

Family group conferencing in Australia 15 years on

Nathan Harris

Family group conferences were first legislated for in New Zealand in 1989 and since that time have captured the imagination of professionals and academics with their capacity to involve families and communities in a collaborative approach to 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 has conferencing become part of child protection practice in Australia's states and territories.

Family group conferences are a successful innovation for empowering families

Family group conferences represent a significant innovation in child protection practice. While similar in some respects to other collaborative practices (Campbell, 1997), their success in engaging families and communities in problem-solving would seem to be unique. They have been adopted by child protection agencies in a number of countries, including Australia, Ireland, the United Kingdom and the United States. What is unique about family group conferencing is the degree to which they empower families (Adams & Chandler, 2004; Burford & Adams, 2004; Pennell, 2004). Although decisions are made with advice from professionals and need to satisfy the concerns of statutory agencies, the family and their immediate community play the central role in identifying how they can address concerns and the best way to implement solutions. This is significant because conferences are often convened where court orders would otherwise have been sought. The underlying philosophy that led to the introduction of conferencing is that nuclear families and their immediate communities, such as extended family and friends, have a right to

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be involved in making decisions about their children, and that empowering this extended community to solve problems is more likely to result in better outcomes for children. The way in which conferences are facilitated, as well as their placement within New Zealand's child protection system, will be discussed in the next section.

Evaluation studies conducted in a number of countries have shown that, where conferences have been implemented, they have been successful in achieving positive outcomes. Findings suggest that conferences lead to greater feelings of empowerment by families, are usually able to produce a plan that is acceptable, mobilise greater informal and formal support for families, and would seem to increase the safety of children and other family members where violence is a concern (Kiely, 2001; Marsh & Crow, 1998; Merkel-Holguin, Nixon & Burford, 2003; Pennell & Burford, 2000; Sundell & Vinnerljung, 2004). These results support the argument that conferencing does represent an innovative method for solving child protection concerns, and underline the importance, for both practitioners and policy-makers, of examining how they have been adopted in Australia.

Background to the report

This paper is based on a report that was prepared by the Australian Centre for Child Protection (Harris, 2007). A workshop sponsored by the Centre in 2005 brought together conferencing practitioners from a number of states and territories to discuss the current use of conferencing in Australia. What emerged was a sense that little information was available about those programs that existed, and a fear that the early progress made in introducing conferencing into Australian child protection systems had stalled. In response, the Australian Centre for Child Protection decided to conduct a study that mapped the adoption of conferencing in child protection systems across Australia. This paper provides a synopsis of the project report. More detailed descriptions of the programs in each state and territory are available in the original project report.

New Zealand's innovation: The original model of family group conferencing

Family Group Conferences started in New Zealand, based partly on Maori practices, to provide families with a 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 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 (Robertson, 1996). Recent estimates suggest that in excess of 50,000 conferences have been convened since 1989 (Connolly, 2006). This reflects the central role that conferences play in New Zealand's child protection system.

The conference itself

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. 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 are essentially a decision-making forum

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. Conferences have particular significance because New Zealand's legislation prescribes that they are a key decision-making process that must be used in particular situations, and that decisions made within them have a legal status that must be recognised by participants. In these respects, the decisions made in a conference are accorded no lesser status than that of court decisions.

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An agreement may not be reached

It is significant that within the conference, agreement also has to come from the facilitator and the child protection worker. In some cases, the child protection worker will indicate at the outset what they see as necessary to ensure the safety of the child or young person. However, some experts argue that establishing 'bottom lines' are 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 (M. Connolly, personal communication, 6 November 2006). Not all conferences will result in an agreement—the family and the professionals may disagree, or there may be disagreement between family members. If there is not agreement in the conference about whether a child is in need of care and protection, or a plan to address these needs, the conference can be reconvened or the case referred to the court.

Current debate about the role of conferences in New Zealand

A significant characteristic of the New Zealand conferencing model is 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.

A significant characteristic of the New Zealand conferencing model is 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). This is partly because the decision-making powers of the conference (described above) are equivalent to a court decision. They are also a high tariff intervention because involving a family's extended community in decision-making of this kind represents a considerable intrusion into the family's life; they are exposed to a process by which important decisions about the welfare of their children are made with the involvement of people who might not normally have this role. A

current debate in New Zealand concerns the positioning of conferencing in the child protection system and the merits of conducting conferences earlier in the child protection process (M. Connolly, personal communication, 6 November 2006). The concern is that conferences are often used fairly late in the child protection process because of their status as a high tariff intervention. Family problems may have become more entrenched by the time a conference occurs, and there is a belief that it would be desirable to harness the capacity of the extended family much earlier on.

How to measure the adoption of family group conferencing in Australia

The objective of this paper is to map the degree to which various child protection systems in Australia have adopted family group conferencing. There are a number of dimensions upon which adoption might be measured. It can be measured simply by how often they are used, but there are other equally, if not more, important ways in which adoption can be measured: whether programs are true to the original model, and whether they fulfil the same function within child protection systems.

Prevalence of an innovation: How often are conferences used?

The degree to which organisations adopt new approaches varies markedly. A number of factors influence the degree to which new ideas and practices become known, are 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 factors that either promote or inhibit acceptance of an innovation, 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, 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). It would seem that the same factors that influence diffusion of practices in a range of other contexts also affect the degree to which new ideas are taken up in the area of child protection. Indeed, a recent study in the United Kingdom, which examines the adoption of conferencing by local councils, highlights the importance of many of these variables. It suggests 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: Are new models true to the original?

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 underlying 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 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).

What function do conferences play within child protection? Drawing on the theory of responsive regulation

While diffusion of innovation theory focuses our attention on the factors that determine whether an innovation is implemented more widely, we should also be concerned about the effect that the broader context has on the way that new innovations function. Responsive regulation (Ayres & Braithwaite, 1992; Braithwaite, 2002; Allen Consulting Group, 2003) provides a useful lens through which we can understand the function that innovations play within the broader organisational structures into which they are introduced. It focuses our attention on how decisions are made (Neff, 2004): 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)?

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Normatively, the theory argues that agencies should decide how to intervene in each individual case based upon how successfully problems can be solved through dialogue and persuasion (Braithwaite, 2002). The theory prioritises cooperative approaches, in contrast to what it describes as ‘formalistic’ approaches (which determine how to respond to cases based upon the ‘category’ or ‘seriousness’ into which a problem falls). The theory argues that more coercive forms of intervention will be necessary sometimes, but that agencies will be more effective if they employ these only after they have attempted dialogue and negotiation first.

Responsive regulation theory 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, legislation, policy documents and interviews with conferencing practitioners across Australia. A number of useful articles have documented the implementation of conferencing in Australia (Ban, 1996; Ban, 2000; Cashmore

Table 1: Responsibility for statutory child protection

	Name of department	Acronym
ACT	Office for Children Youth and Family Support, which is part of the Department of Disability, Housing and Community Services	OCYFS
NSW	Department of Community Services	DoCS
NT	Department of Family and Children's Services	FACS
QLD	Department of Child Safety	DChS
SA	Families SA, which is part of the Department for Families and Communities (DFC)	Families SA
TAS	Department of Health and Human Services, Division of Child and Family Services	DHHS
VIC	Office for Children, Youth and Families, which is part of the Department of Human Services	DHS
WA	Department for Child Protection	DCP

Note: "Acronym" refers to the acronym most commonly used to refer to the program by its staff and within the community. In some jurisdictions, the acronym originates from the Departmental name (e.g., Tasmania), in others the acronym is derived from the program name (e.g., South Australia).

& Kiely, 2000; Trotter, Sheehan, Liddell, Strong, & Laragy, 1999; Linqage International, 2003), and a detailed review of the conferencing system in Australia, with a particular emphasis on child sexual abuse cases, is currently underway (Meyer, in preparation). Interviews with practitioners were necessary to gather more up-to-date information, as well as a sense of how programs had been 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 conferencing programs across Australia. The interviews were conducted mainly 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. Statutory policy and practice frameworks change rapidly. State and territory departments were provided with the opportunity to comment on the accuracy of the information in mid-2007. To the best of the author's knowledge, the information was correct at this time.

A number of characteristics ... 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.

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 paper. Variations in the way that conferences are conducted or are understood, due to differences between local 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 paper is primarily focused on the use of conferencing within statutory child protection systems. Conferences are 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 paper 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.

Analysis of key themes across the conferencing programs

To illustrate similarities and differences in conferencing across Australia, the following section will compare the way in which states and territories have implemented New Zealand’s model on a number of key dimensions: the extent to which conferencing is used, whether the use of conferencing is legislated, conferencing practice, when and why conferences occur, and the status of conferences within the decision-making process.

Implementation of conferencing

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. As might be expected, given that child protection comes under state and territory law, variation exists in the degree to which conferencing is used and the way in which it has been implemented (see Table 2).

It is interesting that there is considerable variety in the time at which states and territories first implemented conferencing. Some jurisdictions (e.g. NSW and WA) conducted trials of conferencing early on and have since stopped using them, while others have more recently increased their use of conferencing or are only now just implementing programs within their child protection systems (e.g. Tasmania, Queensland, Victoria and possibly the Northern Territory). The remaining jurisdictions implemented conferencing programs in the 1990s, relatively soon after their introduction into New Zealand, that appear to have remained fairly stable (South Australia and the ACT). Thus, it isn’t simply the case that early interest in conferencing across Australia has subsequently declined.

Table 2: Conferencing use in New Zealand and Australia by statutory child protection agencies

	Name	Period of use
New Zealand	Family group conferences	1989–
Victoria ¹	Family decision making, Aboriginal Family Decision Making	1992–
South Australia	Family care meetings	1994–
New South Wales	Family decision making conferences	1996–2000 ⁵
Western Australia ²	Family group conferences	1996–2001 ⁵
Australian Capital Territory ³	Family group conferences	1999–
Tasmania	Family group conferences	2000–
Queensland	Family group meetings	2006–
Northern Territory ⁴	Never used	Never used

1. 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.
2. A Family Engagement model has been developed using principles from FGC in one office (Cannington) in Western Australia.
3. Amendments planned for ACT legislation allow for FGC where children are not considered in need of care and protection.
4. 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.
5. The programs in New South Wales and Western Australia were conducted as pilot projects. When these projects ended, facilitators in both states continued to facilitate cases that were referred to them for some time afterwards. Burnside Uniting Care continues to operate a conferencing program in NSW, and some small-scale pilot projects that use, or draw on principles of, conferencing are planned in regional areas of NSW.

Rather, there has been no particular point in time where there was a consistent national trend towards either implementation or roll-back of conferencing.

Extent to which conferencing is used

Continuing practice in New Zealand is for conferences to form the fundamental decision-making process that is used where serious child protection concerns exist. As a result, a very large number of conferences are conducted every year. A recent estimate is that more than 50,000 conferences have been conducted in New Zealand since 1989 (Connolly, 2006). As shown in Table 3, the degree to which conferences are used is one of the most obvious differences between Australian jurisdictions (accurate statistics are not available for all jurisdictions).

Table 3: Frequency of conferencing use by child protection agencies

	Current frequency of use
New Zealand	50,000 estimated between 1990 and 2006 (~3000 per year)
Victoria	Unknown, due to variation between regions and decentralised management
South Australia	Approximately 420 in 2005–2006
New South Wales	None currently
Western Australia	None currently
Australian Capital Territory	Approximately 10–15 per year
Tasmania	Approximately 180 in 2005–2006
Queensland	Unknown at this early stage of implementation
Northern Territory	Never used

In some states, conferences are routinely used in a large proportion of cases, or at least a large proportion of cases in which orders are sought (see Table 3). For example, in South Australia, conferences are offered to all families prior to seeking protection orders, and approximately 420 conferences reached an agreement in 2005–06. New amendments to legislation in Queensland require that conferences be convened in the case planning process (which is mandatory before seeking final orders). This legislative requirement suggests that conferencing will be used in a considerable number of cases, though no statistics are available at this point in time.

In other states and territories, conferences are used on a much more selective basis: because they are only used in more selective circumstances, because they are used at the discretion of individual case workers, or because of limited resources. In Tasmania, this still represents a substantial proportion of cases, whereas in the ACT very few conferences are conducted each year. Conferences have been used in a relatively small proportion of cases in Victoria until recently, but new legislation and programs that emphasise the use of Aboriginal Family Decision Making (AFDM) will increase the use of conferencing, and should mean that it becomes a mainstream decision-making process where Aboriginal children are concerned. Finally, a number of jurisdictions, such as New South Wales, the Northern Territory and Western Australia, do not currently use conferencing in their child protection systems.

Conferencing in legislation

Variations in the use of conferencing between jurisdictions may reflect, in part, whether conferencing has a legislative basis, as it does in New Zealand (see Table 4). The three jurisdictions that use conferencing to the greatest degree (South Australia, Queensland and Tasmania) have all introduced legislation that makes specific provision for the use of conferencing. In addition, the legislation

Table 4: Legislative basis for conferencing by child protection agencies

	Basis for use
New Zealand	Legislation requires a conference to be convened if a child is in need of care and protection.
Victoria	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 to be made about Aboriginal children.
South Australia	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.
New South Wales	Conferences were used on a non-legislative basis.
Western Australia	Conferences were used on a non-legislative basis.
Australian Capital Territory	Legislation allows for a conference whenever a child is considered in need of care and protection.
Tasmania	Legislation requires a conference be offered when an 8-week Assessment Order is granted or a 12 month Care and Protection Order is extended, when a child in care or their family requests one, or where review of a previous conference is required.
Queensland	Legislation requires that a conference is offered where a child protection order is sought or there is ongoing intervention.
Northern Territory	Never used.

in all three of these states requires that an attempt is made to convene a conference in certain circumstances, for example, prior to making an application for a protection order. The other two states that currently conduct conferences differ from this model in important respects. The ACT has legislation that allows for conferences to be convened in certain circumstances, but it does not require that they be convened. Victoria is the only state in Australia that has developed and sustained an ongoing conferencing program without specific legislation. However, the *Children, Youth and Families Act 2005* stipulates that where a significant decision is to be made about an Aboriginal child, and particularly decisions relating to placement, a meeting should be convened by an Aboriginal convenor and involve the child's family and broader community.

The development of conferencing in Victoria is fairly unique in the way in which it began and the degree to which it has been sustained through a decentralised model that relies, in part, on enthusiasm at the ground level. This is not to say the program is without central support, as the Department does fund half-time facilitators in each region and has a long history of experimenting with participatory processes (Campbell, 1997). However, the way in which conferencing is used and the level of support that it receives in each region varies widely, depending in part on the support of local managers (Trotter et al., 1999). This is particularly interesting given that Victoria was the first state to adopt conferencing and has sustained the program for the longest duration. Victoria is also fairly distinct in the degree to which non-government agencies (e.g., the Mission of St James & St John (Ban, 1996), Glastonbury Child and Family Services and the Rumbalara Aboriginal Co-operative) have played important roles in developing and promoting conferencing (the role of Burnside Uniting Care has also been important in promoting the use of conferencing in New South Wales).

Facilitation practice

Do families receive private time?

One factor that was apparent during interviews was that the vast majority of respondents reported that the program in their state conducted conferences using the three-stage model that was pioneered in New Zealand (see Table 5). This includes providing families with private time during the course of the conference to make their own decisions, which is seen as a critical issue by some commentators

Table 5: Conferencing models used

	Model
New Zealand	New Zealand model
Victoria	New Zealand model
South Australia	New Zealand model
New South Wales	New Zealand model
Western Australia	New Zealand model
Australian Capital Territory	New Zealand model
Tasmania	New Zealand model
Queensland	Based partly on New Zealand model, but facilitation can be used instead of private family time
Northern Territory	Never used

(Walton et al., 2005). The only exceptions to this can be found in Victoria and Queensland. In an early evaluation of conferences in Victoria, it was observed that private time was not offered in all cases (Trotter et al., 1999). It is not known whether this still occurs in some regions, though it would seem that standard practice is to offer private family time.

In Queensland, the *Child Safety Practice Manual* (Queensland Department of Child Safety, 2006) instructs facilitators that they can offer families private time or, if they believe that this is not in the best interests of the child, they can use an alternative process of facilitated decision-making. This is an interesting adaptation of the model, which appears to mirror similar modifications that were made when conferencing was applied to the juvenile justice system in Australia. This has become known as the Wagga Wagga model of conferencing, and is now widely used in the justice context (McCold, 2003). It is unclear the extent to which these two options are offered in Queensland because the implementation of conferencing in Queensland is so recent and because this implementation is occurring on such a large scale. Facilitation requires specific skills and training, and these requirements may be even greater where a facilitated decision-making process is used (Moore & McDonald, 2000).

The affiliation of facilitators

Another issue that has been much debated is the most appropriate affiliation of facilitators (Connolly, 1994). A number of practitioners and academics have argued that facilitators should be independent from the child protection service, or at least be perceived as being independent, although there is less consensus about how this should be achieved. In New Zealand, facilitators are employed by the child protection service but within specialist positions. A number of models have been adopted in Australia (see Table 6). Two states have developed models in which facilitators are entirely independent, but through very different mechanisms. Facilitators in South Australia are employed by the courts rather than by the child protection service, while facilitators in Tasmania are private practitioners who are engaged by the Department on a conference-by-conference basis. In the ACT and Victoria, facilitators are employed by the child protection service, but tend to work only in these specialist positions (Aboriginal Family Decision Making in Victoria is now co-facilitated by a facilitator from an Aboriginal organisation). In Queensland, senior child protection workers currently conduct the majority of conferences. In some Queensland offices there are specialist roles in which the worker's primary role is facilitating conferences, but in other offices a senior worker who is not directly involved in the case takes on the role of facilitator. A proportion of conferences in Queensland are also conducted by facilitators from community agencies. Several dedicated facilitator positions were advertised across Queensland in mid-2007, suggesting a move towards the use of specialist facilitators.

Table 6: Facilitation of conferences

	Facilitators
New Zealand	Employees of the Department.
Victoria	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 Co-operative and Glastonbury Child and Family Services, outside of the statutory child protection system.)
South Australia	Employees of the courts.
New South Wales	Were conducted by a non-government agency (Burnside).
Western Australia	Were conducted by employees of the Department.
Australian Capital Territory	Employees of the Department in specialist positions.
Tasmania	Independent facilitators contracted by the Department.
Queensland	Senior child protection workers, employees of the Department in specialist positions, or independent facilitators from community agencies.
Northern Territory	Never used.

When and why conferences occur

An important characteristic of an intervention like conferencing is the context, or place within the system, in which they are used. This is important because the placement of conferences within the child protection system has a significant impact on which families attend conferences, the kinds of issues that they deal with, and the kinds of decisions they are empowered to make. In New Zealand, conferences must be conducted whenever a child is believed to be in need of care and protection, and thus only occur in more serious cases where court action is warranted. If the conference is able to address these concerns satisfactorily, as most do, then cases will not proceed to court. If there is disagreement within the conference as to whether the child is in need of care and protection or what needs to be done, then the case can be referred to the court.

In most of the Australian states or territories where conferencing is mandated by legislation, conferences also occur instead of, or in conjunction to, court orders (see Table 7). This is certainly the case in Tasmania, where conferences usually occur as a direct result of court action. Almost all of the conferences conducted there occur as a direct product of court intervention because they are mandated where an 8-week Assessment Order is made or a 12-month Care and Protection Order is extended. In most cases, a conference will not be convened until after a number of court orders have previously been made. This is an important point of differentiation from the New Zealand model, where conferences are used to try to prevent the case from being referred to the court. In both Queensland and South Australia, the impetus to conduct a conference, in most cases, is that this is necessary before certain orders can be granted. In South Australia, the intention was that conferences might divert families from the court system, and legislation states that a conference should be convened whenever arrangements need to be made to secure the care and protection of a child. However, it was reported that, in practice, most conferences occur en route to court and that orders are often sought even when agreement is reached in a conference. In some cases, orders may ratify the agreement, but in others the orders sought do not reflect the agreement reached in the conference. This practice would appear to contradict the intent of conferencing, as originated in the New Zealand model, to empower families and involve them in decision-making.

In contrast to these states, the ACT model has a stronger focus on diversion from court, and as a general rule orders are not sought for families that have been to a conference where an agreement is reached. In Victoria, probably because of the absence of legislation, conferences are used in a broader range of contexts and are not necessarily linked to court orders. Instead, they are seen as a

Table 7: Comparison of when conferences are used and how their outcomes are implemented

	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.
Victoria	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.
South Australia	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 to seek additional court orders.
New South Wales	Cases were selected for the trial on the basis that there were serious concerns about the safety, welfare and wellbeing of children.	During the trial, agreement of the family and child protection worker.	When used, expectation was that outcomes would be implemented by the Department.
Western Australia	An early intervention program was conducted for children under 10 identified as having behavioural problems.	During the trial, agreement of the family, child protection worker and facilitator.	When used, expectation was that outcomes would be implemented by the Department.
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.	Department must implement outcome but may take further action.
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	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.
Northern Territory	Never used.	Never used.	Never used.

process that can be employed at various stages within the system in order to assist with decision-making by families. In some cases, the focus is on early intervention to avoid legal action at a later date, while at other times conferences occur after lengthy involvement with families in order to assist in making decisions about the ongoing care of children.

Conferences and decision-making

An issue related to when conferences are offered is the status given to conference outcomes. This, in turn, relates to the emphasis placed by different programs on the requirements set for an agreement to be reached. The model established in New Zealand requires that there is unanimous agreement among family members, the child protection worker and the facilitator for an outcome to be accepted. Where that is the case, the state is obliged to put the plan into place unless it is impractical or inconsistent with the Act. The only Australian state that accords conference outcomes a similar status is the ACT. Legislation in the ACT requires that an outcome must be agreed to by the child protection worker, the guardians of the child, and the child or young person if they are of school-leaving age (the opinion of younger children must be considered by the facilitator). When a conference results in such an agreement, the Department must then implement and maintain it, though this does not prevent the Department from seeking other orders if necessary. It is also worth noting that the ACT legislation goes beyond that developed in New Zealand by providing a mechanism for outcomes affecting parental responsibility to be registered by the Children's Court and thus be given the same legal status as an order of the court.

The more dominant approach in Australia is for agreements made within conferences to depend upon subsequent endorsement by the relevant department, and this is particularly so in the states where conferencing is required by legislation. In both Queensland and Tasmania, conference agreements usually inform court proceedings, and it is up to the department whether or not to endorse the plan. In Queensland, the Department is at liberty to simply amend care plans that it perceives as inadequate, while in Tasmania any plan that is not endorsed by the Department is forwarded to the court along with the Department's concerns. The situation is effectively the same in South Australia, where Families SA can choose whether to implement a conference agreement or to seek orders in court.

The more dominant approach in Australia is for agreements made within conferences to depend upon subsequent endorsement by the relevant department, and this is particularly so in the states where conferencing is required by legislation.

It is worth noting that in South Australia and Tasmania, unlike New Zealand, the agreement of the child protection worker at the conference is not necessary. It might be speculated that one reason conference outcomes in these states are not afforded the same status as they are in New Zealand, is that the statutory agencies in these states do not have the same power to negotiate agreements during the conference. Instead, the departments can challenge the conference agreement at a later stage, either by seeking orders in court or by presenting alternative orders to the court.

The contrasting role of conferences in child protection systems in Australia and New Zealand

What is most apparent in the comparison between New Zealand and Australian jurisdictions is that the role conferences play in child protection in Australia is substantively different to the role they play in New Zealand. Indeed, it seems reasonable to question whether Australian states and territories have implemented the New Zealand model at all. This question can be asked, despite the extensive use of conferencing in some parts of the country, because conferencing in all of Australia's jurisdictions differs from New Zealand's 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 most, but not all, 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 seeking court orders. Instead, they are offered to particular families on the basis of professional decisions that they would benefit from

the process. It would seem that a greater emphasis has been placed upon the therapeutic benefit that might be derived from a conference in certain circumstances rather than on its function as a decision-making process. South Australia, and possibly Queensland, are the exceptions to this, where a conference must be offered in all cases where a final order is sought.

The second significant way in which Australian models have diverged from the New Zealand model is in the power of conferences as decision-making forums. In the majority of Australian jurisdictions, conference outcomes have a much lower status than they do in New Zealand. Conference decisions in a number of jurisdictions require endorsement by departments and sometimes courts before they have any authority. Most conferencing programs in Australia try to maximise the chance 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 statutory agency's position. However, negotiation about what is deemed necessary occurs within the conference process. This means the family is empowered to work with the child protection worker to reach an outcome acceptable to both, or to choose to disagree, with the knowledge that the matter might be referred to the court. In a very large majority of cases, agreements are reached, and these are legal outcomes 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 in South Australia, where the Department will often proceed to court despite prior agreement at a conference. In practice, this means that a department may bring extended family members and professionals together to reach agreement about how to address concerns, but that agreement may be subsequently ignored, despite there being no changes to the original circumstances that led to the conference. It might be speculated that in such cases conferences could be experienced as disempowering rather than empowering.

It would seem that Australian jurisdictions have implemented conferencing in ways that fall short of the systematic empowerment of families that is envisaged in the New Zealand model.

Taken together, these differences mean that conferencing programs in Australia achieve something quite different to the New Zealand model. The theory of responsive regulation, which was discussed earlier in the report, helps to explain why this difference is important. The degree to which governments provide families and their immediate communities the opportunity to solve problems through dialogue and cooperation prior to taking more coercive action is significant. Conferences can only play a very partial role in doing so if they are not offered to all families and if departments are not committed to implementing decisions

that are made within them. Thus, it would seem that Australian jurisdictions have implemented conferencing in ways that fall short of the systematic empowerment of families that is envisaged in the New Zealand model.

Strengths and innovations in Australia's programs

While Australian states may not systematically empower families in the same way as New Zealand, this does not mean that the conferencing programs in Australia are not of considerable value. Conferences that are conducted offer families an important chance for reflection, empower families to develop their own plans to various degrees, and have many other benefits. A number of Australian jurisdictions have developed strong conferencing programs in which there is considerable expertise in facilitation. The level of expertise that is present in Australia is even more apparent if programs conducted by non-government agencies, often outside of a statutory child protection framework, are considered. Examples include Glastonbury Child and Family Services in Geelong, Burnside Uniting Care in New South Wales and Rumbalara Aboriginal Co-operative in the Hume region of Victoria.

It is significant that Australian programs have adapted the use of conferencing in a number of interesting ways, and in doing so make an important contribution to the development of conferencing practice. A number of examples are worth mentioning:

- the development of a Family Engagement model (WA);
- facilitation by independent parties (SA & Tasmania);
- structured facilitation replacing private family time (Queensland);
- ratification of conferencing outcomes regarding guardianship (ACT); and
- the development of the Aboriginal Family Decision Making model (Victoria).

Family Engagement model (WA)

A Family Engagement model has been developed in Western Australia. This model has been developed and used as the primary means of working with families in one of Perth's Department of Child Protection offices (Cannington) since 2001. The model does not involve a formal family group conference, but instead works with families almost entirely through family support meetings that 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 conferences are retained by these family support meetings: private family time is used in some meetings, and extended family members 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. The advantages of this adaptation are that (a) the same collaborative approach can be used in all contacts with every family; (b) they are used much earlier in the process; and (c) engagement of the family in decision-making is a key and ongoing characteristic of the intervention.

Facilitation by independent parties (SA & Tasmania)

South Australia and Tasmania have both developed models in which conferencing is facilitated by an independent party. In South Australia, a conferencing team in the South Australian courts conducts conferences across the state, while in Tasmania independent facilitators are recruited by the Department and engaged on a case-by-case basis. A number of commentators and those involved in conferencing have argued that independent facilitation is an advantage (see Connolly, 1994).

Structured facilitation replacing private family time (Queensland)

Queensland has developed a model in which facilitators can use 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. As noted above, this mirrors an adaptation made when conferencing was introduced into Australia in the juvenile justice system, and may represent an advantage in some cases. While it might be controversial because it potentially limits the significance of private family time and consequently the empowerment of families, Trotter et al. (1999) observed that facilitation of the family discussion was in some cases helpful. It is essential to evaluate whether such an innovation enhances decision-making without undermining the empowerment of families.

Ratification of conferencing outcomes regarding guardianship (ACT)

Legislation in the ACT provides a means for conferences, through outcome agreements, to make recommendations regarding changes in parental responsibility (though not enduring parental responsibility), which can then be registered by the Children's Court. This is an interesting innovation on New Zealand's model because it avoids the need for participants to become involved in an additional court case, even where guardianship is an issue.

Development of the Aboriginal Family Decision Making model (Victoria)

Development of family decision-making programs that are conducted by and for Aboriginal and Torres Strait Islanders represent an important innovation in Victoria. A partnership between the

Victorian Department of Human Services and Rumbalara Aboriginal Co-operative since 2002 has allowed Aboriginal workers to play a primary role in coordinating a conferencing process with Aboriginal families. This pilot program was evaluated with positive results (Linqage International, 2003), and the role of Aboriginal communities in decision-making has subsequently been enhanced and formalised in the *Children, Youth and Families Act 2005*.

The legislation states that, where a significant decision is to be made about an Aboriginal child, and particularly decisions relating to placement, a meeting should be convened by an Aboriginal convenor and involve the child's family and broader community. This is now being implemented across the state through a co-convenor model, in which departmental facilitators work with independent Aboriginal facilitators to convene a conference. This innovation explores the potential for conferencing to provide a means by which statutory services can work more collaboratively with Aboriginal communities. As such, they represent a significant opportunity to empower, rather than disempower Aboriginal families and communities in relation to child protection issues.

Implications for the future of conferencing in Australia

Tracking the implementation of conferencing programs across Australia's states and territories highlights a number of issues that are important for the future development of conferencing. Currently, the use of conferencing in Australian child protection systems, apart from a few states, is fairly limited. Until recently, only South Australia used conferencing extensively, with Tasmania also using conferencing on a regular basis. Queensland now represents a third state in which conferences might become a mainstream component of child protection practice. It is to be hoped that this program is evaluated so as to develop a greater understanding of how it is implemented and the effect it has on child protection practice. In other states and territories, conferences are not used at all or are used in a much smaller number of cases. Thus, it can be concluded that while conferences have had an impact on practice, they have not yet become part of mainstream practice in most of Australia.

Variability in the degree to which states and territories use conferencing also reflects variability in how conferences are used in different locations. The role that conferences play within the broader child protection framework differs from state to state. In some, conferences are focused on early intervention, in others they occur en route to court, and in still others they are used to reach agreements once orders have already been sought in court. Programs in Australia, as a whole, also place less emphasis than New Zealand on using conferencing as a means to change the way in which problems are solved in mainstream child protection cases. This suggests that an important challenge for the future development of conferencing in Australia is to develop a clearer notion of what conferences should contribute to broader child protection practice.

Innovations such as the Family Engagement model in Western Australia also pose an important question for the use of conferencing. One of the perceived advantages of the Family Engagement model over conferencing is that it can be used with clients at all stages during a case, and that it fundamentally changes the way of working with families. This contrasts with the experiences of some conference facilitators who commented that families are often only referred to a conference at a very late stage (often just prior to court), whereas a collaborative approach might have been of value much earlier in the process. Experiences such as these suggest that implementing a conferencing model on its own does not necessarily transform broader practices within child protection systems. It may be that further attention needs to be given to whether other collaborative approaches, such as the family meetings used in the Family Engagement model, should be considered by statutory agencies in addition to conferencing.

However, this research also suggests that less formal processes, like family meetings, should not be considered as equivalent to conferences, but rather as a complementary practice. A distinct advantage of conferencing is precisely that they are a 'high tariff', formal process that engages and empowers family in making decisions when this is required because less formal approaches have not succeeded or are considered inappropriate. They provide a forum that communicates to families that the concerns are very serious, not least because the next option for statutory services is often to

seek court orders, while at the same time allowing families to contest that opinion or to engage in finding solutions. Nevertheless, it seems likely that conferences would work best, both for families and case workers, alongside (or preceded by) interventions that draw on the same collaborative philosophies.

Finally, it is apparent that only limited attention has been paid to training facilitators and developing expertise. Some states have strong programs, for example, Burnside Uniting Care in New South Wales has recently developed an accredited training course for facilitators. However, at a national level there are few forums or opportunities for the development of practice or the training of new facilitators. For conferencing to develop to its potential, considerable emphasis needs to be placed on adequate selection and training of facilitators. Beyond simply the training of new facilitators, there is also a need for broader forums that might facilitate discussion about the implementation of conferencing programs and the development of conferencing techniques.

A number of specific implications can be identified from the issues discussed in this paper:

- In states where conferences are not mandated by legislation, case workers could play an active role in identifying cases in which a conference would be capable of contributing to a solution.
- In states where conferences are mandated by legislation, case workers could play an active role in considering whether a conference may be capable of contributing to a solution before a conference is required by legislation.
- It is important for case workers to engage with conferences as a genuine opportunity for families to make decisions. The ongoing support of case workers, and their departments, in following through on agreements is essential if conferences are to be successful and perceived as legitimate.
- It is important for case workers to consider ways in which the collaborative approach, which conferencing is based on, can be applied to working with clients at all stages of the child protection process.
- Policy-makers need to consider the role that conferences play within child protection systems. Their potential is undermined and they may even be experienced by families as disempowering if they don't provide a genuine chance for families to be involved in the decision-making process.
- Research that evaluates conferences too narrowly—focusing only on their immediate outcomes, such as subsequent reports—risks misunderstanding the primary function of conferencing, which is a collaborative means with which to make decisions. Understanding the relationship between building the capacity of families, the involvement of supportive communities, and long-term outcomes for children is more likely to contribute to our knowledge about the effectiveness of conferencing.

Conclusion

This paper has provided a comparison of the implementation and use of conferencing in Australian states and territories, and discussed the implementation of conferencing in Australia relative to the original conferencing model developed in New Zealand. Sharing and building upon the knowledge developed in separate locations contributes to debates regarding how conferences can better contribute to broader child protection goals.

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