would welcome the opportunity to talk to Government about how this could be achieved.

Existing staff with relevant degree and post-graduate qualifications should not be required to undertake a further formal training requirement; such a requirement would merely impose extra costs without any extra benefit in terms of quality and professionalism of staff. If existing staff do need to complete training, new requirements should be implemented in such a way as to not exacerbate existing wait times to access these crucial services.

13.4 Cultural fit

CCS operate within an eco-system of institutions and process deriving from Western models that can be unsuitable and unwelcoming for people who identify as Aboriginal or Torres Strait Islander people, and for people from culturally and linguistically diverse backgrounds. There will be service locations in which cultural fit should take precedence over minimal qualifications framed by mainstream expectations. Tailored, culturally safe packages should be commissioned and recognised for the purposes of any accreditation scheme.

Any accreditation scheme, and funding arrangements, need to be sufficiently flexible to ensure that it does not inadvertently lead to closure of existing services in already under-served locations.

13.5 Exclusions

Administration and appointment booking personnel should not be required to obtain qualifications, but should be required to undergo police checks and working with children checks.

Question 14 Should the Certificate IV in Community Services be a mandatory qualification? If not, what other qualifications could be considered to be appropriate qualifications required of CCS practitioners?

See response to Question 13.

Question 15 What roles within a CCS would require a qualification? What staff roles within a CCS might not require such a qualification (and therefore would not need to be authorised under the Act)?

See response to Question 13 for Relationships Australia's views.

Question 16 What would be an appropriate process and timeframe for phasing in a qualification requirement for CCS practitioners – for those with a relevant qualification and for those with no relevant qualification?

See response to Question 13 for Relationships Australia's concerns about focusing on the credentials of individual workers.

Staff commencing with CCS after commencement of an accreditation scheme should be required to have, or obtain as a condition of their employment, qualification/s prescribed for their role.

Staff who were working for CCS at commencement of an accreditation scheme and who do not have, through an existing relevant qualification or by recognition of prior learning, the skills and expertise described in response to Question 13, should be required to undertake the qualification/s applicable to their role as a condition of their employment.

Exemptions

There should be scope for exemptions for services in regional, rural and remote locations, where accreditation requirements inevitably have disproportionately negative impacts. Relationships Australia is committed to working in regional, rural and remote areas, recognising that there are fewer resources available to people in these areas, and that they live with pressures, complexities and uncertainties not experienced by those living in cities and regional centres. In our experience, recruiting and retaining qualified staff is particularly challenging in rural, regional and remote locations.

Question 17 What requirements for ongoing professional development should be prescribed under the accreditation scheme? For example, should there be a prescribed number of hours per year, a prescribed list of sector specific professional development activities or topics?

See response to Question 13 for Relationships Australia's concerns about focusing on the credentials of individual workers.

Relationships Australia supports ongoing professional development, and offers comprehensive internal and external development opportunities to CCS staff, as well as on the job training. We also consider that CCS providers, as the primary focus of regulatory policy, should be required to support staff to participate in regular individual and team supervision. Funding needs to be sufficient to enable initial and ongoing training, education and clinical supervision to meet the needs of professionals working in complex, emotionally and psychologically stressful high risk environments. These are prerequisites for delivering safe, high quality and contemporary evidence-informed services to children,

We look forward to discussing implementation of training, development and supervision arrangements in greater detail as the reform programme evolves.

Question 18 What, if any, requirements beyond formal qualifications and ongoing professional development, would be appropriate for CCS staff? For instance, would it be appropriate for there to also be requirements regarding whether the person is fit and proper for the role?

As suggested in our submission to ALRC DP86, Relationships Australia supports a 'fit and proper person' test for all people working at CCS, irrespective of the exact nature of their roles and responsibilities. Undergoing police and working with children checks and returning satisfactory results should be one part of satisfying that test.

Legislation should provide that it is an offence:

- for a CCS to employ a person to work at a CCS without undertaking a police check and a working with children check, and without receiving evidence of a satisfactory result of these checks
- for a person to work at a CCS without providing evidence of satisfactory results of both a police and a working with children check
- for a person to provide false or misleading information to a CCS in relation to employment, and
- for a CCS to provide false or misleading information to a regulator/accrediting body in relation to a person being a fit and proper person (including in relation to police and working with children checks).

Question 19 Is a specific mechanism required to sanction those who provide a CCS for family law matters outside the accreditation scheme? If so, would an offence provision be an appropriate mechanism? Or is there an alternative mechanism?

Relationships Australia is not aware of any government concerns with the suite of responses applicable to currently funded providers that would merit alteration. Please see our response to Question 1 as it relates to a proposed two-stream CCS programme (especially our alternative proposal at section 1.6).

19.1 Responsive regulation

For non-funded services, it would be desirable to have an array of mechanisms, developed in accordance with the principles of responsive regulation, including:

- time and assistance to remediate breaches
- warnings
- enforceable undertakings
- closure of services
- civil penalties, and
- criminal justice sanctions for egregious, persistent and/or systemic breaches.

19.2 Regulatory culture

Please see our response to Question 1 (especially section 1.5.2), which notes the pitfalls of inadequately designed and implementation of regulation were illustrated with horrifying clarity through the Royal Commission into Aged Care Quality and Safety. In considering reform to CCS, Government should pay close attention to the fraught interplay between, on the one hand, a policy objective of providing high quality, safe and timely services to vulnerable members of our community, while allowing the operation of market forces and, on the other hand:

- *de facto* or *de jure* self- or co-regulation (*de facto* self-regulation arising from regulatory inertia, disengagement and/or under-resourcing)
- over-reliance on 'tick a box' and process-driven, output-focused regulation
- industry-funded and/or inadequately resourced and unempowered regulators
- lack of appropriate investigative powers and resources
- lack of a suite of calibrated regulatory responses
- regulators who are not trained or equipped to use the full array of investigative powers and regulatory responses available to them, resulting in a passive, supine regulatory culture.

It is relatively straightforward for governments to legislate highly prescriptive conditions for gaining and maintaining accreditation to carry out any given activity. But in the absence of a suitable regulatory framework, children will be harmed and no Royal Commission can undo such harm.

19.3 Criminal justice responses

Relationships Australia acknowledges the gravity of permitting criminal justice responses, but considers that they have a valid, indeed crucial, place in a system concerned with the safety of vulnerable community members. Criminal justice responses should be available in law and resourced through dedicated funding for investigative and prosecutorial bodies.

We note that offences currently provided for under the *Family Law Act 1975* receive low priority from police and prosecutorial agencies, underlining the importance of a varied and effective array of responses to deter and sanction non-compliance. Nevertheless, criminal justice responses should be available, given the sensitivity of CCS operations, and the likelihood that materialisation of serious risks is likely to have commensurate consequences for children.

Relationships Australia further considers that regulatory settings and cultures should be developed to ensure that regulators understand that, while criminal justice responses should be used in a measured way, that they are there *to be used*, and not allowed to slip into corporate memory as creatures of myth.

As noted in our response to Question 18, legislation should also create the following offences:

- for a CCS to employ a person to work at a CCS without undertaking a police check and a working with children check, and without receiving evidence of a satisfactory result of these checks
- for a person to work at a CCS without providing evidence of satisfactory results of both a police and a working with children check
- for a person to provide false or misleading information to a CCS in relation to employment, and
- for a CCS to provide false or misleading information to a regulator/accrediting body in relation to a person being a fit and proper person (including in relation to police and working with children checks).

Question 20 What, if any, alternative service delivery methods should be available to families on an ongoing basis, and in what circumstances do they benefit families?

20.1 Families Hubs

Relationships Australia supports Families Hubs, as described in Chapter 4 of ALRC DP 86 (https://www.alrc.gov.au/wp-content/uploads/2019/08/dp86_review_of_the_family_law_system_4.pdf).

In our submission responding to ALRC DP86, we suggested that Families Hubs could be developed from existing services, including CCS and FRCs. Such Hubs could meet the policy objectives outlined in the consultation paper, while offer richer, holistic and nuanced service offerings to meet the needs of families with complex co-morbidities, who are the principal users not only of CCS and other family relationship services, but also mental health, family law, family violence, alcohol and other drug, and child protection services.

20.2 Parenting Coordination

We further commend to the Government's attention the merits of parenting coordination, as described in Relationships Australia's submission responding to ALRC DP86 (response to Question 3 -1 at p 28-30: <https://www.relationships.org.au/about%20us/submissions-and-policy-statements/australian-law-reform-commission-review-of-the-family-law-system>). This service delivery model is particularly suited to families experiencing high conflict, family violence and co-morbidities. It has been demonstrated to reduce the burden on courts while offering a pathway towards safer, healthier family relationships through building parenting capacity.

20.3 Online services / telepractice

As noted in our response to Question 3, Relationships Australia considers that choice be included as a key principle underpinning CCS; this includes choice in mode of service delivery.

In the context of COVID-19 measures, Relationships Australia services moved swiftly to offer most of their services online. Client feedback has indicated that, while the option to receive services online is appreciated, they would like to retain options to receive face to face or blended services.

COVID-19 restrictions posed particular challenges for CCS, the main point of which is – as noted in the consultation paper – to support a face-to-face relationship between children and their ‘spending time with parent’. Further, the digital divide remains a problem, particularly in demographics where CCS are likely to be highly utilised. This is a result not merely of lack of familiarity or expertise with online services, but also with ongoing limitations on the availability of safe, private and sufficiently robust internet services. Third, some children are simply too young for online service delivery to be meaningful in achieving its objective. Finally, it can be unsafe and unethical to offer CCS where the provider cannot examine and control the environment to the degree necessary to assure the physical and emotional safety of children.

While enabling and supporting online service delivery was an urgent necessity in the context of COVID-19, Relationships Australia notes that there has not yet been an opportunity to gain a robust understanding of whether online delivery of CCS is – in the short, medium and long term – safe for children and in their best interests. Nor is anyone yet in a position to form confident views on how online CCS can be delivered in conformance with the principles underpinning CCS. We strongly recommend that research be funded to investigate the safety, quality and impact of online delivery of CCS.

Question 21 Are there any circumstances which would make these services unsuitable, or in which they should be prohibited?

As previously noted in Relationships Australia’s response to Question 7, circumstances can exist in which a CCS should not offer particular service models, or particular service models to particular families, or on particular occasions. Relationships Australia New South Wales does not, for example, offer offsite visits (as noted in our response to Question 4). In some families, the risks of lower vigilance contact may never abate to a point at which it is safe or ethical to reduce vigilance.

Further, online services should not be provided on an occasion unless the CCS is confident that the child is physically and emotionally safe. For example, Relationships Australia CCS have, in the context of COVID-19 measures, required that the child be at the CCS premises for online services, while the ‘spending time with parent’ can attend online.

Question 22 Should these service offerings be regulated under the accreditation scheme or by the policies of individual service providers?

Please see Relationships Australia’s response to Questions 7 and 21. Relationships Australia further considers that CCS, however delivered, must be regulated, because of the inherent safety concerns that lead families to be referred to CCS.

Relationships Australia considers that CCS must have the flexibility and discretion to decline to provide any or all of the components to all or particular families at all times or on particular occasions.

Other - ACCSA proposal for tiered accreditation

Relationships Australia has significant concerns about what we understand to be ACCSA’s proposal for accreditation tiers, including:

- the practical difficulties involved in delineating these tiers with clarity and consistency, exacerbating existing complexities in the family law system
- that the proposal does not reflect the non-linear dynamics of family separations, particular in families experiencing complex co-morbidities; children and parents experience fluctuations in the intensity with which these are experienced, and it would be impractical (and sometimes traumatising) to attempt to move children back and forth between services accredited to different tiers
- further to the preceding point, risk assessment needs to be assessed and acted upon in practice on a continuous basis; this would be cumbersome and confusing for families if it lead to the need to transition between different CCS, and
- if particular CCS were dealing only or predominantly with higher vigilance families, this may lead to faster worker burnout, compounding difficulties in recruiting and retaining suitable staff, and further lengthening waiting periods to access services. CCS should all offer services to both higher and lower vigilance families.

Contact in Relationships Australia: Dr Susan F Cochrane, National Policy Manager, scochrane@relationships.org.au / 02 6162 9300; or Mr Nick Tebbey, National Executive Officer, ntebbey@relationships.org.au / 02 6162 9300