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Question 1

- The principle objectives of the family law system should be:
 - Recognise and protect the right of a child to have a meaningful and healthy relationship with both their parents the maximum extent possible, ideally 50/50.
 - To make sure that the child is psychologically and emotionally safe as well as physically safe.
- The role of the family law system should be:
 - Recognising that children are the next generation of humanity and ensuring that they have the best opportunity to grow up as well balanced and rounded individuals is paramount.
 - To keep the focus on the rights of the children. There needs to be a clear, professional and impartial assessment of the ability of each party to parent effectively that is independent of the circumstances and conflict arising from separation. This assessment needs to be the guiding factor in deciding parenting outcomes.
 - To act as a “Super parent” in the emotionally charged circumstances surrounding separation. It needs to act with wisdom based on current knowledge and have the power and willingness to make strong decisions based on professional guidance.
 - Act to ensure everything possible is done to enact the rights of child by putting in place strategies to maintain and improve the relationship between child and both parents through separation.
 - To reduce conflict rather than exacerbate it. The adversarial system, by its very nature, drives emotion to heightened levels, often beyond what individuals can be reasonably expected to manage. The family court should take a more inquisitorial approach and actively take on the responsibility of assessing the matter through a much more structured approach.

Question 2

- Recognition that the research is unanimous in identifying that children best interests are served by having a meaningful and healthy relationship with both parents.
- Recognition and protections of the importance of the psychological wellbeing of children and assigning this as much weight as their physical wellbeing.
- Gender equality. Any redevelopment needs to recognise that fathers and mothers play an equally significant and psychologically important role in children's development and lives. There is significant bias against men and fathers in the current system and this needs to be redressed.
- Recognition that abuse takes many forms and that psychological and emotional abuse of children is often far more long term and damaging than physical abuse. Recognition that parental alienation and relational violence has a profound impact on developing children and are a form of abuse.
- Recognition that all parties are equally capable of perpetrating violence against the other and that non-physical violence (e.g. relational violence, parental alienation, etc) is potentially more prevalent than physical abuse.
- Separating the need (right) of the child to have a healthy relationship from the process of resolving the conflict between the parents. Putting strategies in place to maintain and promote this relationship should be the fundamental principle guiding any redevelopment.
- Conflict reduction: The current adversarial system whereby two parties are pitted against each other across a court room is fundamentally at odds with promoting an environment of reduced conflict in which the rights of children can be protected and promoted. The focus must be on ensuring that children's rights are put first, not the battle between separating parties. By taking a more active involvement in assessing the parties ability to parent effectively (and hence look after the children's rights) at a very early stage the court reduces the conflict by taking the onus of proving innocence, etc away from the parties and instead placing it in the hands of trained professionals.
- Early intervention: the damage done to children by the long delays involved in the family law system, especially in complex cases is often profoundly destructive. The system needs to move quickly to resolve matters of parenting.

Question 3

Question 4

- The current system is incredibly convoluted and confusing: multiple courts, affidavits, orders, fees, paperwork, delays, processes, roles and requirements. Trying to navigate that whilst dealing with the stress and upset of a separation is beyond most people. Simplifying and streamlining the process is an obvious requirement.
- The cost associated with employing legal representation is prohibitive and children suffer as a result when parties are forced into accepting sub optimal or downright wrong orders because they can't afford representation.

Question 5

Question 6

Question 7

Question 8

Question 9

Question 10

Question 11

Question 12

Question 13

Question 14

- It goes without saying that the motivation for engaging in litigation regarding parenting is about getting the best situation for children, however this often gets lost in the ensuing battle for “ownership” of the children. The law and courts need to develop the far deep psychological understanding that these battles rarely have any foundation in genuine concerns for the children but are rather a battlefield for the parties to vent their anger, frustration and resentment at each other. Sadly the current adversarial system promotes this approach. On the assumption that family law system exists to protect the rights of children and given that the fundamental right of a child is to have a meaningful relationship with both their parents, it is then beholden on the system to make sure that this is upheld as an absolute priority. Whenever an application is made to the court system the first and only question that should be asked is “are the litigants suitable as parents, independent of their conflict” if the answer to that is yes then the system should move immediately to ensure that the children have a relationship with both parents that is based to the maximum extent possible on equal access. By resolving the “ownership” aspect immediately and without a lengthy adversarial process it is suggested that there will be limited need for any further argument.
- Courts need to have the power and willingness to make strong decisions about care arrangement as a first step to any litigation rather than the final outcome. These decisions should be based on assessments and recommendations made by independent, trained and experienced teams of psycho-legal professionals working together and under clearly defined guidelines.
- The current wide range of discretion that judicial officers have with respect to parenting decision is a significant problem. It is well known, if not well accepted, that every judicial officer has their particular bias and if you have the resources to get your case heard in the jurisdiction of an officer sympathetic to your case then you have a significantly high likelihood of success. The decision making process in parenting matters must be better defined and the factors that guide decisions must be driven by the psycho-legal assessment that should be conducted as a first step. The opportunity for individual officers discretion and inherent bias to be applied must be restricted.

Question 15

- There needs to be a clear understanding that the definition of violence has to be expanded beyond the physical to include psychological and emotional forms of violence.

- There needs to be a clear understanding that using children as pawns in relational violence towards one or both parties is profoundly damaging of children in their formative years and constitutes abuse. The research is clear on this topic.
- Recognition that the conscious or unconscious process of preventing children from having a meaningful connection with one party (parental alienation) is child abuse.

Question 16

- If the first step of any litigation process is to establish whether the litigants are capable of parenting the child(ren) effectively then the question of family structure is effectively bypassed. The matter is not then whether there are two fathers, surrogates, grandparents only, etc but whether the people who claim to be parents are capable of being effective parents to the children.

Question 17

Question 18

Question 19

Question 20

- On the basis that the family law system exists to protect the rights of children and given that the fundamental right of a child is to have a safe and meaningful relationship with both their parents it is beholden on the system to make sure that this is upheld as an absolute priority. To achieve this it is paramount that in situations where children are being separated from one party the first step that is taken by courts is that a safe arrangement for meaningful contact is immediately established and protected.
- The long delays that routinely arise in the litigation process often result in damage and potential total destruction of a relationship between children and a parent. This is completely at odds with the stated purpose of the family law system. The system needs to be restructured such that there is the capacity to make interim orders regarding parenting arrangements quickly (within months) on the principle that maintaining a meaningful and healthy relationship is paramount. To make these early decisions the first step of any application processes should be to conduct a psychological assessment of the litigant's ability to parent effectively and make orders based on the recommendations of that assessment. Once the rights of the child(ren) have been secured further steps to either direct the litigants towards dispute resolution or arbitration rather than trial would be appropriate.
- In the case of alleged abuse there needs to be the infrastructure to support the maintaining of a safe relationship between child and parent. Currently there is very limited contact centre resources, etc and this needs to be expanded to allow children the opportunity to have extended time (i.e. considerably more than an hour per week) with both parties until such times as more permanent arrangements can be made.
- The family court system needs to have far more capacity to employ psycho-legal professionals in the court process at an early stage so that an independent assessments of the parties can be conducted as a mandatory and first step of any application.

- Reports should only be generated on the direction of the Court with a clearly defined and agreed Terms of Reference. Ad hoc reports requested by one party or the other without direction from the court should be inadmissible in proceeding.

Question 21

- Potentially, but it is vitally important to not lose sight of the fact that the children and their rights are what this whole process is about. Protecting children's right to a meaningful relationship with both parents should always be the first (and indeed only) priority of the family law system. The reality is that parties who have taken the step of engaging in litigation are probably not likely to resolve matters through a dispute resolution processes, they require the intervention of the judicial system. In these situations the court needs to take immediate steps to ensure that children can maintain a relationship with both parents through the litigation process.

Question 22

Question 23

- Firstly the definition of family violence or abuse needs to be broadened to recognise the emotional and relational violence that is often directed towards men and fathers through the use of children as weapons in these situations.
- The court needs to operate on completely gender neutral basis in assessing family violence and abuse.
- By making the first step of any court application a detailed psychological assessment of the parties matters of family violence and abuse can be understood far better and appropriate support and protections can be put in place on a case by case basis.
- By moving away from the current adversarial system and instead employing a more inquisitorial approach the potential for victims of family violence and abuse are far less likely to be exposed to the grief and horror of having to "prove themselves" in the battlefield of the court room. By employing an inquisitorial system key decisions regarding parenting will have already been made on the recommendations of trained professionals.

Question 24

- Yes, however it is vitally important to separate the conflict between the litigant and their individual capacity to parent children. In situation involving family violence or abuse (noting that abuse can take many forms and that false allegations do occur) having the capacity to make decisions in relations to parenting in the early stages of separation would be a definite positive. Sadly once a high conflict separation occurs the parties often lose sight of the children's needs, the family law system needs to have the capacity to step in as a "super parent" with the power to make binding decisions that look after the children rights. Again this has to be done with the assistance of psycho-legal professionals who can assess the capacity of the parties to parent effectively at a very early stage in the process.

Question 25

- The system needs firstly to recognise that abuse of the current system is quite easy for those so inclined and that there is virtually no penalties for doing so. False allegation of sexual abuse and family violence are prevalent. Misuse of Rice vs Asplund by deliberately preventing anything that might constitute a change in circumstances from occurring and thereby actively preventing a child from (for example) developing a relationship which would otherwise naturally occur. Using the “I couldn’t possibly parent effectively if he/she was involved in their lives” card and getting a psychological report from a sympathetic, if misguided psychologist is not uncommon. All these misuses need to be recognised as occurring.
- Given the often extreme difficulty of positively identifying misuse and false allegation, particularly under the current adversarial system, perhaps the best tool is assessment of the litigants by a skilled psycho-legal team of professional who are aware of these possibilities.
- When misuse and false allegations are positively identified they need to be dealt with firmly, perhaps by referral to the criminal system. Obviously the balance is in not scaring people away from making allegation of abuse out of fear of criminal repercussions but there needs to be a deterrent against misusing the system as well. The family law system already has a reputation as a toothless tiger and for people who know this, misuse is easy and children regularly suffer as a result.

Question 26

Question 27

- Absolutely, in situations of family dispute, particularly in high conflict and complex cases involving allegations of family violence or abuse, where there is little possibility of resolution through dispute resolution there needs to be more capacity to quickly impose decisions that are focused entirely on children’s rights. These decisions must be directed by the assessment of the parties conducted by a team of skilled and experienced psycho-legal professionals in the very early stages of the process.

Question 28

Question 29

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Question 31

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Question 33

Question 34

- In the context of litigation children are almost invariably drawn into the conflict under the current system. The research is unanimous in that conflict is detrimental to the development of children. The court process is, by its very definition a conflict based process and therefore involving children in it is not consistent with considering their wellbeing. The research is also unanimous that children want and need to have a conflict free relationship with both their parents. On this basis the family law system should be doing everything possible to keep children out of the court process. Given that there is no question that children need and want a healthy relationship with both their parents the courts should act on this basis without the need to involve children directly in the process. The question for the court should be how to deliver this general principle in the specific circumstance in a safe and meaningful way. Again

this requires that the courts take a much more inquisitorial approach at a very early stage, the scope of this inquiry must focus solely on the parties ability to parent and should not be drawn into the conflict between the parents.

Question 35

- Outcomes of the court process must be conveyed to the children by an independent professional in conjunction with the ICL (if one exists). The current winner/loser structure of court system promotes the possibility of further damage to children's relationship with the "loosing" party by setting up further conflict.

Question 36

- On the understanding that children's best interests are served by having a meaningful and healthy relationship with both their parent and that being involved in conflict is unhealthy the best policy would be to avoid involving them at all. If it is necessary to involve children then this should only be done at the direction of the court and via a team of highly trained and experienced professionals working together to explore the child's views. These teams need to be fully aware of the circumstance that the child is in and the pressures that may be exerted on them by one or both parties as a consequence of being involved.

Question 37

- On the understanding that children's best interests are served by having a meaningful and healthy relationship with both their parent and that being involved in conflict is unhealthy, the best policy would be to avoid involving them at all. The needs of children are already well researched and understood. On the basis of this research the focus should be on improving the litigants capacity to parent well rather than putting (especially young) children in a role that they are potentially too immature to participate in and will invariably be under pressure from one or more parties.

Question 38

- Absolutely. There needs to be a very strong understanding that children, especially young children are at a very high risk of being pressured and manipulated by one or both parents, especially if they are to be involved in any decision making process. There needs to be a very sound understanding by everyone involved that children, especially young children, are not sufficiently mature to be able to make reasoned decisions of the significance associated with litigation processes. If children are to be involved then it needs done at the direction of court by a highly skilled and experienced professional or preferably a team of such professionals. If children are to be involved in decision making then the professionals conducting such activities must be fully informed of both parties positions and psychological state and motivation of them, preferable by direct interview so that they can assess the child's responses in the full context of the conflict.

Question 39

Question 40

Question 41

- Any psycho-legal professional who is going to be making submissions to the family court system must undertake additional, certified training to understand their role and the potential impact they have on the decisions being made by the family law system.
- There should be clear guidelines for the way that reports are obtained, structured and presented in the contexts of family law proceedings. There is no role of “cash for comment” reports. It would be appropriate for a body such as the APS to produce guidelines for reports made in this context.
- Mentoring program. Any professional entering the family law system should be required to be mentored by an existing professional with substantial experience in the family law system. Any submission made by a new professional must be reviewed and approved by a mentor until such times as they are deemed competent. Oversight of this process should rest with a body such as the APS.
- Current psychological understanding: Professionals need to keep current with the rapidly evolving world of psychological knowledge and research. Professionals need to be fully aware of the capacity of each party to twist and misrepresent things for their own ends and their underlying motivations for doing so.
- Assessments conducted by psycho-legal professionals must be conducted with consideration of, at a minimum both litigants. Complete analysis of a situation cannot be conducted with only one half of the story and assessments made on this basis are limited at best and downright destructive at worst.
- Professional independence. No professional should operate in isolation and any submission made to the family court system must be created in consultation with, at a minimum, two independent professionals.
- Gender equality, any professional operating in the family law system must maintain a gender neutral approach to their involvement and assessments.

Question 42

- Psychological understanding. Judicial officers must have current and deep understanding of psychological motivations of litigants and be provided with the training and support to recognise and respond appropriately.
- Age is a key aspect. It is important to recognize that the pace of development in psychological understanding is accelerating and that the knowledge and understanding that was accepted 10 to 30 years ago is often incorrect and potentially now highly damaging. Judicial officers need to keep current not just in their knowledge but also in the flexibility of their understanding. There is a very real risk that in a rapidly changing world, age (when associated with rigidity of thinking) is actually a significant problem – the wisdom that it might have represented in an unchanging world is no longer relevant.
- Gender equality: there is a heavy gender bias in many judicial officers, founded perhaps in historical models, however this needs to be removed, it has no place in the modern world.

Question 43

- There needs to be far better oversight of professionals working in the family law system. Bodies such as the APS need to more closely involved in guiding and regulating the involvement of psychological professionals in the family law process. By better structuring of the process by which the family law system works (i.e. inquisitorial approach and early intervention focused solely on the parties ability to parent) the opportunities for professional practices that exacerbate conflict will be reduced.
- In the case of legal council the current adversarial system encourages conflict and for the less... egalitarian lawyers the opportunity to create conflict and division is very present. Within any legal community it is well know which lawyers will try and negotiate to find a low conflict solution for everyone versus which lawyers will take every opportunity to drive the conflict higher. There needs to be a strong understanding that exacerbating conflict is not acceptable and when situations where lawyers are deliberately choosing to do so are identified they needs to be dealt firmly. There is a culture of closing ranks within the legal institution whenever faced with criticism so regulation and oversight of these matters should perhaps be vested in bodies other than local law societies or at least be assessed by people other than only lawyers.

Question 44

Question 45

Question 46

Question 47

Other comments?

Kids need parents to be solid, reliable, loving and caring. When parents fail the family law system needs to step into the breach and provide a structure in which kids have the best opportunity to get what they need. The current system, with all due respect, regularly fails to provide this. It's heart is in the right place but in its current form it is adversarial, slow, expensive, outdated, toothless and capricious. If it is to serve children effectively in a modern world it needs desperately to be updated based on current research and knowledge, it needs to move away from being a battlefield and instead move towards being a calm and impartial protector of children's right to a meaningful relationship with both their parents.

For the sake of all children who have the misfortune to end up in this system please take this opportunity to be strong and take a child focused lead. Make this system truly good for all children.