



The Executive Director
Australian Law Reform Commission
GPO Box 3708
Sydney NSW 2001

Review of the Family Law System-Issues Paper 48 March 2018

Thank you for the opportunity to make a short submission to the Review of the Family Law System Issues Paper 48 March 2018.

National Council of Women of Australia (NCWA) is a national non-government voluntary organisation with a large membership of Affiliated and Associate members in all states and the ACT. NCWA has been in operation for over 120 years and is a member of International Council of Women. At the NCWA mid-term conference held in Canberra in June 2017 which examined root causes of a number of matters including violence against women, concerning issues about experiences in the family court were raised and discussed.

The comments below relate to discussions from the Conference and also issues from two NCWA members who have recently experienced the family law system. Both women do not want to make a personal submission for a variety of reasons including reliving the painful experience.

At the NCWA Mid-Term conference issues raised included the need for a domestic violence court. The court could include special judiciary working in the area and have all cases held on specific days. While this action may be more difficult to introduce in rural areas (a travelling circuit judge) it could be encouraged in courts which have larger numbers of cases.

NCWA also strongly believes that all family law professionals including judicial officers and court officials should receive training to strengthen knowledge in matters concerning family violence. Unfortunately, in 2018 at least 50 per cent of matters that go before the family court involve domestic violence.

Both women expressed their concern that not always is the best interest of the child applied and this should be a mandated priority in all family court matters. Children should have a right to access information about decisions affecting their lives. Safeguards must be in place that require children to be informed about changes to family violence orders made for their protection.

While family court judges have the power to undertake interviews with children and young people this is rarely done in practice. Legal proceedings should be accessible and more attention needs to be given to the provision of child-friendly information.

There is also a need to reduce court delay and multiple adjournments so that victims do not have to attend court multiple times. There is a need to strengthen cross-application and re-hearing processes where there is a history of the perpetrator applying for re-hearings, cross applications and appeals.

The announcement by the Federal Government that it will be introducing legislation to amend the Family Law Act 1975 to prohibit the direct cross-examination of victims of violence in family law proceedings by an ex-partner is a very welcome one. Such a process very often affects the victim's ability (very often a woman) to give evidence which may mean important information not being made available to the court to protect children from violence in family law proceedings. It can also be extremely traumatising and severely upsetting for the victim.

The family Law system needs reform and the reforms must put the safety of women and children at the forefront. In many cases there needs to be a way of ensuring that the victim does not come face to face with the perpetrator in the court process.

In conclusion, only a small number of issues and concerns have been raised in this submission however it is essential that women and children's voices are heard in any review of the Family Law System.

