The reform package includes changes to the law, in the *Family Law Amendment (Shared Parental Responsibility) Act 2006*, and funding for new and expanded services to help families deal cooperatively and practically with relationship difficulties and separations.

Amongst other things, the legislation introduces a presumption in favour of shared parental responsibility, makes family dispute resolution compulsory before taking a parenting matter to court (with some exceptions, including cases of family violence or child abuse), and provides for more child-centred court processes for parenting matters. New and expanded services include the staged rollout of 65 Family Relationship Centres, which provide a new ‘gateway’ to the family law system, in addition to providing other family support services. The re-formulated service package is intended to assist families in enhancing their relationships and resolving difficulties cooperatively.

The AIFS evaluation will assess the impact of the reforms on families and across the family law system, using multiple studies and a mixture of methodologies. Key foci of the multi-layered, three-year research program are separated families, the operation of the family support programs, the impact of the shared parental responsibility legislation, and the shift to child-focused processes in family dispute resolution and court proceedings.

**The policy context**

The core objectives in introducing the reform package were fourfold:

1. to help prevent separation and build strong, healthy family relationships;
2. to encourage more meaningful involvement by both parents in their children’s lives after separation, in an environment where children are safe from violence and abuse;
3. in the case of separation, to provide information, advice and dispute resolution services to help parents agree on what is best for their children, rather than contesting parenting proposals in the courtroom; and
4. to have a new entry-point that provides a doorway to other services that families need, and which facilitates access to those services.

A combination of service provision (see text box) and legislative measures is being used to achieve these objectives. The key legislative initiative, the *Shared Parental Responsibility Act*, contains a new template for post-separation parenting, and articulates a limited role for court-based decision-making in parenting matters. Four of the main changes it contains are:

1. a presumption in favour of equal shared parental responsibility;
2. an increased emphasis on child safety;
3. compulsory family dispute resolution from July 2007 (except in certain circumstances, including where there are concerns about family violence or child abuse); and
4. less adversarial processes for Family Court decision-making in children’s matters (and in property matters by consent).

New services include the Family Relationship Centres, the Family Relationship Advice Line, and Family Relationships Online. These services are designed to streamline access to the family law system, and enable parents and other family members experiencing difficulties regarding family relationships to obtain relevant information more quickly and easily.

**The evaluation research**

The evaluation research program comprises three separate components (each including a number of separate studies) designed to measure the impact of the changes in both broad and specific ways. The three components focus respectively on separated families, the service provision system, and the implementation of the legislation and the changes.
What is the Magellan case-management system?

Magellan is a world-first experimental project, designed to address the needs of children and families where allegations of sexual abuse or serious physical abuse are raised during parenting disputes (disputes over how the child’s time is divided between parents – if at all) in the Family Court of Australia. A consortium of agencies in Victoria developed and implemented the new approach in a pilot project of 100 cases. This was evaluated in 2001 before progressively rolling out the case-management approach nationally (Brown et al., 2001). Like the eponymous Portuguese-born explorer whose voyage became known as the first successful attempt at world circumnavigation, Magellan is about charting new waters and exploring new territory in the service of better outcomes for vulnerable children and families.

The system consists of a team of judges, registrars and mediators (now called Family Consultants) who handle the cases from start to finish, with a central focus being the level of inter-agency co-operation (particularly with the statutory child protection department, which is responsible for investigating allegations, and providing focused reports to the Court on their activities and current concerns). Significant resources are directed to the case in the early stages with an aim to resolve the case within six months. Child representatives (now known as Independent Children’s Lawyers) are appointed, and for those who qualify for legal aid, the usual cap is lifted. As well as hearing cases, a key component is that judges play an active role in managing cases at all stages through the Court, assisted by a dedicated Magellan registrar.

Magellan evaluation 2006–2007

The purpose of this evaluation was to examine the effectiveness of the Magellan case-management system. The project involved two types of data analysis: qualitative data from stakeholders, and a quantitative case-file comparison of cases finalised prior to 1 July 2006. As well as assessing the perspectives of relevant stakeholders as to whether Magellan is achieving the desired outcomes, cases subjected to the Magellan process were compared with cases from other registries of the Court where Magellan was not yet in place.

The qualitative research, which commenced in December 2006, involved conducting interviews and focus groups with key stakeholders to examine both how Magellan is being implemented, and their perceptions of its effectiveness. In addition to interviews with judges assigned to Magellan cases, focus groups were used to understand the views of the key stakeholders involved in the Magellan case-management system. These included representatives from the state/territory statutory child protection department and police service, the Family Law Council, the Bar, Legal Aid, and children’s legal representatives (Independent Children’s Lawyers). The focus groups also included relevant Family Court staff, such as Magellan registrars, Regional Registry Managers and Family Consultants (the Court’s mediation staff who work with the families, and provide a Family Report to the Court).

For interviews and focus groups in NSW (where Magellan was only rolled out in mid-2006), the focus was on the Family Court’s usual method for processing family law cases involving allegations of child sexual abuse or serious physical abuse – and how participants believe this compares with their understanding of the Magellan process.

Fifteen separate consultations were conducted, involving interviews with nine judges, and focus groups with more than 40 other key stakeholders.

Quantitative data analysis was also undertaken, based on a file review of 80 finalised cases from three registries that had gone through the Magellan process. These were compared with 80 Magellan-like cases (i.e. those involving similarly serious allegations of physical abuse or sexual abuse) in two NSW registries that proceeded through the Court’s mainstream processes, prior to the introduction of Magellan.

The key component of the quantitative methodology is a naturally occurring opportunity for comparison. Due to the later implementation of Magellan in NSW, the 80 cases from NSW (Sydney and Parramatta registries) that would have been included on the Magellan list had it been operating in NSW at the time are being compared with 80 Magellan cases (drawn from Melbourne, Adelaide and Brisbane). The selection criteria for obtaining the comparison sample of Magellan-like cases were applied retrospectively by an experienced Magellan Registrar, using the information on the file that would have been available to the Court when it was first made aware of the allegation of sexual abuse or serious physical abuse of the child.

Quantitative data were collected about processes that are believed to be critical to the success of Magellan (such as the number of judicial officers involved, and the number and type of expert reports, particularly timely reports from the statutory child protection authority). Data about the outcomes also were measured (such as the duration of the entire matter, the number of different court events, and whether the final orders broke down, as well as the number of cases proceeding to judicial determination and the length of the trial). One of the limitations of the evaluation is that it did not include the perspectives of children or families (due to timeline, funding and ethical constraints).

Collection of the case file review data was completed in April 2007, and the draft final report was provided to the Court in July. The Family Court of Australia released the final report of the Institute’s evaluation in October 2007.

Reference

to the court system. They are closely linked in the sense that they will track the impact of the key themes in the package – strengthening family relationships, shared parental responsibility, child safety and child focus – on the practices and attitudes of parents, service system providers and legal system players. Issues of particular concern, such as family violence and child safety, will be addressed in each component of the evaluation. A mixture of quantitative and qualitative methods using multiple data sources will be applied across the evaluation program as a whole, enabling a composite picture based on multiple perspectives to be developed.

Some aspects of the research program will build on baseline research that has already been conducted by the Institute to allow pre- and post-reform package comparisons to be drawn. Others will be conducted on a longitudinal basis, allowing the impact of the reforms to be assessed as they unfold over time. Current funding arrangements cover the period from June 2007 to June 2009.

**Evaluation of changes to the law and court processes**

This part of the evaluation focuses on the response of the legal system to the family law reform package. The *Shared Parental Responsibility Act* made significant changes to the substantive law governing the resolution of parenting matters, and the processes for dealing with them. In addition to the presumption in favour of equal shared parental responsibility, there is an increased emphasis on the need to protect children from exposure to family violence, abuse and neglect. Whilst the ‘best interests of the child’ remain the paramount consideration, the provisions that guide the court in determining what arrangements might meet this test have been changed considerably. New elements include the obligation on judges and federal magistrates to consider orders from a starting point or presumption of equal shared parental responsibility. This does not mean that the child should spend equal time with each parent. Rather, it means that both parents have an equal role in making decisions about important issues that affect their child.

In process terms, since July 2007 it has become compulsory to attend family dispute resolution (FDR, previously referred to as mediation) prior to making an application to the court for a parenting order, except in a specific range of circumstances, including cases involving family violence or abuse. In these cases the Court retains the discretion to hear a matter even though the parties have not attended FDR. Further, the *Shared Parental Responsibility Act* has enshrined in legislation a series of case-management processes initially trialled by the Family Court of Australia in its Children’s Cases Program (see article by Richard Chisholm in this issue). These are the foundation of the new less adversarial trials program operating throughout the system. Significant aspects of this program include an active case management imperative for judges and magistrates, and an expanded role for Family Consultants, who maintain their involvement with the family throughout the process.

**Significant aspects of this program include an active case management imperative for judges and magistrates, and an expanded role for Family Consultants, who maintain their involvement with the family throughout the process.**

This component of the evaluation program has three main parts. The first part will be a series of interviews and focus groups with key system players – judges, federal magistrates, registrars, Family Consultants and lawyers. Data will be gathered on how these professionals view the impact of the *Shared Parental Responsibility Act*, including its influence on their role, and factors that may impede the fulfilment of its aims. The second part of this component will focus more specifically on the implementation of the Act, and the methodology for this part is still being developed. Thirdly, the Family Lawyers Survey, initially conducted by the Institute as a pre-reform benchmark study in 2006, will be repeated in 2008 to gauge the extent to which changes have occurred in attitudes and practices among this key group of system players, and the nature of these changes.

**Service Provision Project**

A different aspect of the system will be examined in the Service Provision Project (SPP), which will focus on the services funded by the Australian Government that are intended to provide more intensive relationship support programs. These include the Family Relationship Centres, which have two key roles – as both a ‘gateway’ to the new system and providers of family dispute resolution – and other services. Services to be included in this component of the evaluation are:

- Family Relationship Centres (FRCs);
- Family Relationship Advice Line (FRAL);
- new and expanded early-intervention services (including Mensline);
- new and expanded post-separation services; and
- Family Relationships Online.

The SPP will track the first three years of the reforms, collecting data at the end of each financial year from July/August 2007. It comprises four separate studies, including a qualitative study involving interviews and focus groups with service
The second series of studies, the Separated Families Project (SFP), aims to examine how the impact of the family law reforms on separated parents and their children unfolds. This will be achieved through a longitudinal study of separated parents, retrospective surveys of separated parents who separated before and after the reforms were introduced, and possibly a study of adolescent children in separated families. Together, these studies will provide unique insights into the effectiveness of policy changes that aim to produce significant and enduring changes in separated families in Australia, including the effects of accessing new and expanded family relationship services.

A key strength of the SFP design will be the evaluation of the extent to which different pathways through the new family law system enhance coparental relationships; encourage greater parental involvement after separation; and resolve parental disputes. The longitudinal study of separated parents, which involves the collection of data from the same group of parents on more than one occasion, will be an essential tool for examining:

- personal health and wellbeing;
- family relationships and parenting practices; and
- attitudes among members of separated families in Australia and factors affecting their wellbeing.

Vital evidence on the health, social and economic circumstances of families will be collected, and together with the analysis of existing large-scale national data (e.g. HILDA and LSAC), will feed into a broad, integrative evaluation of the family law reform package.

Overall approach

Although the evaluation incorporates three separate components and a range of individual studies, a coordinated approach will ensure that the components are capable of producing an integrated picture of the impact of the reforms. The separate components share important thematic threads and together, the studies will provide detailed insight into how the system operates as a whole and the contribution made by its individual parts. In gathering data from legal system players, service providers and families, a comprehensive assessment covering all relevant perspectives of the reforms will be developed. The report for this phase of the evaluation will be finalised in 2009.

Footnote

1. Beyond this funding period, it would be valuable to do a retrospective study of parents who separated after the reforms were introduced to allow a comparison of pre-reform and post-reform cohorts.