

Australian Centre for Child Protection

Mapping the adoption of Family Group Conferencing in Australian States and Territories

Nathan Harris



University of
South Australia



Australian Government

Department of Education, Employment
and Workplace Relations

Working together to enhance the lives of children

Mapping the adoption of Family Group Conferencing in Australian States and Territories

*Nathan Harris*¹

Australian Centre for Child Protection
University of South Australia

Introduction

Family Group Conferences were first legislated for in New Zealand in 1989 and since that time have captured the imagination of professionals and academics throughout the world with their capacity to involve families and communities in a collaborative approach to addressing child welfare concerns. Child protection systems in Australia, as in many other countries, have subsequently introduced conferencing programs. The first trial in Australia was initiated in Victoria in 1992 by a non-government agency (Ban, 1996), and trials in other states soon followed. Fifteen years later, a question worth asking is to what extent conferencing has become part of child protection practice in Australia's states and territories. Child protection policy is under state jurisdiction in Australia, which means that adoption of an innovation like conferencing is likely to vary widely. This diversity is explored in this report through the available literature on conferencing programs, but also draws on interviews with practitioners in each state and territory.

¹ I want to thank Dorothy Scott, Fiona Arney, Paul Ban, Marie Connolly, Michelle Meyer, Mary Ivec, and Donnie Martin who assisted in various ways through their insights and comments, and the many practitioners and policy makers who provided their time and valuable insights. I am also thankful to the Regulatory Institutions Network at the Australian National University where I was a visitor while writing this report.

The Development of Family Group Conferencing in New Zealand

Family Group Conferences were developed in New Zealand, based partly on Maori practices, in an attempt to provide families with greater say in the resolution of both child protection and juvenile justice matters. The Children, Young Persons and Their Families Act in 1989 made conferencing the primary decision-making process within the child protection system. Indeed, wherever an investigation reveals protection concerns that warrant statutory action, a conference is to be convened, and support is made available if family members lack the financial resources to travel to the conference (Connolly, 1994; Doolan & Phillips, 2000; Fraser & Norton, 1996). An early evaluation of the program showed that approximately 2000 conferences were convened in the first year of its introduction, with only a very low percentage of conferences failing to achieve agreement, and recent estimates are that in excess of 50,000 conferences have been convened since 1989 (Connolly, 2006, Robertson, 1996). This reflects the central role that conferences play in New Zealand's child protection system.

Conferences are arranged and facilitated in New Zealand by specialist Care and Protection Co-ordinators, who are employed directly by Child, Youth and Family, the statutory child protection agency in New Zealand. Co-ordinators work with the family to bring together the conference, and this will usually include the child/young person, their advocate and/or legal representative, the parents, extended family members and any other support person the family wishes, and the referring care and protection worker. These people are all entitled by law to attend the conference. Other professionals who might be working with the family may also be invited to attend the conference so as to provide information, however, they are not entitled to remain throughout the conference, nor are they involved in decision-making. The purpose of the conference is for the family to hear the child protection concerns, to decide whether the child is in need of care and protection, and to make plans that can address these concerns. Conferences occur in three stages. The first stage of the conference involves the sharing of information by child protection workers and other professionals with the family. This will usually include discussion of the concerns that are held for the child, as well as the services that are available to provide assistance. The second stage

of a conference involves the family having time on their own to deliberate and agree on possible solutions. In the final phase of the conference the aim is to arrive at agreement on 1) whether the child is in need of care and protection, and 2) a plan that will address these concerns. This may involve negotiation between the family, care and protection workers, and other agencies about the services and supports that can be provided. For a conference agreement to come into effect it is necessary that all participants agree.

Conferences have the power to decide, if there is unanimous agreement, whether or not a child is in need of care and protection, as well as how this need can best be addressed. Unless the agreement is impractical or inconsistent with the Act then Child, Youth and Family is obliged to put the agreement into practice. However, it is significant that within the conference, agreement also has to come from the facilitator and the child protection worker, who in some cases will indicate at the outset what they see as necessary to ensure the safety of the child or young person². This does mean that in some cases the conference will not reach an agreement when the family and the professionals disagree, or there is disagreement between family members. In these situations the conference can be reconvened, or they can be referred to the court. It is a significant characteristic of the way in which conferencing has evolved in New Zealand that they are perceived by some as a 'high tariff legal intervention' that is intrusive and should only be used where there are significant concerns (Connolly, 2006). There has been a debate in New Zealand about the positioning of conferences within the child protection system, and the need to consider introducing it earlier in the process³. This is based upon a concern that maintaining it as a 'high-tariff' intervention undermines the early mobilisation of the family and the capacity to seek family solutions before problems become entrenched.

² Some experts argue that establishing 'bottom lines' is less than ideal because they have the potential to be perceived as a fait accompli by the family and, therefore, risk turning the process into a professional decision-making model (Personal communication, Marie Connolly, Chief Social Worker, Ministry of Social Development, Wellington, New Zealand, 6 November 2006).

³ Personal communication, Marie Connolly, Chief Social Worker, Ministry of Social Development, Wellington, New Zealand, 6 November 2006.

Measuring the adoption of Family Group Conferences in child protection practice.

The objective of this report is to map the degree to which child protection systems in Australia have adopted Family Group Conferencing. However, there are a number of dimensions upon which adoption might be measured. It can be measured simply by how often they are used within the child protection system (prevalence), but there are equally, if not more important, questions that might be asked. Two further dimensions on which implementations might be measured are discussed: conformity to the original model, and the function that they fulfil within the broader child protection system.

Prevalence of an innovation: Diffusion of innovations

The degree to which organisations adopt new approaches varies markedly. A number of factors influence the degree to which new ideas and practices are learnt of, perceived as desirable, and are more or less easily adopted. The predominant approach to understanding the adoption of new practices is described by diffusion of innovations theory (Rogers, 1995). Research in this broad field has focused on identifying the characteristics of innovations, individuals, organisations and contexts that either promote or inhibit acceptance of a practice, and the process through which these have an influence on adoption. A steadily growing volume of literature has identified numerous predictors of the degree to which initiatives are likely to be implemented; such as the influence of leaders, whether there is a perceived need for change or innovation, the ease with which innovations can be implemented and evaluated, whether the structure of organisations facilitate change, the broader political and social environment, and who has an interest in introducing change (Braithwaite, 1994; Lundblad, 2003; Rogers, 1995; Valente, 1993, 1996).

A recent review of the literature shows how these ideas are applicable to understanding the degree to which innovations are introduced into child and family services (Salveron, Arney & Scott, 2006). The same factors that have been found to influence diffusion of practices in a broad range of contexts would also seem to affect the degree to which new ideas are taken up in areas such as child protection. Indeed, a recent study in the United Kingdom that examines the adoption of conferencing by local councils, who have responsibility for the delivery of child protection services, highlights the importance of many of these variables. It is suggested by this study that weak leadership, the decentralised structure of child welfare provision, limited resources, weak evaluation research, and conflict with pre-existing structures and beliefs, have all contributed to a situation in which conferencing remains on the margins of child protection practice in the United Kingdom (Brown, 2003).

Authenticity versus adaptability of innovations

While the focus of diffusion theory is primarily on understanding the prevalence with which an innovation is used, another question that has attained particular significance in debates on the transfer of conferencing to new locations concerns the authenticity with which conferences are conducted. Research on diffusion theory suggests that the more adaptable an innovation is the more likely it is that it will be adopted by others. However, a concern of many practitioners is that the integrity of conferencing needs to be maintained. It has been argued that particular characteristics of the conferencing process are critical and cannot be adapted in new contexts without altering the significance of conferencing. For example, Walton, McKenzie and Connolly (2005) have argued that the practice of providing families with private time during the process is so essential to the process that it might be described as 'the heart of Family Group Conferencing'. Identifying which characteristics are deemed essential to conferencing, with limited research evidence available, is largely based on professional opinion. Nevertheless, fidelity to the key procedural and philosophical goals represents another important criteria for measuring the degree to which conferences have been adopted versus adapted (Salveron, et al., 2006).

*The function of conferences within child protection:
Responsive regulation*

If diffusion theory focuses our attention on the factors that determine whether an innovation is accepted, we should also be concerned about the way in which innovations are implemented. Responsive regulation (Ayres & Braithwaite, 1992; Braithwaite, 2002) provides an important prism through which we can understand the function that innovations play within the broader organisational structures into which they are introduced. The theory suggests that we can understand interventions that governments make in people's lives, in order to regulate their behaviour, in terms of the degree to which they enable individuals to address the regulatory concerns themselves. Conferences from this perspective are understood as a formal decision-making processes in which families are empowered to solve concerns regarding the welfare of their children (Adams & Chandler, 2004; Burford & Adams, 2004; Pennell, 2004). Within the broader child protection system they represent an intermediate space between complete self-regulation by families and statutory action, in which child protection agencies and courts make decisions about what is best for children (The Allen Consulting Group, 2003).

Responsive regulation is based upon the premise that governments will be more successful in creating change if they move beyond formalistic responses and tailor the way they seek to create change depending upon the willingness of families to address their concerns. The implication, based upon empirical research which shows that cooperative and respectful approaches are more successful in creating sustained change, is that government agencies should prioritise the use of interventions that promote respectful dialogue about problems and their potential solutions. The theory argues that there is no excuse not to engage with families in this way within a responsive framework, because if collaborative engagement with families is not successful more directive mechanisms are available that can address the child protection concerns.

Responsive regulation focuses our attention on how decisions are made: are they made by families (self-regulation), are they made in cooperation with families (supported-self-regulation), or are they made by others and imposed on families (coercive regulation)? This question suggests that in order to understand the significance of an intervention like conferencing it is necessary to understand the decision-making role that it plays within child protection systems and its relationship to other interventions that might be made in a family's life. Crucial questions are: When does a conference occur? What kind of decisions can it make? And, what effect do those decisions have? These questions represent a further dimension upon which adoption of conferencing by Australian states and territories can be measured: the degree to which conferences in Australia fulfil the same regulatory role or position that they do in New Zealand.

Scope and limitations of the study

Descriptions of the way in which conferencing is used in New Zealand and in Australia's states and territories were collected through published information and interviews with practitioners across Australia. A number of useful articles have documented the implementation of conferencing in Australia (Ban, 1996; Ban, 2000; Cashmore & Kiely, 2000; Trotter, Sheehan, Liddel, Strong, & Laragy, 1999; Lingage International, 2003), and a detailed review of conferencing programs, with an emphasis on child sexual abuse cases, is currently underway (Meyer, in preparation). Interviews with practitioners were also necessary to gather more up-to-date information as well as a sense of how programs are implemented. Facilitators or managers were talked to in every state and territory, usually from within the statutory agencies that are responsible for child protection, but also from non-government organisations, who in a number of jurisdictions were important partners in the development of conferencing. In total, 18 practitioners or managers shared their views on the implementation of programs across Australia. The interviews were mainly conducted by phone, were of a qualitative nature, and were based on exploring how conferences had been implemented. The interviews were conducted between January and September of 2006.

While providing a good picture of how conferences are used in Australia, this method has a number of limitations. For some practitioners and academics a critical issue is the quality with which conferencing is implemented. However, an evaluation of facilitation practice, or even the way in which the various programs have been implemented, is beyond the methodology that was used in this report. Variations in the way in which conferences are actually conducted or are perceived, due to difference between regions or between agencies, are also unlikely to have been captured. Both of these questions would require a much larger sample size and an alternative methodology to the types of interviews that were conducted. Finally it is important to note that this report restricts its focus to the use of conferencing within statutory child protection systems. Conferences are sometimes used, particularly in non-government agencies, for a broader range of issues, but these are not discussed in depth here.

The programs included in this report are those that purport to be family group conferencing programs, or where different names were used, those that were consistent with the philosophy and methodology of conferencing. While a strict definition of what should and shouldn't be considered a conference is difficult to provide, a number of characteristics, when taken together, clearly distinguish conferencing from other programs: basic adherence to the three stage format, an assumption that the process requires the inclusion of extended family and/or broader social networks, and a philosophy and practice that is focused on empowering families to make decisions. Related programs, such as alternative dispute resolution, were not included in this research.

At the time of publication the information was correct, to the best of the author's knowledge, although statutory, policy and practice frameworks change rapidly.

Description of Family Group Conferencing Models in Australia

All of the states and territories in Australia have implemented or conducted trials of some form of Family Group Conferencing, except the Northern Territory where a current draft of new legislation incorporates a conferencing model. The way that conferencing has been implemented in each of these jurisdictions is discussed below and is summarised in Tables 1, 2 and 3.

South Australia

As in New Zealand, South Australian legislation seeks to place conferences, referred to as Family Care Meetings, at the centre of decision-making on child protection issues. The legislation, which was passed in 1993, states that where a child is 'at risk' a conference should be convened, and that this must happen before an application is made for any Orders that affect the custody or guardianship of children, except in limited circumstances. Attendance of a conference by the family is voluntary, with conferences occurring in approximately 70 percent of cases, and in 85 percent of these conferences a valid agreement is reached. Conferences don't go ahead for a variety of reasons, but primarily when families decline the offer to participate, often on the basis that they have already participated in a conference on a previous occasion or because decisions about how to resolve concerns have already been agreed upon. The South Australian model differs from practice in New Zealand in that it also allows for the use of conferencing in cases where court orders are not being considered. Indeed, legislation states that one should be organised when an opinion is formed that a child is in need of care and protection. However, in practice most conferences occur instead of, or on route to, court proceedings. In 2005-06 approximately 420 conferences were concluded with agreed outcomes.

Conferences are facilitated by a team of five facilitators who are located within the South Australian Courts, and are thus independent from Families SA, which is part of the South Australian Department for Families and Communities. Facilitation of conferences is based closely on the original New

Zealand model, with three main stages: information sharing, private family time and a planning/ agreement phase. Coordination and planning are carried out by facilitators and it is estimated that the average conference takes 12 hours of facilitator time, with eight of these being devoted to preparation. Conferences are usually attended by the family, other services, the caseworker from Families SA, and a cultural representative if the child has an Aboriginal or Torres Strait Islander heritage. The legislation demands that either the child or an advocate for them attends the conference. However, in practice the attendance of children is fairly rare.

The outcome of a conference is considered valid if the facilitator accepts that it addresses the concerns that were stated by Families SA in the referral. This means that the outcome does not need to be accepted by the child protection worker on behalf of Families SA, and gives the facilitator a decision-making role that is distinct from the New Zealand model. In practice the agreement of the child protection worker is always sought so as to facilitate implementation of decisions. However, it is significant that the outcomes of conferences are not legally binding and there is no mechanism for having them ratified by the Youth Court. In fact, it is reported that Families SA often seeks court orders despite agreement in a conference, and in such cases the courts will often issue orders that don't fully incorporate the agreements that were arrived at in the preceding conference.

Tasmania

If not as strong as the South Australian legislation, it is clear that the Tasmanian legislation, which was proclaimed in 2000 following a trial project, also places an emphasis on the use of conferencing. This is particularly evident in the way that it requires a conference to be convened whenever an eight-week Assessment Order is made or a 12-month Care and Protection Order is extended. The legislation also requires that a conference be held whenever a child-in-care or their family requests one, or where previous conference plans need to be reviewed. In addition to cases where Child Protection Services or the court is required to convene a conference, Child Protection Services

are also at liberty to use them immediately after investigation of a report or anywhere else it is considered desirable.

Approximately 180 conferences were convened in Tasmania in the year 2005-2006. While a comparatively large number, this still represents a very modest proportion of all the child protection cases in Tasmania in which statutory action is taken. This is illustrated by the fact that approximately 600 orders on guardianship or custody arrangements were made in 2004-05, according to statistics published by the Australian Institute of Health and Welfare (2006). One reason why conferences might represent only a modest proportion of cases is that they are not mandatory when four-week assessment orders are sought or when 12-month Care and Protection Orders are made in the first instance. This means that it is possible for a child to be the subject of several assessment orders and be placed on a Care and Protection order without having been referred to a conference, and this would seem to be fairly common. Another reason is that Child Protection Services rarely seek to use conferences prior to seeking a court order, even though this is possible. Indeed, an interesting characteristic of the Tasmanian model is that conferences are almost always used in conjunction with court processes rather than instead of court. Where they are convened as a result of a statutory requirement this is always as a consequence of an order having been granted, rather than prior to one being granted. Furthermore, both eight-week Assessment Orders and extensions to 12-month Care and Protection Order are always preceded by other types of orders, meaning that a case will often have been to court on a couple of occasions prior to a conference.

Conferences are conducted using the New Zealand three-stage model. However, in Tasmania it is independent facilitators who coordinate conferences. These facilitators are recruited by Child Protection Services from a diverse range of backgrounds, and once approved are placed on a register and engaged by Child Protection Services on a case-by-case basis to arrange and convene each conference. When a conference is to be held a facilitator is selected on the basis of practical criteria, such as location, but also as the result of discussion with families regarding which facilitator they would feel most comfortable with. Although a number of key parties, such as the child's guardians, are expected to attend, facilitators are given considerable discretion over who should be invited,

and can exclude participants if they believe their presence is not in the best interests of the child. In this model facilitators are also expected to appoint an advocate for the child unless one is not needed (or a separate legal representative for the child has been appointed by the court) and an effort is made to include children in conferences where possible. Child protection workers attend conferences to provide information about the concerns of Child Protection Services as well as to provide a statement about what needs to occur to ensure the child's safety.

A conference is considered to have reached an agreement if the child or their advocate, their guardians, and the facilitator agree to it. So, as in South Australia the facilitator plays a role in deciding whether plans are appropriate. While the child protection worker is not required to agree with the family's plan, they also play an important role because for plans to come into effect Child Protection Services must approve them, and this decision is ultimately made by the worker's manager. In the event that a conference does not come to an agreement, or the agreement is not approved, then either another conference is convened or the case is referred to the court. If it is referred to court then the magistrate will receive both the family's plan along with the concerns of Child Protection Services.

It is worthwhile noting that the conferencing program in Tasmania is complemented by the Springboard Program, which provides funds that families can access, via the conference, if this supports the conference outcomes and is not already included in the child/young person's case plan.

Queensland

In 2005 Queensland implemented a number of amendments to their Child Protection Act (1999), which require that case plans are developed for all children in need of protection and ongoing help, and that these plans are developed through Family Group Meetings. This gives conferencing a central role within Queensland's child protection system because it means that conferences should be conducted in all cases that are assessed as in need of ongoing involvement by the Department.

An additional impetus to conduct conferences is that a case plan must be developed, and submitted to the court, before a final protection order can be made. This framework means that conferences are often conducted in conjunction with court proceedings rather than as an earlier intervention or as a diversion from court processes. By the time a conference is conducted it is possible that assessment orders will have already been made, and because the catalyst for convening a conference is often an application for final protection orders, its focus will often be on placement of the child in out-of-home care. According to the amendments, Child Safety Officers should also use Family Group Meetings when working voluntarily with parents. It is unknown the degree to which conferences are being conducted at this early stage of the program's implementation. Currently no data on conferences is available and an evaluation hasn't yet been conducted.

Although referred to by a different name, the conferences that are conducted in Queensland largely resemble the format of conferencing developed in New Zealand. One significant difference is that facilitators are given the choice of either providing private family time or using a process of structured facilitation in those cases where they believe that private family time might pose a risk to the child or might not be inclusive. Participants at conferences include the child's parents, their extended family, the child where this is possible, the relevant child protection worker and any service providers who are seen as able to contribute. Although there is provision for private facilitators in the legislation and some conferences are conducted through community agencies, the majority of conferences are currently conducted by senior practitioners within the Department. To provide a degree of independence, facilitators are not supposed to have any direct involvement in the case. In some offices, specific workers have primary responsibility for facilitating conferences, while at others facilitation is shared among senior practitioners. To date there has been limited training for facilitators, though there is an informal network of facilitators in the Department.

The stated aim of conferences in Queensland is to develop or review a case plan that provides for the child's care and protection needs. Plans formed by conferences address issues such as living arrangements, contact arrangements, reunification plans, and services the child or family may need. Depending upon the reason for the Department's involvement, the goals that the plan must address

are clearly specified to the family by the Child Safety Officer prior to the conference. Based upon these goals, conferences will attempt to reach agreement on an appropriate plan, though neither the Queensland legislation or the Child Safety Practice Manual (2006) specify exactly who agreement in the conference must come from. Once a care plan is made at the conference the Department must decide whether or not to endorse it, and the Child Safety Officer's team leader usually does this. If the plan is not endorsed then the conference can be reconvened or the Department can simply amend the plan itself. Care plans that are developed in order to seek final protection orders will then be presented to the court.

Australian Capital Territory (ACT)

Family Group Conferencing was included in ACT legislation in 1999. The legislation states that conferences may be used whenever it is believed that the child or young person is in need of care and protection or where the arrangements made at a previous conference need to be reviewed. Unlike legislation in either South Australia, Tasmania or Queensland, this does not compel child protection workers to convene a conference in any situation. The decision to refer a case to a conference is at the discretion of the worker, and their manager, in consultation with the conference facilitator as to the suitability of the case. This means that the use of conferences is largely dependent on the ability of facilitators to convince workers and managers of the benefits of conferencing. Consequently, the use of conferences in the ACT has remained at the margins of child protection work, with approximately 10-15 cases conducted each year.

It is significant that legislation in the ACT states that conferences should only occur when it is believed that a young person is considered as in need of care and protection. As such, they represent a means by which children can be diverted from court proceedings. Consistent with this aim, conferences have generally been used where court orders would have otherwise been sought, though in many cases children are already on orders of some kind, and conferences have also been convened occasionally where court orders might not have been sought. A forthcoming revision of

the legislation intends to remove the requirement that a child is in 'need of care and protection' as a threshold for holding a conference. The intention is to allow greater use of conferencing and other group decision-making processes earlier in cases where concerns are not as great.

Facilitation of conferences is organised by a small team within the Office for Children, Youth and Family Support, which is the statutory agency responsible for child protection. These conferences follow the New Zealand three-stage model closely. The child protection worker involved in the case attends the conference and an important part of their role is to state what they believe is necessary in order to establish the safety of the child. For the outcome of a conference to be accepted requires agreement by the child's parent and the child protection worker, while facilitators remain a neutral party. If these participants reach an agreement the Office must implement it, though this does not prevent it from seeking new orders in court. An interesting feature of the ACT legislation is that it provides the means for any changes in parental responsibility, stemming from a conference agreement, to be registered in the Children's Court. If agreement cannot be reached then the Office can reconvene another conference or take alternative action.

Victoria

Conferencing, or Family Decision Making as it is also called in Victoria, was first introduced into child protection practice in Australia through a pilot that was initiated at the Mission of St James & St John in 1992 (Ban, 1996). Following a positive evaluation of this project (Swain, 1993), conferencing was adopted by the Victorian Department of Human Services and extended across the state's nine regions in 1996, through the employment of half-time coordinators in each region. Unlike the states that have been discussed so far, specific legislation that mandated or required the use of conferencing was not introduced at the time. Instead, an emphasis was placed on using conferencing within the existing legal framework as a means of case planning. The introduction of conferencing built on a number of initiatives designed to increase the involvement of families in decision-making (Campbell, 1997).

Victorian legislation states that a Case Planning Meeting must be held where child protection workers and families do not agree on a Case Plan, where the family requests one, or where the case manager thinks it will have therapeutic benefits - conferencing was promoted as one way of conducting these meetings (Ban, 2000). However, it is reported that there is considerable variation in the way that conferences are used; sometimes they are used prior to statutory intervention, so as to reduce the likelihood of this occurring at a later stage, but at other times they are used after lengthy involvement with families in order to make decisions about the ongoing care of a child. This variation in when conferences are used also has implications for how they are conducted and the outcome that they have. For example, an early evaluation by Trotter, et al. (1999) found that although conferences were based largely on the New Zealand format, the use of private time in conferences varied across regions. The status given to decisions made at conferences also varies somewhat. If conferences are used as a means of conducting a Case Planning Meeting then outcomes should have the same status as a Case Plan, but agreements at conferences conducted in other circumstances would have a more informal status.

A decision as to whether a conference is offered to a family is ultimately made by the child protection worker and conferencing coordinators, but only after an initial referral is made by the child protection workers, and their managers. Thus, the use of conferencing depends very much on the ability of conferencing coordinators to convince child protection workers and their managers of the value of using conferences. The highly decentralised way in which the conferencing program has developed and is managed across the nine regions in Victoria also contributes to variation in the degree to which conferencing is used. Some regions have expanded the use of conferencing by employing additional coordinators while the use of conferencing in others is very limited. On the whole, it might be concluded that conferences are used in a relatively small proportion of cases in Victoria.

It is significant that from the time conferencing was first introduced into Victoria non-government agencies have played an important role in supporting its development, as is evident from its beginnings at The Mission of St James & St John (Ban, 1996). A number of non-government

agencies also run conferencing programs, such as Glastonbury Child and Family Services in Geelong, which initially started as a project that conducted conferences on behalf of the Department. This is no longer the case, but Glastonbury's service has evolved into an independent Family Decision Making Program, which provides a continuum of assistance to families where there is a need to make decisions about the care of children. This program is able to offer other forms of assistance for families that are not able to meet for various reasons, and results in facilitation of a conference in the large proportion of cases. Rather than conducting conferences for child protection services, it functions as a service to assist families on issues such as custody, the safety of children, and preventing out of home placements.

Another community program in Victoria is the Aboriginal and Torres Strait Islander Family Decision Making Program, which has been developed in the Shepparton area in a partnership between the Victorian government and the Rumbalara Aboriginal Cooperative. A recent evaluation of the program suggests that the use of a conferencing model that is sensitive to the concerns of Indigenous families, such as the inclusion of elders, has led to very positive results (Linage International, 2003).

The new Children, Youth and Families Act 2005, which is currently being implemented, heralds some significant changes for family group conferencing in Victoria. The most significant change is the direction within this legislation that when a significant decision is to be made about an Aboriginal child, and particularly a decision relating to placement, a meeting should be convened by an Aboriginal convenor which involves the child's family and broader community. While this does not refer directly to the use of conferencing, the Department has implemented this legislation through the development of an Aboriginal Family Decision Making program, which involves the use of conferencing and the involvement of Aboriginal elders. Interestingly, these conferences are co-convened by a convenor from the Department and a convenor from an external Aboriginal organisation. While the use of conferencing in Aboriginal child protection decision-making is based on this legislative direction, the way it is to be implemented is not specified in detail and it will be important to evaluate the effect that these changes have.

It is also worth noting that the new act makes provision for the use of 'facilitative conferences' and 'advisory conferences' by the Children's Court of Victoria. While this also suggests the potential for an increased role for 'conferencing' in Victoria, the legislation suggests that these conferences may be quite different from family group conferencing; with less focus on inclusion of extended family or broader social networks, greater emphasis on legal representation, and few details about how they will be conducted (e.g. it is unclear whether they will provide family private time). These conferences appear to represent an alternative dispute resolution process that uses mediation to inform court processes, rather than a family group conferencing process.

Western Australia

The Western Australian Department of Community Development initially trialled the use of conferencing in 1996 as part of a preventative program for children under ten years of age who had behavioural problems. Children and their families were referred to this program by a variety of means, including self-referral or referral from other agencies, rather than as the direct result of a child protection report. The emphasis of the program was on early intervention, to prevent these children from entering the criminal justice system at a later date. Conferencing was initially emphasised in this program, but eventually became just one approach that could be used by workers, and its use varied across the pilot sites. This program was funded by the Department until 2001 when it was discontinued. A number of facilitators who had been trained as part of the program continued facilitating conferences in child protection cases for some time after the pilot closed. However, it is reported that there are no conferences now being conducted in Western Australia.

While Family Group Conferencing is no longer used in Western Australia, a number of principles from the conferencing model have been applied to a program that is referred to as the Family Engagement Model. This model has been developed, and used as the primary means of working with families, in one of Perth's offices (Cannington) since 2001. The model draws on the

philosophical ideas that underpin conferencing, such as working collaboratively with families. However, the model departs from traditional conferencing models in a number of ways. It involves working with families almost entirely through family support meetings, which focus on identifying the issues that are of concern and developing plans to address these concerns. These meetings might be held with families up to once per week, and on each occasion previous plans will be reviewed or new plans will be formulated. Many elements of Family Group Conferences are retained by these family support meetings: private family time is used in some meetings, and extended family and professionals are also invited to attend where this is seen as appropriate. However, they are less formally structured, don't involve independent coordinators, involve less preparation, and the outcomes of these meetings don't have any formal (legal) status.

Adaptation of the conferencing model in this way was seen to overcome a number of concerns regarding the use of conferencing in Western Australia. Conferences were seen as very resource intensive, as sometimes intimidating for families because of their formality, and limited as an intervention because they were only used with a small proportion of families. By using family meetings it was possible to employ the same collaborative approach in all contacts with every family that became involved with the office. A significant focus in implementing the model was on changing the whole philosophy of practice towards clients.

New South Wales

Like Victoria, conferencing was introduced into New South Wales without a specific legislative framework. A two year pilot program was jointly established and funded by the Department of Community Services and UnitingCare Burnside, a non-government organisation, in Sydney (and later the Dubbo area) in 1996. In this pilot conferences were planned and conducted by staff from Burnside based on the New Zealand model. Cases were received into the program on the basis of two main criteria: that decisions needed to be made about the care and support of children because of serious concerns about their safety, and that the family was willing to participate in a conference.

However, the decision to offer families a conference in these situations as well as to support the outcomes of these conferences was at the discretion of child protection workers. During the pilot 20 families participated in conferences, with evaluations of the project suggesting that both families and workers were positive about the outcomes (Cashmore, 1999; Cashmore & Kiely, 2000; Kiely, 2001).

This program was funded for a further two years following the initial trial. However, the introduction of the Children and Young Persons (Child Protection) Act in 1998 led to a decline in the use of conferencing. While the new Act includes a mandate for workers to use Alternative Dispute Resolution, this has been implemented by the Department through the use of mediation rather than conferencing. It is now the case that practically no cases in NSW statutory child protection system are referred to conferences. Burnside continues to use conferencing outside of the statutory child protection process, such as in out-of-home care, and has recently developed an accredited training program for facilitators. A new, but very small, pilot that is being conducted with child protection cases in Coffs Harbour may lead to renewed interest in conferencing in NSW.

Northern Territory

Until now conferencing has not been used in the Northern Territory. However, new legislation that is currently being drafted includes provision for a form of conferencing that is referred to as Mediation Conferences. It is intended that these conferences may be convened by the Department whenever there are concerns about the wellbeing of a child; with the intention of identifying the circumstances that are causing concerns, arriving at an agreement regarding the best way of promoting the child's wellbeing, or indeed, for any purpose relating to the wellbeing of the child. Although it is possible under the proposed legislation to appoint an independent facilitator, it is expected that child protection workers would often facilitate conferences themselves because of the need for flexibility in remote locations. The draft legislation provides limited details as to who would attend a conference or the way in which it would be conducted, although it allows that this might be

prescribed later through regulation. It is also unclear whether any agreements reached at a conference would have any status in subsequent decision-making by the Department or courts. As is the case in the ACT, the draft legislation does not make it mandatory that conferences would be offered in any particular contexts.

Although different from Family Group Conferencing it is worth noting that collaborative decision making processes have been used in the Northern Territory for an extended period of time. Family Way Meetings have been used to engage with broader family groups in Aboriginal communities when concerns have been held for children (Trotter, et al, 1999). An important function that these meetings fulfilled was recognition that various members of the extended-family unit in Aboriginal communities have different responsibilities for children and therefore need to be involved in decision-making.

Conclusion: Family Group Conferences as an innovation in decision-making and empowerment?

The descriptions of conferencing programs in each state and territory show that the extent to which conferencing is used varies dramatically across Australia; from states that do not use it at all through to states that convene conferences in relatively high proportions of cases where there are serious concerns. It also shows that most conferencing programs in Australia, although referred to by a variety of names, profess to use the three-stage model of conferencing that was first developed in New Zealand. So quite different conclusions might be drawn, depending upon the criteria used, in judging the degree to which Australian child protection systems have adopted conferencing. In terms of prevalence, the diffusion of conferencing to date has been fairly limited, but among those conferencing programs that are well established it would seem that adherence to the original model (authenticity), as far as facilitation practice is concerned, is quite high.

Prevalence and authenticity are both important in understanding the degree to which conferencing has been adopted, but it was also argued in the introduction that a point of comparison of at least as much importance, is the function that conferences play within the broader system. Responsive regulation (Braithwaite, 2002) provides a framework for making this comparison. It argues that interventions which governments use in order to change families' behaviour can be understood in terms of the degree to which they allow individuals to respond to concerns themselves as opposed to imposing solutions upon them. When viewed from this perspective there are significant differences between the New Zealand model and the programs implemented in Australia. Indeed, it is reasonable to ask the question: Have Australian states implemented the New Zealand model at all?

In New Zealand, conferences form a central step in decision-making about the protection or welfare of children. Conferences must be conducted whenever a belief is formed that the child is in need of care or protection. In practice, this means that whenever child protection workers would consider taking court action they must convene a conference to try and identify solutions with the family. Furthermore, wherever conference attendees are able to agree on a plan to address these concerns the Department is required to comply with their plan. The development of conferencing in New Zealand did not occur with reference to responsive regulation, but it is clear when viewed from this perspective that a primary function of their conferencing system is to provide a decision-making forum that empowers families to address concerns prior to the imposition of solutions by courts.

Implementation of conferencing programs by Australian jurisdictions differs from this model in at least one of two very significant ways. The first of these relates to the criteria that determine when conferences are used. In many Australian jurisdictions, they are not offered to families on a routine basis in the belief that families have the right to be engaged in this way prior to court action. Instead they are offered to particular families on the basis of professional decisions that they would benefit from the process. Emphasis is placed upon the therapeutic benefit that might be derived from a conference rather than on its function as a decision-making process. This may reflect the emphasis that is often placed, in both the promotion and evaluation of conferencing, on the comparative advantages that they may have in achieving positive change.

The second important way in which Australian models have diverged from the New Zealand model is in their power as decision-making forums. In the majority of Australian jurisdictions, conference outcomes appear to have much lower status, needing to be endorsed by Departments, and sometimes courts, before they have any authority. Most conferencing programs in Australia try to maximise the chances of conference plans being endorsed by communicating to participants what is likely to be accepted, yet this still falls short of a model in which conferences are an important decision-making forum within themselves. In New Zealand, agreement of the child protection worker has to be forthcoming and so families still have to take into account the State's position. However, negotiation about what is deemed as necessary occurs within the conference process, and so the family is empowered to work with the child protection worker to reach an outcome acceptable to both, or choose to disagree, with the possibility that the matter will be forwarded to the court. In a large majority of cases agreements are reached, and these are a legal outcome that cannot be summarily dismissed subsequent to the meeting. This is in stark contrast with Australian jurisdictions such as Queensland, where case plans developed in conferences can simply be amended later by the Department, or South Australia, where the Department is not obliged to implement outcomes that have been agreed on at a conference and often proceeds to court despite prior agreement at a conference.

These differences do not suggest that the conferencing programs in Australia are not of considerable value. Conferences, if skilfully facilitated, offer families an important chance for reflection, empower families to various degrees, and have many other benefits. Furthermore, adaptation of the original model to meet the requirements of different contexts has led to some interesting innovations. One example of one such adaptation, which is discussed in the description of Western Australia's program, is the use of conferencing principles in a less formal decision-making process (the Family Engagement Model). This modification allows the philosophy of collaboration and empowerment to be used with all families, and at earlier stages of contact with the child protection system. Other changes in the way conferencing has been implemented in Australia, that are discussed in the descriptions of each jurisdiction, also show that adaptation has the potential to result in new and useful innovations.

It might be concluded, nevertheless, that conferencing programs in Australia perform a rather different function to the New Zealand model because of the child protection structures that they occur within. Comparison of the way in which conferencing programs operate shows that the “regulatory role” conferences fulfil in the broader child protection system is critical to understanding what they achieve, and that Australian jurisdictions have implemented conferencing in ways that fall far short of the systematic empowerment of families that has been envisaged in New Zealand.

References

- Adams, P., & Chandler, S. (2004). Responsive regulation in child welfare: Systemic challenges to mainstreaming the family group conference. *Journal of Sociology and Social Welfare*, 31(1), 93-116.
- Australian Institute of Health and Welfare. (2006). *Child Protection Australia 2004-05*. Canberra: Australian Institute of Health and Welfare.
- Ayres, I., & Braithwaite, J. (1992). *Responsive regulation: transcending the deregulation debate*. Oxford: Oxford University Press.
- Ban, P. (1996). Implementing and evaluating family group conferences with children and families in Victoria, Australia. In J. Hudson, A. Morris, G. Maxwell & B. Gallaway (Eds.), *Family group conferences: Perspectives on policy and practice*. Annandale: Federation Press.
- Ban, P. (2000). Family group conferences in four Australian states. In G. Burford & J. Hudson (Eds.), *Family group conferencing: New directions in community-centred child and family practice*. New York: Aldine de Gruyter.
- Braithwaite, J. (1994). A sociology of modelling and the politics of empowerment. *British Journal of Sociology*, 45(3), 445-479.
- Braithwaite, J. (2002). *Restorative justice and responsive regulation*. New York: Oxford University Press.
- Brown, L. (2003). Mainstream or margin? The current use of family group conferences in child welfare practice in the UK. *Child and Family Social Work*, 8, 331-340.
- Burford, G., & Adams, P. (2004). Restorative justice, responsive regulation and social work. *Journal of Sociology and Social Welfare*, 31(1), 7-26.
- Campbell, L. (1997). Family involvement in decision making in child protection and care: Four types of case conference. *Child and Family Social Work*, 2, 1-11.
- Cashmore, J. (1999). *Family decision making: A pilot project by Burnside and DoCS*. Sydney: Burnside.
- Cashmore, J., & Kiely, P. (2000). Implementing and evaluating family group conferences: The New South Wales experience. In G. Burford & J. Hudson (Eds.), *Family group conferencing: New directions in community-centred child and family practice* (pp. 242-252). New York: Aldine de Gruyter.
- Connolly, M. (1994). An act of empowerment: The Children, Young Persons and their Families Act (1989). *British Journal of Social Work*, 24(1), 87-100.
- Connolly, M. (2006). Fifteen years of family group conferencing: Coordinators talk about their experiences in Aotearoa New Zealand. *British Journal of Social Work*, 36(4), 523-540.
- Department of Child Safety. (2006). *Child Safety Practice Manual*. Brisbane: Department of Child Safety, The State of Queensland.
- Doolan, M., & Phillips, P. (2000). Conferencing in New Zealand. In G. Burford & J. Hudson (Eds.), *Family group conferencing: New directions in community-centred child & family practice* (pp. 193-197). New York: Adeline De Gruyter.
- Fraser, S., & Norton, J. (1996). Family group conferencing in New Zealand child protection work. In J. Hudson, A. Morris, G. Maxwell & B. Gallaway (Eds.), *Family group conferences: Perspectives on policy and practice*. Annandale: Federation Press.
- Kiely, P. (2001). *A longitudinal evaluation of family group conferencing*. Unpublished Masters of Clinical Psychology, Macquarie University, Sydney.
- Lingage International. (2003). *A.T.S.I. Family Decision Making Program Evaluation: "Approaching families together 2002"*. Melbourne: Victorian Department of Human Services.
- Lundbad, J. P. (2003). A review and critique of Roger's diffusion of innovation theory as it applies to organizations. *Organizational Development Journal*, 21(4), 50-64.
- McCold, P. (2003). A survey of assessment research on mediation and conferencing. In L. Walgrave (Ed.), *Repositioning restorative justice* (pp. 67-120). Cullompton: Willan Publishing.
- Meyer, M. (in preparation) Family decision making and child sexual abuse: An exploration of the distinct organisational and practice issues. Unpublished PhD dissertation, University of Melbourne.
- Moore, D. B., & McDonald, J. M. (2000). *Transforming Conflict in Workplaces and Other Communities*. Melbourne: Transformative Justice Australia.
- Pennell, J. (2004). Family group conferencing in child welfare: Responsive and regulatory interfaces. *Journal of Sociology and Social Welfare*, 31(1).
- Robertson, J. (1996). Research on family group conferences in child welfare in New Zealand. In J. Hudson, M. Allison, G. Maxwell & B. Gallaway (Eds.), *Family Group Conferences*. Annandale: Federation press.
- Rogers, E. M. (1995). *The diffusion of innovations* (4th ed.). New York: The Free Press.
- Salveron, M., Arney, F., & Scott, D. (2006). Sowing the seeds of innovation: Ideas for child and family services. *Family Matters*, 73, 38-45.
- Swain, P. (1993). *Safe in our hands - The evaluation report of the family group decision making project*. Melbourne: Mission of St James & St John.
- The Allen Consulting Group. (2003). *Protecting children: The child protection outcomes project*. Sydney: The Allen consulting Group.
- Trotter, C., Sheenhan, R., Liddell, M., Strong, D., & Laragy, C. (1999). *Evaluation of the statewide implementation of family group conferencing*. Melbourne: Human Services, Victoria.
- Valente, T. W. (1993). Diffusion of innovations and policy decision-making. *Journal of Communications*, 43(1), 30-45.
- Valente, T. W. (1996). Social network thresholds in the diffusion of innovations. *Social Networks*, 18, 69-89.
- Walton, E., MacKenzie, M., & Connolly, M. (2005). Private family time: The heart of family group conferencing. *Protecting Children*, 19(4), 17-24.

Table 1: Comparison of the Use of Family Group Conferencing by Statutory Child Protection Services in New Zealand and Australia's States and Territories.

	Approximate Use	Basis for Use
New Zealand	50,000 estimated between 1990 & 2006 (≈ 3000 per year)	Legislation requires a conference to be convened if a child is in need of care and protection.
South Australia (<i>Family Care Meetings</i>)	Approximately 420 in 2005-2006	Legislation requires that a conference be convened if a child is 'at risk', and prior to seeking care and protection orders that affect custody or guardianship.
Tasmania	Approximately 180 in 2005-2006	Legislation requires a conference be offered when an 8-week assessment order is granted or a 12 month care and protection order is extended.
Queensland (<i>Family Group Meetings</i>)	Unknown at this early stage of implementation	Legislation requires that a conference is offered where a child protection order is sought, or there is ongoing intervention.
Australian Capital Territory	Approximately 10-15 per year	Legislation allows for a conference whenever a child is considered in need of care and protection. ¹
Victoria (<i>Family Decision Making, Aboriginal Family Decision Making</i>)	Unknown due to variation between regions, and decentralised management	Conferences have been used on a non-legislative basis, but can occur within the case planning process, which is required by legislation in a number of circumstances. New legislation implies that a conferencing process should occur whenever significant decisions are made about Aboriginal children. ²
Western Australia	A trial was conducted, but conferences are no longer used. ³	Conferences were used on a non-legislative basis.
New South Wales (<i>Family Decision making Conferences</i>)	A trial was conducted, but conferences are no longer used. ⁴	Conferences were used on a non-legislative basis.
Northern Territory	Conferences have never been used. ⁵	Never used.

1. Amendments planned for ACT legislation allow for conferences where children are not considered in need of care and protection.

2. Victoria has recently introduced a model of Dispute Resolution. Conferences that can be ordered by the court. However, these would seem to differ in some important ways from Family Group Conferences.

3. The program in Western Australia was conducted as pilot project. A Family Engagement Model has been developed and is used in one of Western Australia's office (Cannington) using principles from conferencing.

4. The programs in New South Wales was conducted as pilot project. UnitingCare Burnside continues to operate a conferencing program in NSW, and some small scale pilots that use, or draw on principles of, conferencing are planned in regional areas of NSW.

5. Legislation proposed in the Northern Territory provides for the use of 'mediation conferences', but details regarding how they will be implemented are yet to be decided. Another collaborative practice called Family Way Meetings has been used in the Northern Territory for a long time.

Table 2: Comparison of Family Group Conferencing Models used by Statutory Child Protection Services in New Zealand and Australia's States and Territories.

	Facilitators	Model
New Zealand	Employees of the Department.	New Zealand model.
South Australia <i>(Family Care Meetings)</i>	Employees of the courts.	New Zealand model.
Tasmania	Independent facilitators contracted by Department.	New Zealand model.
Queensland <i>(Family Group Meetings)</i>	Senior child protection workers, employees of the Department in specialist positions, or independent facilitators from community agencies.	Based partly on New Zealand model, but facilitation can be used instead of private family time.
Australian Capital Territory	Employed by the Department in specialist positions.	New Zealand model.
Victoria <i>(Family Decision Making)</i>	Employees of the Department in specialist positions. New legislation states that conferences involving Aboriginal children will be conducted by an Aboriginal facilitator approved by an Aboriginal organisation. (Conferences have also been conducted by non-government agencies such as Rumbalara Aboriginal Cooperative, and Glastonbury also facilitates conferences outside of the statutory child protection system)	New Zealand model.
Western Australia	Were conducted by employees of the Department.	New Zealand model.
New South Wales	Were conducted by non-government agency (UnitingCare Burnside).	New Zealand model.
Northern Territory	Never used.	

Table 3: Comparison of When Family Group Conferencing (FGC) is Used and How its Outcomes are Implemented by Statutory Child Protection Services in New Zealand and Australia's States and Territories.

	When	Outcome requires	Implementation
New Zealand	When it is believed a child is in need of protection - prior/alternative to seeking court orders.	Agreement of the family, child protection worker, and facilitator.	Outcome must be implemented by Department unless impractical or inconsistent with Act.
South Australia (Family Care Meetings)	Prior to seeking care and protection orders. Can be an alternative to seeking court orders, but orders are still sought in some cases.	Agreement of the family and the facilitator. Agreement of child protection worker is usually sought.	Families SA has discretion whether to implement agreements and/or seek additional court orders.
Tasmania	Usually in conjunction with court orders (e.g. when an 8-week assessment order is made or a 12-month Care and Protection Order is extended), but can be used separately.	Agreement of the child's guardian, the child or their advocate, and the facilitator.	Department has discretion to endorse the outcome. If it is not endorsed the conference can be re-convened, or the family's plan and a Departmental alternative are presented to the court.
Queensland (Family Group Meetings)	In most cases where it has been assessed that a child is in need of protection and ongoing intervention is required. A case plan must be developed before the court can make a child protection order.	Unspecified in legislation.	Department has discretion to endorse the outcome agreement or amend it for submission to court.
Australian Capital Territory	When it is believed a child is in need of protection - prior/alternative to seeking court orders.	Agreement of child's parents, the child where appropriate, and child protection worker.	Office must implement outcome but may take further action.
Victoria (Family Decision Making)	Various decision-making points, e.g. development of case plans, or when significant decisions are to be made about an Aboriginal child.	There is variation in use of conferences, but agreement of the family and case worker is usually required.	Expectation is that agreed outcomes will be implemented by the Department.
Western Australia	An early intervention program was conducted for children under 10 identified as having behavioural problems.	Agreement of the family, child protection worker and facilitator.	Expectation was that outcomes would be implemented by the Department.
New South Wales	Cases were selected for the trial on the basis that there were serious concerns about the safety, welfare and well-being of children.	Agreement of the family and child protection worker.	Expectation was that outcomes would be implemented by the Department.
Northern Territory	Never used.	Never used.	Never used.

Australian Centre for Child Protection

University of South Australia
St Bernards Road
Magill SA 5072

www.unisa.edu.au/childprotection/

