



4 May 2018

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

Dear Colleagues,

RE: Review of the Family Law System

TASC National welcomes the opportunity to provide a submission to the Australian Law Reform Commission in relation to the Issues Paper for its Review of the Family Law System.

TASC National is the largest regional Community Legal Centre in Queensland. We have been providing legal and social services to vulnerable and marginalised people for over 35 years.

We are based in Toowoomba and have offices in Ipswich, Warwick and Roma. We also provide outreach services to women in remote, regional and rural areas of South East Queensland including Miles, Tara, Chinchilla, Stanthorpe, Goondiwindi, St George and Cunnamulla.

We assist people in our community:

- who are vulnerable and marginalised;
- who have financial disadvantage;
- who live with a mental illness;
- who have a disability or cognitive impairment;
- who suffer elder abuse;
- women in need; and
- people seeking access to justice and the like services.

In relation to Family Law services we provide free legal information, Community Legal Education, advice, case work and limited representation.

Toowoomba
LEGAL | ADVOCACY | SOCIAL SERVICES

Address: 223 Hume Street
PO Box 594
Toowoomba QLD 4350

Email: reception@tascnational.org.au
Ph: 07 4616 9700
Fax: 07 4616 9777

Web: www.tascnational.org.au
ABN: 14 611 777 087

We propose to provide a focused response addressing issues around accessibility and engagement with the Family Law System given the pertinence of these issues for our clients, the experience of our lawyers in assisting vulnerable and marginalised members of our community and our limited capacity at this time.

We are supportive of reform to improve access to information and the Family Law System generally and specifically for our clients who face particular barriers.

Information about Family Law and family violence services

Access to information about Family Law and family violence services ensures that clients, particularly self-represented clients, are better informed and supported when facing a Family Law issue. Access to information can be improved as follows:

- The development of clear and concise information resources such as smart phone Applications, flow charts, step-by-step guides, fact sheets, videos, or podcasts without legal jargon.
- The development of information resources in a range of languages and details on how clients can seek the assistance of interpreting services.
- Increased capacity of the National Enquiry Centre to answer queries from clients via the telephone.
- The development and presentation of Community Legal Education presentations with a focus on Family Law and family violence.
- The collaboration of community groups in the presentation of Community Legal Education presentations to targeted audiences.
- Links to Family Law service providers, domestic violence support services, mediators and counsellors by geographical location.
- The development of a user-friendly Court website.
- Increase in the capacity of Legal Aid and other Community Legal Centres to develop and present Community Legal Education and to provide information, advice and appropriate referrals.

Accessibility of the Family Law System

There are particular barriers for our clients, those who are vulnerable and marginalised, in accessing the Family Law System. Accessibility to the system can be improved by the following:

- The implementation of culturally safe services and training for service providers.
- Increased capacity of Legal Aid and Community Legal Centres including increased provision of face to face free legal and support services in regional, remote and rural areas.
- Use of appropriately trained interpreters and support workers.
- The option of filing material in hard copy given many of clients lack access to a computer.
- The provision of Duty Lawyer Services and other support services in regional Courts.
- Continued use of telephone appearances.
- The ability for Community Lawyers assisting self-represented clients to access information and documents from the Court.

- An increase in the number of free or low cost legally assisted family dispute resolution conferences to resolve dispute in a timely and cost effective manner without the need for ongoing litigation.

Recognition of non- combative dispute resolution

While the current system is generated in a dialectically oppositional paradigm, it is worth recognising that some clients separate gradually and gently and are able to maintain mutual respect for each other and each parent's place in the children's lives. Parents who wish to work collaboratively to discuss and manage post separation parenting matters are usually obliged to work in an adversarial system. For a significant number of separated parents, entrenched opposition is unnecessary and undesirable. Suggestions for a less adversarial system of dispute resolution might include:

- Specialist Family Law Community Legal Centres: A "one-stop shop" where low conflict parents can get information about what to consider in post separation parenting arrangements and how to record any agreements reached. Consideration could even be given to amending the solicitor conduct rules preventing assistance being given to both parents in the same matter. Access to a mutually available "one stop shop" would prevent the adversarial attitudes that are sometimes born of and encouraged by communication with lawyers. Clearly such a centre would need vigilance in ensuring relationships involving domestic violence coercion and control are excluded.
- Legal information services where separating people can consider post separation property settlement and get clear information about the processes and considerations involved (without the expense of litigation or consulting lawyers).

Computer generated parenting plans and minutes of Orders for non-combative parents to consider after input of relevant details to an Application at an early stage – in regional and rural areas, this is currently impossible due to connectivity difficulties and would need to be supported with a telephone support service.

Difficulty in enforcing Orders

Clients often report non-compliance with Orders by the other party and being unable to undertake the expense and stress of commencing Contravention litigation. Clients sometimes seek assistance from Police to enforce their Orders and it is recognised that currently this is not manageable or resourced. Consideration may be given to including clauses in Orders addressing non-compliance and punitive consequences for the breaching parent in some circumstances, or criminalising non-compliance with parenting Orders. Clearly such a measure would require additional police and criminal Court resourcing but would provide a clear and quick path for the "innocent" parent to seek redress from the "breaching" parent, without the trauma and delay of Family Court litigation. Our clients often report the "breaching" parent is aware of the difficulty and expense for the other party to enforce the Order and rely upon those difficulties to continue breaching the Orders and alienating the children.

Consideration might also be given to a self-reporting system for parents of breaches and non-compliance with the Family Court.

We appreciate the opportunity to provide our observations of the Family Law System and hope they are of some value in your consideration of reform.

Kind Regards,



Katrina Potter
Legal Services Coordinator
TASC National