

CatholicCare Diocese of Broken Bay

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This submission is on behalf of an organisation

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Would you like to ... Use this form to answer questions

Question 1

- To protect and promote the safety, dignity and privacy of all parties concerned
- To protect and promote access and equity, equality and fairness in the proceedings. For example, the unfairness of one parent self-representing compared with other have access to expensive legal team and barrister support.
- To create a system that is less acrimonious, that encourages and promotes early engagement in the system to develop positive relationships between separated co-parents with greater access to supports for children through separation.
- To promote and provide greater awareness of the complexities and impact of the history of domestic violence.
- To ensure thorough assessing and screening for historical or current domestic violence
- To provide greater access to Legal Aid support for families.
- To provide pre-preparation or mediation for families.
- To ensure quicker timeframes for property settlements as often lack of cash on hand is a barrier to provide for children & getting legal assistance.
- To ensure stronger penalties for parents who don't comply with orders, or lengthen court process by not supplying adequate information.

Question 2

- The welfare of the children should be the top priority. A focus on the safety of children, especially in the case of historical or current domestic violence.
- To protect and promote the safety, dignity and privacy of families.
- To be aware and responsive to inclusion and diversity.
- To shape the process around children's best interest, right to be heard and ability to safely hear children's voices
- To introduce tougher penalties for refusal to participate in Family Dispute Resolution process, subject to taking into consideration safety of families.
- There should be mandatory attendance to approved parenting after separation course, prior to attending 'mentions'.
- All court appointed positions including Independent Children's Lawyers' need to demonstrate experience of trauma informed care principles, effects of complex trauma and Domestic Violence/IPV.
- To provide accessibility across whole of Australian community
- To improve accessibility to CALD clients
- To be user friendly and cost effective
- There should be time restrictions and limits on Court proceedings, e.g. not stretching appeals out until the child reaches 18 years of age.

Question 3

- Develop selfcare videos /social media for children and young people videos forwhen parents separate.
- Provide educational program – resources, videos and booklets available in schools
- Ensure School counsellors are trained to adequately provide accurate information to parents & children.
- Introduce system of follow up afterwards with children through FaCS or private therapy assessment.
- To provide systematic review of previous family reports and new ones commissioned when circumstances change.
- Produce resources for children. Easy to understand brochures for parents considering separation regarding the legal process and possible costs.
- Provide accurate information and access to support for those affected by

domestic violence regarding representing their truth, i.e. not being afraid to name domestic violence in court proceedings. • Produce navigation workbooks for families and children to complete/log their journey so they understand what is happening. • Informational sessions for separating parents on family law and alternative dispute resolutions options. • Preparation for families to be 'mediation ready'. Provide families with greater access and awareness of mediation services and attempt to educate them on the realities of Family Court prior to entering the Court system. • Advertising campaign targeting youth on YouTube. • YouTube, Spotify ads giving information, social issues channel on TV that covers divorce. • Fund divorce/separation "coaches" that triage cases.

Question 4

- Specialist caseworker and advocates available to assist individuals or families with multiple needs to navigate the family law system, from the time of first contact to resolution • At Family Court – qualified family law counsellors / or support staff • Family Specialists or caseworkers to support Family Dispute Resolution • Using a specialist case worker with the Family Dispute Resolution service to take over once a 60i certificate is issued to contact both parties and assist with navigation and processes • Lawyer duty of care to use a collaborative, holistic approach. Be honest and realistic. Not to default to the one size fits all approach instead listen to client and children's needs to plan the best outcome for the child • Family Dispute Resolution "coaches" available prior to undertaking mediation. • Greater access to Legal Aid services for families on low income. • Reduce the number of times people should retell their story.

Question 5

- Promote and protect inclusion and diversity. • Cultural competency framework developed for decisions made relating to this client group • Aboriginal appointed specialist navigators and caseworkers. • Consult with Aboriginal organisations and advocates.

Question 6

- Support staff available before, during and after family court. mention/hearing to be able to advocate clients wishes. • Redesigning 'Living in Australia' booklet to include what people can expect from the law in Australia and how the Family law differs from country of origin (often very different) • Support services to develop cultural competency. • Additional models with legally assisted support • Use translating headphone system so all CALD clients can understand as interpreter services are not used enough and just because someone has a solicitor doesn't mean they understand

Question 7

- Improved awareness of the types of violence experienced by people with disability as well as cross-sector collaboration with disability specific services • Training and accreditation for family law system professionals to enhance their competency in working with parents and children with disability and • Incorporating relevant provisions of the CRPD into the Family Law Act. • Support staff available before, during and after family court mention/hearing to be able to advocate clients wishes. • Developmental appropriate resources • Targeted specialist casework support for advocacy • Child need and care is paramount, making sure NDIS package money does not dictate time spent

Question 8

- Promote and protect inclusion and diversity. • Recognition of same-sex parenthood is complex and will depend on whether a child was conceived using reproductive technology and the circumstances this occurred • Suggest a need for consideration of the extent to which services in the family law system are presently configured to respond to the needs of clients from LGBTIQ groups • Support staff available before, during and after family court mention/hearing to be able to advocate clients wishes. • Further training for family law staff. Case studies be introduced. • Acknowledgment of their family status in the same way

Aboriginal and Torres Strait islander, CALD groups are • Ensuring children have a voice in their outcomes as they may be the LGBTIQ person, with one accepting parent and one not.

Question 9

• Increase options to access by using technology for Family Dispute Resolution, CIP and Family Law Court. E.g. Zoom meetings and mediation. Rooms set up with these capabilities in outlying areas that can be booked and used for Family Law only. Possibly in courts or police stations if no other safe space is available

Question 10

• The development of a fee schedule to regulate the costs of family reports and other expert witnesses • The resolution of less complex family law matters is best achieved through expanded availability of low-cost family dispute resolution services and affordable legal advice on parenting and financial issues, especially in matters involving family violence • Mandatory Family Dispute Resolution with reportable mediations, arbitration if mediation fails • Courts used only for the 5% of serious Magellan cases the rest done by Family Dispute Resolution, Arbitration or private lawyer mediation • Fee schedule for lawyers and the law courts as well as specialists • Professional conduct standards for Lawyers that includes compulsory pro bono cases • Time limitations and caps to reduce the time spent at Court, currently complicated by children aging and having the right to make their own choices. • Consideration of the age of the children and their decision-making capacity.

Question 11

• Developing specialist clinics within the courts or legal aid commissions to provide pro bono training and advice for parties who self-represent along the lines of Canada's National Self-Represented Litigants Project • Re-drafting court forms and instruction in plain English and re-developing court websites to ensure they are user friendly and that forms are easily searchable • Simplifying the legislative framework drafting provisions in plain English • Limiting affidavits to a page as this is all that the Judges reads with all evidenced material in another file if needed. Easier for all parties • On line training guides • Specialist workers/advocates to assist if mediation and arbitration fails or in top 5% going straight to court • For domestic and family violence and sexual assault cases the victim should be in a separate room with audio link up and the litigant should be appointed a duty solicitor under litigant instruction to ask question/cross examine of the victim rather than the accused to reduce traumatisation

Question 12

• Legally trained support workers at FRC and Family Centres providing Family Dispute Resolution services • Funding to provide once a month free family law clinics • Funding to provide free family law clinics/services within relevant services permanently! • Compulsory Family Dispute Resolution, Arbitration system with case workers to assist in the process would alleviate many needing to self-represent. • Training in CIP, Trauma informed practise, • Online step by step process guides, mandatory pro bono lawyer contributions,

Question 13

• Safe rooms, separate accesses, audio-visual link up offices in safe community spaces for anyone unable to attend court or be in the same room due to health, remoteness or safety and children • All work with children needs to be done away from the courts for best results

Question 14

• The extension of Part D to allow Family Dispute Resolution programs to suspend Family Dispute Resolution sessions for parents to complete parenting programs if they do not already form part of their process with the ability to disclose this to the court.

Question 15

The current definition: • Does not adequately reflect the experiences of violence in A&TSI communities • Does not include misuse of process as a form of abuse • Does not mention

psychological abuse • Not consisted with state and territory family violence legislation, whose definitions do not include a requirement of coercive and controlling behaviour • Review self-representing victim – current court policies testifying in front of perpetrator • Review current laws regarding children maintaining contact with perpetrator – better evaluation and safety considerations needed • Expand understandings of the term “violence” as so many women and men equate violence with hitting/punching/kicking, etc. rather than control and power issues.

Question 16

- Promote and protect inclusion and diversity. • Education and training on inclusion and diversity. • Education on family and domestic violence through the lens of inclusion and diversity.

Question 17

- Collaborative Law where a panel including Family Dispute Resolution programs, Family Lawyers, counsellors, child Specialists and financial advisors support the clients through the process. • The opportunity for supported early mediation on resolving property issues prior to court.

Question 18

- Consideration of new partner’s contribution to household income. • Those that bring in an overseas partner on a spousal visa need to provide maintenance until they are Australian citizens and can support themselves and where children are involved continually. If the wife has not been allowed to work prior to separation, then maintenance should occur. • It needs to be clear that maintenance is for raising children.

Question 19

- Funding for legally trained family specialists or extend Family Dispute Resolution Programs training to inform clients • Binding financial agreement could be used instead of consent orders. Maybe this could be made prior to parents having children

Question 20

- Funding current agencies providing Family Dispute Resolution process to provide holistic approach to parents going through the separation process. • Multidisciplinary approaches to intervention for separating or separated families that currently spend years at impasse waiting for a court date. • Separating parent orders from property. Dealing with parenting plans first with well-considered guidelines around how time spent may affect property division.

Question 21

- Yes, combined with further client’s evaluation on different areas such as mental health, housing, finances, children’s wellbeing, Legal advice on the onset of the case to streamline services, comprehensive programs to support clients

Question 22

- Support the recognition that economic and financial abuse is an aspect of family violence and can be an obstacle for those experiencing family violence in obtaining fair financial settlements. • We support the recommendation that the requirement in s 60 I to attempt Family Dispute Resolution prior to lodging an application for children’s orders be extended to financial matters • We support the recommendation by the SPLA committee that the family courts promote early resolution of small property disputes through a streamlined case management process with simplified procedural and evidentiary requirements • We support the recommendation that magistrates be encourages to increase the exercise of their family law act powers in relation to property when participants with family law needs are already before the court • Support the roll out of an arbitration process for small property claims along the lines of Legal Aid Queensland’s arbitration model, which is available to legally aided clients for resolution of property disputes between \$20 000 and \$400 000.

Question 23

- Recognition that the adversarial nature of the court process can potentially ‘mirror the dynamic of abusive relationships’ and that engagement with the court process could re-traumatise people who have experienced domestic and family violence.
- Consequently, there is a need for education and training on trauma informed practices at all levels of the legal system.
- In practice, legal officers should manage the court room to reduce the potential for re-traumatisation.
- Employ specialist domestic and family violence workers in the courts, to support families in the court environment.

Question 24

- Yes
- Further training needed to Family Dispute Resolution Practitioners to align with the Attorney General Department’s guidelines. This model of mediation will require additional resources or MOU agreements with stakeholders providing legal services. The model has been implemented successfully with domestic violence or high conflict parties.
- See study below.
- See source: • [http://www.ag.gov.au/Publications/Documents ...](http://www.ag.gov.au/Publications/Documents...) DR Evaluation Final Report December 2012.doc
- Protocol for Legally Assisted Family Dispute Resolution • <https://www.ag.gov.au/FamiliesAndMarriage/Families/FamilyRelationshipServices/Documents/Protocols-for-the-provision-of-Legal-Assistance-in-Family-Relationship-Centres.PDF>
- <https://www.ag.gov.au/FamiliesAndMarriage/FamilyLawCouncil/Documents/Family-with-Complex-Needs-Intersection-of-Family-Law-and-Child-Protection-Systems-Final-Report-Terms-3-4-5.PDF>
- I am taking the liberty to share yesterday’s email from xxx Family Law Clinic providing free legal advice to clients once a month at Waitara. It also prompts the need to provide additional support and safe processes within family law. I think the email sums it all. Email from xxx, Director, xxx Family Law Centre to xxx Mediation Coordinator “I’m just writing to confirm that the date for our next advice clinic is 28 May 2018. Thanks for letting me know today that - all things being equal - the May clinic will be the last. It’s been a pleasure working alongside you on this project over the past 11 months. With one month of the project to go, we’ve taken 56 clients from your Centres through the monthly face to face clinic and our telephone advice line. Some of these have been a one-off engagement, whilst others have involved ongoing advice and help. I heard last week that a client I saw at a recent clinic, who had also accessed our telephone advice line, was able to settle a long-running court case. This is great news for that client’s whole family! The clients I’ve seen at xxx have had very complex needs - most them within a context of domestic violence and/or homelessness. One of my earliest clients was able to escape what I regarded as potentially life-threatening domestic violence situation involving a partner so mentally unstable that he subsequently took his own life. It’s been great to be able to support clients like this in co-operation with your Centre’s counsellors and support workers. I’m please, as well, to have been able to refer at least a couple of the advice clinic’s clients into your mediation service. Thanks, finally, for all your help with the administrative side of things. For both your Centre and ours, there’s a lot of work that needs to be done before & after the advice clinic day to make sure the day’s flow as smoothly as they have. I hope you can look back on all that’s been accomplished in the year we’ve run the project together with satisfaction.”

Question 25

- Promote the safety, dignity and fairness for families
- Recognition that misuse of the process, is a form of abuse that can re-traumatise families.
- Provide legal support to both parties or promote balance of power in terms of accessibility to legal advice.
- Streamline affidavits to 1 page (as that is all the Judge has time to read) with evidence provided if called for otherwise these are being used to slander the other party
- Awarding costs against those that misuse the system
- Develop a system for dismissing proceedings if they are frivolous, vexatious or an abuse of process.
- Limit breach applications when previous ones have been deemed as system abuse

Question 26

- Further support to NGO's providing Family Dispute Resolution services without the support of Family Specialist assisting with case management.

Question 27

- Arbitration could be the option before court and if Family Dispute Resolution fails.
- The upskilling of Family Dispute Resolution Programs to act in an arbitral sense where disputes at Family Dispute Resolution are unable to be resolved would alleviate the impacts and increased delays on the Family Court. This shouldn't be a way of diminishing the importance of a parties self-determination, but only in instances where there is a general agreement on the premise but a difference in the execution.
- Though to us as an agency Arbitration could overshadow our mediation services where we promote client's self-determination and control of the outcomes.
- Arbitration vs Mediation "Arbitration is generally conducted with a panel of multiple arbitrators who take on a role like that of a judge, make decisions about evidence and give written opinions (which can be binding or non-binding). Although arbitration is sometimes conducted with one arbitrator, the most common procedure is for each side to select an arbitrator. Mediation, on the other hand, is generally conducted with a single mediator who does not judge the case but simply helps to facilitate discussion and eventual resolution of the dispute."

- Question 28 • There could be issues of accessibility and confidentiality.

Question 29

- Seek stakeholder input regarding the opportunities for developing problem solving decision-making processes within the family law system
- Involve stakeholders in the Family Dispute Resolution process such as NDIS to create plans where both parents are aligned with child's needs and services
- Look to what the Family Day Centres are doing in this space e.g. Catholic Care Family Day Centre at Waitara is drafting a program to support families through the separation process.

Question 30

- Yes – Family Dispute Resolution is good for this as they represent a non-adversarial safe space.

Question 31

- Family Dispute Resolution process with similar approach to collaborative law or family conferencing. Combination of various stages
- Materials about family law process – workshops, webinars etc.
- Stage 1 pre-Family Dispute Resolution assessments
- Stage 2 – 1st Family Dispute Resolution session to determine clients' needs + referrals to services + Family Specialist to provide referrals (law, counselling, finance, etc.)
- Stage 3 - Family Conferencing with Stakeholders to draw an action plan – follow-up by case managers or family specialists
- Stage 4 – 2nd Family Dispute Resolution session to review parenting plans + follow up with Family Specialist

Question 32

- Review on the parameters of each court and work on improving processes supporting areas where both overlap
- ADVO consent orders with parenting plans being dealt with by FRD's
- A national strategy, so that one court deals with Family Law, Children's court and domestic and family violence.

Question 33

- A consistent national information sharing system
- Though we would be concerned about the potential risk of information sharing regimes on client privacy.

Question 34

- Develop or Increase programs to support children's participation in the process
- Appoint a trained professional children's caseworker/coach and can travel alongside other professionals in the field.
- Independent children Lawyers that see and advocate on behalf of children that stay with the children for the length of their case. Currently Independent Children's Lawyers'

do not see the children or speak to them. This needs to change if we are serious about children's voices being included

Question 35

- Developed age appropriate materials
- Independent Children's Lawyers', family consultant, child consultant or therapist who initially met with the child, should provide verbal feedback, support/advice/counselling and age appropriate literature/resources.
- Ask children.

Question 36

- Appointment of a children's advocate
- Creating a less formalised process when dealing with children to allow them to feel more comfortable in expressing their views, either through the design of the court rooms in general or to develop special children's hearing rooms within the court.
- Take this process out of the court. Have Audio video link up rooms in the community that can be booked which will also assist with regional area access.
- Independent children's lawyers that meet and spend time with the children in a relaxed setting that then can advocate their wishes in court thus reducing the risk to children around decision making

Question 37

- Use of CARM Family Dispute Resolution model
- Use of CIP model
- Both with the provision that children receive counselling support afterwards.
- More assurances to children about how the information they have supplied will be used. Greater importance that child consultants and family consultants honour the rights of the child, not to share certain information.
- Again, CIP's or enhanced Independent Children's Lawyers models. Remove child consultants altogether as this just increases risk to the child.
- Ask children.

Question 38

- Ask children that have been through the process what worked and what didn't and what put them at the most risk. Sadly, information subpoenaed from counsellors or child consultants puts children at the most risk so those supplying therapy should be exempt from subpoena requests
- Currently the biggest risk we see is the children are placed in a situation whereby most already are experiencing loyalty binds are placed with adult decision making responsibilities with little support as to the 'consequences' of that decision.
- Likewise, children who do see an Independent Children's Lawyers often feel disappointed as to the lack of interaction and 'not being understood/believed'. Multidisciplinary approach is needed with Independent Children's Lawyers' having 2 meetings face to face with children.

Question 39

- An alternative option in addition to current family consultant work and Independent Children's Lawyers, would be for a children/young person's Family Law portal be made available for children who wish to participate can do so without parents being made aware – which could reduce the potential for parental 'coaching' or alienation.
- Another alternative is for children/young people to be able to meet with Independent Children's Lawyers, child consultant or family consultant at school, or private therapy setting, as the environment plays a huge part in children feeling comfortable and safe.
- The above two suggestions, could also have the options of only Independent Children's Lawyers' and judges seeing the material.

Question 40

- Should have mandatory 'aftercare' therapeutic session with family law counsellor, child consultant or family consultant. This ensures child safety, provides debrief session, is a duty of care responsibility, a referral point and can gather feedback from children's experiences.
- Focus groups with fun activities
- Ask children

Question 41

- National Registration Board for Family Law Professionals in the following areas: - Family Law Counselling - Family Consultants - Child Consultants - Family Dispute Resolution Programs - Family Lawyers - Judges / Magistrates - Legal Aid Solicitors - Family law Social

Workers - Complaints procedure for Judicial and Family Law specialist workers (Independent Children's Lawyers' and Family Consultants) • Core skills – Post Grad studies in relevant field, completed approved family law specific training, demonstrated experience 1-2 placements over period of 12-24mths (on the job training), meet ongoing CPD requirements in core areas – trauma, Domestic Violence, IPV, developmental impacts on children.

Question 42

- Judicial officers should be subject to meet ongoing CPD requirements annually like other professions such as counselling, social work. Core competencies that should be included and demonstrated are: Trauma informed care, Impacts of complex trauma on parenting, Intimate Partner Violence, effect of high level conflict and manipulation in children and risk identification.
- Annual supervision requirements of 10hrs per year with registered professional.

Question 43

- Developing an oversight/audit process or the appointment of an ombudsman or commissioner to oversee address any concerns that may be raised.
- Change the system from an adversarial system to an inquiry/factual system.
- Modules on family violence and child sexual abuse be included in accreditation and professional development requirements to improve consistency of practice.
- Training in risk identification for family lawyers.
- Joint professional development for family law, child protection and family violence sector professionals.

Question 44

- Currently the system does not provide ample support to professionals experiencing decrease of support in professional development due to budget restrains
- Funding for professionals to attend further informational trainings, incentivize the advantage of multi skilled practitioners
- Provide training on identifying and managing vicarious trauma.
- Ensuring safe workplaces.
- Encouraging self-care and work-life balance.
- Expand additional qualifications or subjects to Family Dispute Resolution programs into family law and finance- cross training
- Provide allocations for additional family law training for therapists/counselling who work with children and parents in the sector.
- Changing a broken system will reduce burnout.

Question 45

- The privacy of client families and children should be protected, so no changes should allow family law proceedings to be published.
- This could lead to, issues with confidentiality, potential misuse of process by perpetrators and high conflict client

Question 46

- Clearer guidelines and penalties for individuals who don't comply with mandatory orders by certain timeframes, or 'drag out' processes.
- Independent Authority where children/young people can call to report or get help – Like a Kids Helpline but for Family Law
- More general realistic knowledge on Family Law, timeframes and costs and possible outcomes

Question 47

- A new independent oversight body to look at complaints, supervising the administration of the system and to make further recommendation to Government about how to improve the system.
- More judges
- Education and training on the complexities and subtleties of domestic violence for judges and judicial officers.
- Introduction of a death review process similar to the Ombudsman's child protection systems review in NSW.
- Greater access for families to Legal Aid – more available funds
- Support private solicitors to take on more family law work at legal aid rates
- Reform Child Support Agency and how maintenance is calculated and collected – further involvement from ATO and employer direct wage garnish, assets be checked.

Other comments?