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Question 1

To provide a system that provides safety and focuses on the best interests of children.

Question 2

That when children are young (under eight) shared care may not be in the best interests of the child. Experts in family violence and family dynamics should provide detailed inflammation that provides guidance to the courts on what is in the best interests of the children. That all people working in the system have an improved understanding of child and family development, the impact of trauma and the mechanisms of family violence. Shared parental responsibility and shared care are not always in the best interests of the children, particularly when DV has been involved.

Question 3

Where families are from different cultural background, have English as a second language or have had limited access or educational achievement the system is complex and difficult to understand. information is only available in English,

Question 4

Although there are tools available on line, in my experience understanding all the requirements for self represented participants in the system is very difficult. The instructions are in formal English and this presents problems for new arrivals with day to day English in determining what is needed. Clients need to make appointments with community legal services to get clarification and advice on what to do or ring the courts to seek help. In my observations this is extremely stressful. If the parent has the day to day care of young children, whilst issues are being resolved, then this results in extreme stress, which impacts on the children.

Question 5

Question 6

People from culturally and linguistically diverse communities experience many barriers in relation to accessing the Family Court. Often there are language barriers and for newer communities, accessing competent interpreters, who are also not members of their local communities is difficult. issues of confidentiality are common. Cultural issues and concerns are often not well understood by professionals working with them. If parents separate, women are often not aware of their rights and the risk of fathers taking children is high.

Question 7

One of the clients that I have worked with has a hearing disability and her partner has been extremely violent. Although she has hearing aids she needs to see you to be able to read lips.

The court does not appear to be set up to accommodate her needs. At the beginning of each case, particularly when a participant has an identified disability, the court officers need to interview the participant to determine what the needs might be and what changes need to be made to processes in order to ensure that she is safe and can participate fully in processes. Due to her hearing aids, she is unable to use the phone to talk to her solicitor and/or the court. This places additional burdens on her as she has to travel to the court to make any arrangements. She has currently had legal aid refused for the court hearing.

Question 8 N/A

Question 9 N/A

Question 10

In my experience, reports need to be produced early in the process, particularly in the case of allegations of domestic violence. where you have domestic violence a family violence expert needs to be appointed, who assesses the available information, gathers information from other sources and conducts interviews with the family. Having this information available early in the process would improve all aspects of safety for the survivor of domestic violence and the children. Comprehensive family reports need to be completed, which involve forming relationships with the parties and children. With one family that i worked with the report was produced after spending one hour with the mother (despite a interpreter being present). The mother, who alleged abuse, was asked questions such as "why do you not want to give the father equal time with the children?). She felt attacked and did not believe that her views were reflected in the report. The report was negative about her, and did not reflect the views of the other services working with the her. This report was constantly used to "persuade" her to accede the to the father's demands. If more time was allocated to producing quality family reports which also included observing the parents with the children, it might provide a more accurate picture for the courts on what is in the "best interests of the children". If the system had quality information available early in the process, and a mediation occurred at this time, without the presumption of shared parental responsibility and shared care being the desired outcome decisions about what is in the best interests of the children might be reached. The current system allows perpetrators to continue to harass their victims. One client that I supported reported ongoing verbal harassment at handovers, despite her efforts to have handovers occur at safe places, police stations and railway stations. These would always occur off camera. If she tried to record these to prove that it was occurring she was advised that she couldn't do this. Her partner had legal representation throughout the process and his lawyer was able to constantly accuse her of lying, make demands, threaten that she would be hit with legal costs if she didn't agree to their demands. When he was eventually charged with assault on a friend of hers at a handover location and found guilty of common assault. This occurred when the friend arrived with the daughter aged five and was waiting the mother's arrival, the father approached and demanded that she handover over the child and she refused because it was not the agreed location, he approached, was verbally abusive and kicked her. Two strangers approached and assisted her. During mediation, she was advised by his lawyer that this had been her fault and wouldn't have happened if she hadn't been late. This excusing of perpetrator behaviour is unacceptable. The fact that the assault occurred in front of the child didn't not seem to concern the professional legal system involved. She received a lawyer for the ADR conference and was advised not to raise the issue as it would result conflict. The impact of the processes of the system impacting on her mental health and allowed the abuse to continue. At different points she expressed extreme feelings of hopelessness, "maybe she should just give him the children" and feeling like killing herself. We intervened and supported her through these periods of despair. I have four families who have only been extremely distressed and had their mental health impacted by being participants in this system. My concern is that this obviously impacts on the children.

Question 11

Clients who have no legal representation during the process, struggle to understand the system and receive very limited support. See the case studies attached. If comprehensive reports were prepared at the beginning of the process and court mandated ADR conferences to discuss the findings and implications for the ongoing care of the children resolved early then many of these cases would not proceed to court. When there are allegations of domestic violence, the fact that the court system favours shared parental responsibility and equal time, in my view, means that some fathers continue the process, without any regard to impact on the children. In one case shared parental responsibility has been ordered, despite the mother being the main caregiver. In this case, the father wanted equal shared care throughout the process and threatened to request full custody. (This was supported by the inadequate single expert report.) However, on the court date, he changed his mind and only wanted the children for three weekends a month. He has been given shared parental responsibility, despite the mother providing all clothing, medical care, and day to day parenting. He has contributed no income throughout the court process. What he can now do is ensure that she is required to report and request his approval for any out of school activities.

Question 12

If you do not have legal representation and you have a disability and are not a native English speaker it is a very daunting task. Whilst there are community legal services that can help, often people have complex issues and problems that cannot be addressed by these services who can only provide limited support. There is not enough funding in the system to meet the needs of people without legal representation. We need to increase funding to provide representation or at least some case management services to support people.

Question 13

The court room is still a very formal setting. It is extremely difficult for unrepresented litigants to understand the processes, call witnesses, and due to the daunting nature of having to represent yourself in the courtroom, many litigants are pressured to accept and accede to the demands of the other party at the court in order to avoid having to navigate court processes.

Question 14

The provisions of the Act are clear, except in defining what are in the best interests of the children. However, their implementation, particularly without expert reports on family reports and family functioning become very adversarial. In one case the SEW spent 10 minutes with the children, aged 5, 3 and 2. He concluded that the children wanted to spend time with their father. As a service that deals with children, we would consider this inadequate, that the expert had no relationship with the children, they had no idea why they were there. Children can have relationships with a parent without a presumption that this should "shared parental responsibility" and shared care. The system appears to have no understanding of child development, attachment and a range of issues that are going to impact on the long term development of the child. The second ICL also met with children without a context and spent 10 minutes with the children. None of this appears adequate in determining what is in the best interests of the children. In the case referred above, this was the third relationship of her ex partner, and a previous ex partner, who left due to DV and a adult child of her ex partner, contacted her to express concerns about his parenting and violent behaviour. Getting the system to acknowledge and consider this evidence was very difficult. A constant comment was that this was historical. Domestic violence is a pattern of behaviour, not just a series of historical events. When he now has a new partner and this is likely to result in DV the children are at risk of ongoing exposure to abuse.

Question 15 N/A

Question 16 N/A

Question 17

In my experience, it is very difficult to obtain Legal assistance for property matters. therefore it is difficult to determine what is fair and reasonable to request. In order to promote fair outcomes, if the parties involved had some guidelines in relation to what is viewed as being fair and reasonable and could argue from an understanding of what are fair outcomes depending in each cases circumstances then unrepresented parties might have a better chance of developing a case for what they think.

Question 18 Not sure

Question 19 Not sure

Question 20

The most important changes to the act would be to remove the presumption that "shared parental responsibility" and "equal time" are the best outcomes for children. If we spent more money at the beginning of the process to ensure that an expert family violence report was commissioned and a comprehensive quality family report were available to inform the process. As this would add additional costs at the commencement of the process, they might need to be subsidised to ensure equity in the system. These reports and a mediation process with a court officer might well result in an early resolution of the issues, particularly if the presumption that shared parental responsibility and shared care are always in the best interests of the child. If circumstances change reviews could be conducted to change the process.

Question 21 See above

Question 22 No Comment

Question 23

There needs to be better acknowledgement by the system of violent relationships and special regard for safety of participants. Even if the other person does nothing being in the same room and vicinity of the perpetrator can create anxiety and distress.

Question 24

This is really dependent on the training of the legal practitioner. Legal practitioners not trained in DV and child development can become part of the problem and the client can feel bullied and harassed. There is a need for all people involved in the system not be so adversarial. My client complains has been constantly harassed by her ex-partners solicitor and was called a liar during an ADR conference. This just makes the process extremely stressful.

Question 25

In the case referred to above, throughout my client was being told by her expartner, that he wanted equal care. On the first day of the trial he changed to only wanting the children 3 weekends a month. Considering the extreme amount stress experienced by the mother this is abuse of the system. It may have been because she finally had a solicitor, who was prepared to move forward with the DV allegations. He did accept a requirement that he attend DV course in the final orders. I have three cases I have been supporting families with i believe that the system is being used as a form of abuse. I believe that we need to get it right at the beginning and for the legal system to understand, how they have become part of the problem.

Question 26

This process was tried by some families, however if the other party does not want to attend then it proceeds to court. The difficulty with this initial step is that it occurs early in the process and may follow the breakdown of a relationship. At this time if the breakdown was not amicable then, one party is usually grieving and angry and may not want to engage in the process. Family mediation at the court needs to be offered more than once, and can be followed up at various points to determine whether parties can reach an agreement. Once they

have legal professionals the likelihood of reaching agreement seems to reduce and the process can become coercive.

Question 27 See above.

Question 28 No sure

Question 29 Not sure

Question 30 Not sure

Question 31

An integrated services approach could be helpful if it could be enforced and if information was shared and a process for sharing information developed, processes might become more accessible. I am aware of families who have tried to get their partners to attend mediation sessions and they have refused. Access to the children has not been denied. The father not provide any rules in his house, children are able to access games and internet freely, do not have to go to bed at a regular time. This places the other parent in the role of the "enforcer". The father often makes inappropriate comments about the mother. The eldest boy has gone to live at the father's. He does not respond to correspondence. This is an extremely difficult situation and one in which the mother feels powerless and is subjected to threats from the children.

Question 32

If the court took into account applications to other courts for VROs both in relation to the partner and previous partners and was trained in understanding the nature of domestic violence. It is not always possible for the survivor to prove what they are saying as domestic violence occurs behind closed doors. However, if the system understood that it was a pattern of behaviors and examined available records they might be more concerned about ensuring the safety of children and their mothers. In some cases this might be the father, however these incidents are rare. If the court had trained staff, who could undertake "risk assessments" with families that were addressed by the courts. In one case, every time the client complained of a breach, her partner through his solicitor, accused her of lying. This contributes to ongoing issues of safety for the client and a system that involves the ICL in the process as well.

Question 33

Whilst the system has access to Child Protection Services, it has not my knowledge interacted with the family violence sector. This might be to refer families who have not been linked with the system and to gain information about families participation in services. At the time that the ex partner was alleging that his partner was lying, my partner had been living in a DV refuge and attending programs to help her. None of this was considered in the court processes and therefore nothing done to ensure her safety. In my experience, in a process controlled by the legal profession, other support services feel helpless and unsure what they can do to support the process. they are rarely contacted by legal professionals and their views and experience are not sought by the court system.

Question 34

We have little information about what children understand about the court processes and what parents are telling their children, especially young children about what is happening. When the mother taking her young children to see the ICL sent a message asking what she should say to the children about the visit she received no response. Similarly the SEW also provided no information or messaging about what to tell the children. There needs to be some information provided through the Courts (prepared by people experienced in working with children on how to explain to children what is happening. Children and the views of children are rarely considered in the process.

Question 35

Question 36

Question 37

Question 38

Question 39

Question 40

It would be helpful if research was conducted into this important area. Currently there are no studies that look at the short term and long term implications of the system.

Question 41

Core competencies An understanding of domestic violence and how control is maintained over survivors. An understanding of child development, concept of maturity, attachment theory and the impact of trauma on children's development. An understanding of cultural competence and working with families from diverse backgrounds These competencies need to be delivered as part of legal training or as indepth workshops with a requirement that regular further training is attended at least every five years.

Question 42

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Question 43

A complaint system that enables parties within the system to complain about threats and pressures being applied in the system to get them to agree to terms that they do not agree with.

Question 44

The process is very stressful and involves very sensitive issues. Everyone involved in the system experiences stress as a result of system. It would be useful to have joint meetings with other experts in the system so they can learn from each other with techniques for promoting good mental health. The legal sector and the children and family sector share a common goal in wanting the best possible outcomes for families and in particular children. We do not have a common understanding of each other roles, so do not operate as a coherent system. Information between the sectors is not shared and outcomes for families are impacted as a result.

Question 45

The situation at the moment is that people's experiences of the system, both positive and negative are not shared and we are therefore not able to determine what is and isn't working well. We don't learn from what has gone wrong. I have read a number of reviews of the system and see that the same flaws that have been outlined for years have not been resolved or amended to promote better outcomes. Access to support is inequitable. I don't believe that you can change the system by just changing the Act or definitions. It requires people in the system, who understand the complexities of domestic violence, family dynamics and child development. Currently it appears to me that whoever has the more aggressive legal approach wins. It is a very emotional time all the participants and the stresses on children (through their main caregiver) are considerable.

Question 46

Question 47

Other comments?

My experiences in working with families in the system are that it is extremely stressful for the participants. Whilst i have mainly worked with the mothers there concerns have always been about ensuring the safety and well being of their children. Their ex partners in these cases and the process has been about the father's right to have time with the children. It hasn't

been about the quality of the time, joint parenting decisions and the values to be provided to the children. In the cases that I have been involved with the children have spent a total of twenty minutes with the SEW and ICL. This would not allow anyone to claim to know what is in the best interest of the children. If you, in this ten minutes, ask the children of a very young age if they want to spend time with their father and they say "yes". What does this mean? We need to have some humanity within the system and share the knowledge and skills of the various sectors in supporting families and in particular children to lead happy and fulfilling lives. We need better trained legal professionals and greater dialogue between the legal and family and children's sectors to ensure that we meet the needs of children.

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