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Submitted on Monday, May 7, 2018 - 17:03

Submitted by user: interact

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Question 1

The role and objectives of the modern family law system should be to provide support for families who are not capable of reaching agreement about parenting and property settlement issues themselves. It should be focused on self-empowerment of the parties to cases because it is not a criminal law jurisdiction. The parties to a family law mater are mothers and fathers, husbands and wives and the review of the system should be working to demystify and simplify the process of separation and divorce. The role of the non-court services should continue to be enhanced and the current bias towards government-funded services should be stopped. There is nothing wrong with user pays services where people are in a financial position to pay fees to private providers such as independent Family Dispute Resolution practitioners and yet they are excluded from Family Law Pathways Networks and ignored in the information provided about the family law system. The objective of all professionals working in the system should be to support and empower the users of the system to avoid perpetuating victim mentalities and to intervene only to the extent necessary and avoid becoming a tool for ongoing family violence and abuse. Greater awareness and focus on the consequences of non-physical abuse on children and their parents is required as well as a focus on helping victims of abuse become empowered and recover as part of the family law processes rather than the re-victimisation that often occurs currently when those in the system react to the behaviour of traumatised people without understanding or comprehension. Family Dispute Resolution should be a service that is available for families throughout the life of their children where separated parents are unable to reach agreement about their children and be seen as a supportive service where specially trained professionals can provide support and education for them about their specific situation (in context of the family law legislation) and help them to reach decisions in the best interest of their children.

Question 2

Yes - there is a need for a review of principles. E.g - Empowerment of those using the system. The family law system should be focused on empowering those using it. In many cases all people need is education (about the needs of children and also their legal rights) and support (FDR) to separate and co-parent. Others need a higher level of intervention due to the level of conflict and/or violence or the complexity of their issues and need to access the court. They could also be provided with greater support to understand how to reduce their conflict, overcome the causes of family violence etc so that they can during the process of attending court become more informed and empowered rather than less. - Respect for people using the system (they are not criminals) - Modernisation of processes (making use of technology to respect people's time and stop wasting their money) - Clarity in information, intentions, and processes in order to demystify and reduce unnecessary complexity Education and support for people using the system to comply with orders and deal with issues with compliance in a more timely manner With regards to the principals in section 43. Restructure to de-emphasise the Christian meaning of marriage and be more inclusive. To also increase the focus on what is being supported not just what is being prevented. Emphasise the important of family as a) the need to nurture children and protect their rights and welfare b) the need to protect people from all forms of family violence and support respectful relationships c) to provide assistance to families to resolve disputes and improve relationships between parents and between parents and their children d) to provide support for extended families in order to provide children with a greater sense of identity and connection e) to preserve and protect the institution of marriage respecting the cultural and religious definitions of the institution. As Australia has become more multicultural the previous definition " the need to preserve and protect the institution of marriage as the union of 2 people to the exclusion of all others voluntarily entered into for life" means that in Australia we do not respect the union of more than 2 people that can be legally entered into in other countries. This should change.

Question 3

Access to information could be improved by educating other people who clients come in contact with such as doctors, priests, teachers, psychologists and others about family law and family law related services. Often those that people turn to have little or no knowledge of issues such as family violence and do not support people who are trying to escape from violence by referring them on to appropriate services. People who are vulnerable often need human intervention and support rather than just a brochure or advertising campaign so educating service providers who are not part of the family law system about the family law system and how they can identify potential issues and refer people appropriately would help. The court websites have information that is set at too high an educational level. Our education system fails many people and so does the information provided by the courts. A thorough review with a panel of people who are typical for the users could help. Perhaps do it as a "work for the dole" scheme to provide more rewarding and empowering work for marginalized people who represent a section of users who are marginalized. There needs to be more educational resources available to people including their children. We attempted to get funding to bring a Britsh Columbian program to Australia to help with the problem of lack of understanding about the family law system but were unsuccessful. It is in the format of a game and designed for children and for parents to understand the various people and services involved in the family law system. Written text is no longer the best way to communicate with people. The court system needs to modernise. Help to create videos and games that help people to navigate the system would be brilliant.

Question 4

People need tailored information to help them to navigate the family law system. This is not the same as legal advice as there are many ways to achieve an outcome in the family law system. Understanding their legal rights and obligations and likely outcomes if they go to court is just part of the information they need in order to make informed decisions. Interact Support provides an Interact Consultation which is a tailored information session for people who are confused about the family law system. We provide the consultation session in three parts - the past (understanding what has occurred in their family including family violence), the present (identifying current priorities, issues and vulnerabilities) and the future (identifying their short and longer-term goals for their families) and helping them to put together a goal and goal plan to achieve it. People who use this service are confused about their options so we provide them with a hierarchy of the services available in the system to deal with relationship conflict, separation and divorce. Help them to choose the lowest cost / conflict pathway that seems possible for their specific situation and provide referrals to appropriate services. This service is provided by Family Dispute Resolution Practitioners (FDRPs) being trained by Mediation Institute and is within the capabilities of FDRPs as they understand the entire system, do not have a vested interest in increasing conflict and are used to working with men and women, victims and perpetrators. Don't throw more money at Relationships Australia for a case manager role. Improve the training for FDRP's and provide for a more viable role. The "Patient Navigator" role discussed may exist but it isn't generally available. Don't make the same mistake. Strengthen an existing role.

Question 5

We would like to see more training in the family law system for Aboriginal and Torres Strait Islander people who are working in their communities. Training more indigenous people to become family law mediators would be a good start. There are special challenges for people working in this role due to conflict of interest issues so more work needs to be done with communities to develop protocols that protect all parties. As mentioned above more education about the family law system and family violence is needed for non-family law workers to help them to understand the issues, recognise the need and refer to appropriate family law specialists. When opportunities such as scholarships to train indigenous mediators have come up in the past the structure of the scholarship offer was such that it was not possible to locate suitable trainees and put in place something in the time frame available. An open scholarship or more comprehensive program is required to make the goal of access to community family dispute resolution professionals in all major population areas a possibility. There is now a pathway to the Graduate Diploma of Family Dispute Resolution via national accreditation as a mediator so it would be possible for people who have not had the educational opportunities to learn this profession with an appropriately structured and tailored course. Another way to approach this would be assistance to run a "dispute resolution circuit" or "virtual dispute resolution circuit" in regional areas where indigenous people could provide local support and preparation to help their community to access the support services that visit or provide services via video technology into the community hub. Video mediation is now readily available through a standard computer, tablet or smartphone so no specific technology costs are involved and with sufficient cultural training existing FDR Practitioners who have video mediation skills could provide support for communities without a high overhead cost.

Question 6

We see the role of the FDR Practitioner as underutilised and are working to increase their relevance and role (Interact Consultations) as well as other inititives that make use of their knowledge of the family law system, very strong interpersonal skills and the informality of their processes which empower clients to make informed decisions about their families future. As with our comments regarding indigenous communities more trained FDR Practitioners from culturally and linguistically diverse backgrounds will help to increase the use of the family law system appropriately. There is a need for more education for community leaders such as religious leaders, education providers and other leaders about Australian Family Law and the family law services available to their people. Our laws are very different to those in many countries and often people do not understand that what may seem culturally appropriate is not acceptable behaviour in Australia or not acceptable if one partner does not accept it. The key to accessibilty is education for non-family law service providers who support people in these communities so that the information and advice they provide is accurate and approrpiate (not always the case currently)

Question 7

People with disabilities are especially vulnerable to family violence, neglect and abuse so greater education about family violence and the family law system for doctors and other health professionals is a good place to start. The modernisation of the family law system especially a greater use of video technology to avoid forcing vulnerable people to travel to courts or family dispute resolution would help improve accessiblity. An eCourt for mentions and other procedural hearings would be a huge advance in overcoming some of the inefficient family court procedures. That would help not only vulnerable disabled people but all users of the court who are forced to pay high fees to barristers and lawyers to wait around in the court all day for a very short amount of time in front of a judge.

Question 8

The main requirement is education for service providers in the system to increase their understanding and respect for people who are not heterosexual in orientation. The family law act caters for their needs but individuals may still discriminate. Better information on how to make a complaint about unfair or biased treatment would be beneficial for these groups as accessibility issues are more related to individuals within the system rather than a systemic bias.

Question 9

Much greater use of video technology to provide family dispute resoulution services. The challenges of the digital divide are still present in rural and regional Australia so a partnership with community hubs would help to provide local support for people who are not computer literate. The technology required for video mediation is low cost and easy to use but if using a computer at all is intimidating for someone having a support person locally would be a great assistance to accessibility. Training in mediation and ensuring that confidentiality provisions are understood would help ensure that local support was respectful of people's privacy as embarrassment and fear of being the subject of gossip in areas where everyone knows everyone can be a barrier to accessing services. This training of a local support person could be part of an internship program to lead them towards becoming qualified FDR Practitioners able to provide services to clients face to face in the regional areas that they live. Video mentions etc for those forced to use the family court could help to reduce the cost and problems associated with traveling to the town where courts are located. The problems of interpersonal and family connections and barriers, especially within indigenous communities, needs to be overcome by consulting with the local people, providing training and support for suitable people in communities. Greater education about family law, family violence and how to help families to resolve conflict and live together or apart respectfully needs to be provided to ALL service providers in regional areas so that they are able to detect, support and provide assistance to those experiencing family violence and conflict. In other words break down the barriers between the various support systems as the family conflict is a major source of health issues either related to stress or actual physical or psychological injury. Legal advice can be provided remotely where there is a conflict of interest.

Question 10

The high costs of family law are in part related to inefficiency in the family court system. Improvements there would reduce the cost e.g. forcing people to pay for barristers for a day for a few minutes in front of a judge. Too many people are still bypassing family dispute resolution services (family law mediation) and going directly to court because it is to the benefit of their lawyers for them to do so. This is particularily so for high net worth individuals as there is plenty of money to pay for lawyers. They are not being informed about the alternatives to going to court. Making it compulsory to attempt FDR for property matters would help. Getting the judges to actually look at the s60i Certificates and ask the parties about their inability to reach agreement would help as well. People are still being informed that FDRP is a formality to allow them to go to court rathert than being prepared by their lawyers to resolve their disputes One of the initiatives that Interact Support has is a 90 minute Legal Advice and Strategy Service which is a tailored legal advice session for people who have a family law issue to help them to actually get good quality legal advice. Many people are going to community legal services and getting advice from non-family law specialists (who don't have the knowledge and experience to provide them with a realistic understanding of the likely outcomes from the court) or a free 30 minute legal advice session which does not provide tailored legal advice at all. They enter FDR with unrealistic expectations about their legal rights and obligations. FDRP's can't provide legal advice and so FDR fails resulting in the clients ending up in court (if they can afford it) or ongoing family conflict and violence if they can't. A requirement of a statement of independent legal advice (perhaps requiring lawyers to provide a document indicating the WATNA (worst alternative to a negotiated agreement) BATNA (best alternative to a negotiated agreement) MLATNA (most likely alternative to a negotiated agreement) and likely time and money cost of going to court would be helpful. If the lawyer drastically under quotes, over promises or otherwise tricks a client into initiating family law action there could be penalties. The problem with the cost of the family law system isn't just for the parents. Elder abuse where grandparents are having their savings and resources drained in an effort to support their children's fight for their children is not identified in the issues paper. This is something that is occuring regularily causing further damage to society. "Unbundling" or fixed fee legal services and education of consumers of legal services about their rights to better information about fees will also help. Most consumers of legal services are not getting accurate information about the true cost of the court processes they are entering into and with that information they would be make better decisions such as private legally assisted or child inclusive Family Dispute Resolution where they could spend $5,000 - $10,000 to resolve a complex matter rather than $100,000

Question 11

Our experience is that most self-represented litigants are not represented because they have already spent the money they have and are now self-represented or they are respondents fighting for their children and never had the money to afford legal representation which is often several thousand dollars a day. The court provides extensive information but it is not easily understood by the ley person. Interact Support provides services to those falling through the gaps in the family law system and being able to understand the systems and processes that the court requires is one of them. A refusal to accept service by email for divorce documentation even though there is an acknowledgement is one of the issues we have right now. Some of the processes have not kept pace with technology and need to be modernised. As mentioned above video mentions rather than forcing everyone to turn up at the court house could help to move things through more quickly. Greater access to good quality legal advice (that helps self-represented litigants to have a realistic understanding of their position) would be a cost saving investment. The use of Makenzie Friend assistance for self-represented litigants could help but also assistance to help them to get back out of court and make their own decisions such as education programs.

Question 12

As mentioned above many people who are in Family Court do not need to be there and services such as the New Ways for Families course and coaching can help them to realise that and reach a resolution. Simplification of procedures and better information about what to do would help with those who don't have a choice other than to be in the court. Access to good quality legal advice (something like the 90 minute sessions we send people to) that will give people understanding of their legal position. Para-legal support from legal interns perhaps. There are many later years law students and junior lawyers who would volunteer their services. Review of the Community Legal Services appraoch. There is a bias against user pays approaches. If a social enterprise model was adopted where those who can afford to pay (means testing) for legal advice through community legal services did then government funds would stretch a lot further. This principal should apply right across the system with good quality services which are reasonably priced be more readily available and supported by the system rather than just the government funded services. Interact Support is a not-for-profit providing services to non-legally represented people with family law problems but because we don't have government funding we are excluded from directories and family law pathways. Interact Support has just licensed the New Ways for Families program from the US where it is ordered in all states of the country. The program provides help for people to reduce conflict by learning the 4 big skills (Managed Emotions, Moderate Behavour, Flexible Thinking and Checking themselves) as well as high quality informtion about the effect of conflict on children and the family law system. Many self-represented litigants are high conflict people who have spent all available money on lawyers already (or their partner is and they are caught up in the system because of them) Helping them to be lower conflict would lead to a resolution of their case as it is their conflict behaviour that is resulting in the case usually rather than the complexity of the issues to be resolved. We would like to see our program or other similar programs ordered for people who are accessing the court. Self-represented litigants clinics is a good idea as long as it is coupled with good quality legal advice and also education about the alternatives to court for BOTH parties. The court should require the person with the economic power where they are using the court system against a self-represented litigant to particiapte in education about the consequence of exposure to conflict and violence on children. Improving language and search functions on the court websites would help. Improving the feedback to self-represented litigants who's drafting is inadequate including diversion to support services would help. Feedback provided by the court for rejected applications is abismal.

Question 13

Rather than use of safe rooms don't force people who are fearful for their personal safety to attend the same place as someone who is assessed as a risk to them. Use video technology for them to participate so that they can be part of the process from a location where they are safe and supported. Building this capability into the system through community hubs and support services would make this possible. A quick study of Hierachy of Controls for risk management will show that personal protective approaches are the lowest form of risk management where the review should be looking at ways to elimiate the risk. Interact Support offers video mediation FDR services if there is an identified risk of violence. This means that there is the opportunity to move the case forward without putting anyone at risk or dumping them out of the family dispute resolution system with a section 60i certificate (parenting) or nothing (property) and no means to resolve their issues other than court. Why do you need child friendly spaces in court. Children shouldn't be attending family court and it would be better if family reports were done in a less intimidating environment rather than putting a few toys around.

Question 14

Section 60B - rearrange the order of a and b so that the first thing that people read is the obligation to protect children from harm, then the provision for meaningful relationships and adequate parenting. Section 60CB - improve the requirement for training for ICLs. Many are very poor representatives of the child's best interest and appear to have a limited understanding of psychological or emotional abuse or adequate parenting. 60CC - as per 60B rearrange the order of 2 a and b. 60CD - 2 b - ensure that ICL's are qualified to meet with children and actually ensure that they understand the views of the child rather than simply rely on their own views in representing the child. It should be clear to the court whether the ICL has indeed met with the child and the extent that they have through a report or other concise document. 60I - update to remove legacy dates and information. Update the wording on the certificates to make them more comprehensible (8a) e.g Name of party refused or failed to attend FDR while Name of party was willing to participate. (b) (iii and IV) tighten up these provisions as it is being used by lawyers to bypass FDR for their own benefits rather than for safety reasons. Video FDR and Shuttle are available as alternatives that can ensure safety and provide the possibility that people can reach an agreement out of court. (e) exclude remoteness from FDR service as there are plenty of options for video or even phone FDR which could be attempted as an alternative to a direct pathway into court. 60J - enforce this section 61DA - improve the clarity of this provision. Does a family violence order against a parent remove the presumption of shared parental responsibility? 62G - provisions to make complaints against family consultants (do they exist?) Some consultants are providing cookie-cutter reports (to the extent of getting the gender wrong and putting forward the reasons the boy needs contact with his father when the child was a girl) there appears to be no complaint mechanism where a family consultant does not take their responsibility seriously. 63DB and 63H- greater clarity about whether this process is still in place and if so how to register a parenting plan. 65DAE - clarification about the need to consult about medical issues or day to day requirements prescribed by a specialist in child development or health. 65L - consider looking at broadening the service providers who can supervise or assist with compliance with parenting orders. FDRP's would be qualified as would child inclusive practitioners both of whom at a lower cost could help families to adjust to orders and/or modify them with a parenting plan if the orders prove to be unworkable (as orders by consent thrashed out in the court process prove to be) 65LB - this condition is not related to the quality of programs, is restrictive and limits the provision of services. The section should be repealed in favor of opening up services to suitable programs. What possible intent or purpose does this provision have other than protected government-funded services from the competition of non-funded services? Why not have people who can afford to pay for post-separation services able to access better quality services if they want to in order to comply with 65L? 67ZA - extend the provisions to Lawyers other than ICL's. Lawyer / client confidentiality should not be something that prevents reports of suspected child abuse. 68LA - consider qualifications of an ICL to ensure that they have the skills to comply with the role requirements. Our experience is that this is not always the case. 69ZV - evidence of children needs further review to ensure that there is pathway for children's wishes and evidence to be put before the court other than via an ICL. Consideration for the use of video or other methods.

Question 15

The definition of family violence is adequate but could improve with greater clarity around the prohibition of behaviour that causes psychological injury. Abuse of process is clearly used as financial and psychological abuse with impunity in the current system and could be included however ensuring that the inclusion does not prevent access to courts where there is a failure to comply with orders. Get COAG involved to stop talking and finally have a unified definition for family violence in federal and state law. The order of the "best interests of the child" definition should be re-arranged to ensure that safety is the first provision. Examples of child abuse and/or acceptable behaviour could be included in other areas to help clarify the non-physical abuse and neglect which is less easily identified. Greater clarity on what is acceptable parenting would improve understanding about the distinction between acceptable and unacceptable behaviour. Removal of the presumption of shared parental responsibility would be a regressive step and further undermine the status of fathers in their children's lives. The distinction between shared care and shared parental responsibility can be highlighted without throwing the baby out with the bathwater. Ensure that risk assessment for family violence (if provisional idea is implemented) are undertaken by suitably qualified people to avoid assumptions of guilt or minimisation (both issues with the current system) and provide education and support services to educate parents about managed behaviour and the effects of violence and conflict on their children as well as services to assist with drug or mental health issues that may be contributing factors to the use of violence.

Question 16

There could be some changes to the assumption of a nuclear family and provision for families current arrangements for care of children to be taken into account. Kinship care, the role of grandparents and other family members is given lip service in the definition of "best interest of the child" but largely ignored in practice. This is probably in part because most judges and legal practitioners come from nuclear family backgrounds and have little comprehension of more collective child-raising practices. Greater education for those working in the legal system would help to increase their understanding. A requirement to consider prior family structure in drafting orders may assist.

Question 17

The considerations have no guidance regarding weighting of the considerations. Perhaps some hierarchy or formula could be developed to assist in identifying. I understand that this would be very difficult and complex and have no easy solution but at the moment there are a list of criterion with no guidance as to how they should be considered. Adoption of a community property regime would further disadvantage women who have spent the majority of the relationship having children and as the main child care provider. By protecting property brought into the relationship from the consideration for the settlement they are likely to be even worse off. Family Violence isn't a one size fit's all and codifying the treatment of family violence is likely to lead to more false accusations for financial benefit. Amendments to allow for the transfer of unsecured debt obligations would improve outcomes where one party to a relationship is the victim of financial abuse or a gambling addiction. The impact of the financial decision on the care and wellbeing of any children should be a factor for consideration. Simplification of super splitting would help especially self-represented litigants and Consent Orders. Standard Clauses for each of the variations could be provided to assist self-represented litigants using a form to direct them through a series of questions to the correct clauses. Merging of married and defacto rules be done to simplify and prevent inconsistencies. Greater use of Family Dispute Resolution to negotiate Binding Financial Agreement arrangements at the start of relationships could further simply matters allowing people to determine their own intentions if their relationship does not last. Guidelines for this in alignment with any changes to the section could be provided.

Question 18

Interim maintenance orders are often needed for low-income families where there are young children that prevent a parent from working but they are excluded from these provisions because they can't get into the court system. Any bias in the use of this part of the act is based on capacity of parents to access the courts rather than need. The section needs to be simplified and a streamlined approach applied for interim orders perhaps in conjunction with the child support agency expanding their services to child and spouse support agency. The support should be short-term and intended to prevent a decline into poverty, loss of secure housing during the delay in finalising property settlements where there is sufficient family income to allow spousal support. The decision shouldn't be seen as punitive (punishment for family violence) but rather as a response to economic abuse and isolation factors which prevent a spouse from supporting herself or himself if their dependency isn't related to the needs of young children. This is likely to be particularily relevant where there is a disability or psychological injury related to ongoing abuse or a lack of access to funds due to economic abuse. This is not currently an area that the family law act covers well possibly due to a lack of understanding of the issues by law makers. The statement that there is not good data indicates this is the case.

Question 19

Many lawyers appear reluctant to sign off on or encourage BFA's due to the uncertainty about the courts ability to overturn them at a later date and consequently they generally cost each party many thousands of dollars to enact. I have seen several very disadvantageous BFA's due to abuse of power by a more financially savy partner. The use of FDR to negotiate the BFA clauses for couples entering into a relationship after they each have assets or to clarify their intentions with regards to assets could be encouraged to help reduce the issues and provide accurate information about the start of relationship assets each party has. These agreements could be less legalistic (while still requiring legal advice as to their compliance with the FLA) and more useful for couples to establish their intentions should their relationship end. Further reducing the need for expensive litigation through the courts at that future date (statistically more likely than not with second and subsequent relationships)

Question 20

Improvements to systems, using ticketing or other methods to streamline processes and avoid the amount of waiting time that is so terribly expensive for clients. The use of video and other technology to reduce the need for multiple parties to travel to court houses for mentions and other procedural hearings. A case management approach using a single, neutral support person (such as a FDR trained practitioner but not in the FDR role) could help to improve the process especially where there are complex issues. The "Divorce Coach" for want of a better descriptor by being able to speak with both parties can help to identify needs and refer them to specialise Drug, Alcohol and other services and identify issues with the progress of their case and hopefully help them to get to a point where they can divert from court entirely and work out an appropriate resolution for their families conflict. Likewise the role of child contact services should be improved with better education for the contact services so that they can provide support and education to parents to improve their parenting, deal with their issues and be capable of providing supportive environments for their children to develop to their full potential safely and without exposure to violence.

Question 21

Yes. But open up the market by not only referring to government funded non-court services to support the strengthening of the independent family dispute resolution and post separation parenting support services industry. Waiting lists for government funded services can be a number of weeks and there are as well trained and available independent services. Each court should have a listing of ALL services that are available to people in their catchment not just government funded services and by services this means post-separation parenting, psychologists with family law training, FDR services, child contact services etc. Provide referrals to programs to help people to negotiate interim agreements rather than just rely on court imposing interim orders. Ordering people to pre-mediation education and then FDR would help as would opening up the market to post-separation parenting education, divorce coaching etc to help parents to be less high conflict or develop the skills to deal with former partners with personality disorders. The attrition rate of matters in the family court hides the story of people agreeing to orders by consent in the court that they should not have accepted as they are not in the best interest of the child. Greater support for child contact services where there are issues of family violence identified, a requirement for specialised training for child contact service workers (not just some sort of social services degree) to make them capable of providing clear, concise and informative reports for the court would also help. Triage by a suitably trained court worker to help identify the level of conflict and divert those where there is the possibility of resolution without a judgement through a education and FDR process without "losing their place in the queue" which is often the motivator for getting into court quickly. Ensuring that people have a more accurate understanding of the likely cost and duration and also the worst and best likely outcomes of a court judgement would improve the likelyhood that those other than people with serious mental health or other issues related to wanting to use the court to punish their spouse would be able to reach agreement in FDR rather than believe that court is the answer.

Question 22

Provide for mandatory FDR for property matters with excemptions for issues with non-disclosure, complex financial instruments, high levels of family violence / coercive control etc. Introducation of a voucher system for FDR subsidies so that people can access independent services for parenting and property rather than have to face the bottleneck of the government funded services. Independents would still charge their going rates for those who can afford them but would be able to offer services to those who have limited money in a professional and timely manner. This would also help to ensure that services of FDRP's are more readily availble in regional and remote areas and lower the cost of providing these services as expensive infrastructure is not required especially where video mediation is used. FDR Practitioners should all be appropriately trained in facilitating property FDR (not all are) and an additional unit on property FDR be added to the CHC81115 - Graduate Diploma of Family Dispute Resolution. Some providers such as Mediation Institute are training property mediation but it is implied rather than explicit in the qualification and that could be improved. The state family violence courts would need to significantly increase their evidenciary responsibilities to deal appropriately with property matters as the juridiction and processes are very different however matters such as household contents, vehicles and other similar items for people who do not have any major assets could be dealt with. The issue of superannuation would have to be flagged to ensure that women particularily do not miss out on entitilements due to thinking that everything is resolved in the family violence court.

Question 23

Take a more realistic approach to family violence and assess the risk and capabilities of the parties rather than treating it as a one size fits all problem. Not all family violence fits in the power and control model that is assumed to be the case by most family violence work. While power and control and gendered issues are a major issue with regards to family violence they are not the full story. Some family violence results from trauma experienced by the perpetrator such as returned service people who are suffering PTSD. The victim / perpetrator mindset that is prevalent in the industry is not helpful in resolving the problems for these families. Better training for all people working with families on indentifing the causes of family violence and providing support or referral to support for victims and perpretrators of family violence will help. The legal decisions are one part of the problem but helping people to resolve their issues and be safer to be around is even more critical. There is significant evidence that it is in children's best interest to have a relationship with all members of their families so the focus must be on helping those who use violence to learn better methods of interacting with their children and partners as that relationship will be ongoing in some form. The fact that there has been family violence does not preclude the possiblity that with suitable support parents and/or former partners can reach equitable decisions without the need of the Family Court. There is a requirement for support, separation untill the victim has sufficiently recovered and a more empowering process of building resilience rather than victimhood will help those who have experienced family violence. Strategies such as restorative justice and post-separation parenting training such as New Ways for Families can help parents to begin to rebuild trust and interpersonal skills to move forward and reach agreement on caring for children. (where there is not an ongoing threat to children) Use of video technology so victims of violence who are fearful do not have to go to court is better than forcing them through the trauma of going to court and hiding in safe rooms. Use of written statements, a proxy to do cross examination where there is not legal representation in cases where there are accusations of family violence and similar strategies to reduce the trauma would all assisst.

Question 24

It can have a role however there are a number of other strategies that can also be used. The legally assisted FDR often doesn't give people the opportunity to communicate adequately or begin to re-assess their risk and fear levels which in cases where there is not a long history or pattern of abuse may be counter productive. Child inclusive FDR, Restorative Justice, Video FDR, Mediator Facilitated Negotiation and other strategies should also be included in the mix of alternatives to going to court where there has been family violence. Lawyers are useful in terms of providing good quality legal advice prior to FDR however their presence is less important during the process. The support of a pre-mediation coach and family violence support workers may be lower cost and more effective than requiring lawyers to be in attendance during the negotiation.

Question 25

The system should be more alert to malicious and vexatious litigants. There is a significant misuse of the courts time on multiple fronts by high conflict people using the system to drain their former partner financially in revenge or as a form of power over them. That means that each court (not just the family court) should have to review what other court cases are running concurrently in order to identify the use of multiple courts to abuse a party e.g. criminal claims of "theft" of assests of the relationship etc. The court has powers to order people to other programs to help them to deal with their emotional disturbances and high conflict behaviour and also to provide greater guidance about what the court can and can not enforce. Some of these people don't understand that they are being abusive due to personality disorders or mental health challenges so a more wholistic approach is required. Greater powers to "punish" non-compliance with orders by awarding costs or shutting down an action to prevent "burning off" behaviour. Provide training for lawyers to provide legal advice by video meeting to ensure that legal advise is available to anyone regardless of their location and training for community hubs to facilitate these meetings. Ensure that any cross-applications for personal protective orders are heard on the same day. Prevent Legal Aid Lawyers in courts from bullying respondents into accepting applications without admission. This has become a de facto admission of guilt and is very detremental to their family law cases. Establish a way for the state family violence and the family court to work more closely together. Ensure that a proxy is available to cross examine "victims" if the applicant is self-represented. This would have to be paid by legal aid but could be means tested and cost-recovery applied if the self-represented litigant is using the court process for abuse rather than because they can't afford representation. Prevent misuse of subpeonas to provide sensitive personal material to the other party. If the information is relevant it could be available to the judge and/or provided in summary report format to the other party rather than as clinical notes or photographs. Notifications to child protection agencies shouldn't be prevented as sometimes they require multiple notifications to take action where there are genuine issues of risk to a child but there could be greater involvement of education about what is and isn't appropriate in terms of care of a child and what one parent has the right to try and force the other parent to do. Often a parent may genuinely believe that behaviour that is different to theirs is determental rather than different. Greater guidance can be provided to FDRP's with regard to how long a party can delay engagement before a s60i is issued (especially if mandatory FDR is extended to include property)

Question 26

- Expand the requirement that FDR be attended for property matters prior to court unless there is an urgent application related to financial abuse, the need for an injunction or other action to prevent disposal of assets or an interim spousal maintenance order. - Stop discriminating against independent FDR services and support a user pays system. There is an active and growing group of independent accredited FDR Practitioners who seem to be invisible to the court and this is detrimental to the non-adversarial non-adjudicative resolution of disputes. - As mentioned elsewhere a voucher system to help low-income families to access FDR where there is an excessive waiting list in the government-funded services (or other approaches to support the use of independent FDRP's as part of a complete and functional system) - Prevent the Family Law Pathways Network providers (seconded government funded FDR services employees in the most part) from being able to ostracise independent FDRP's. - Provide more information to people approaching the court about FDR and Conciliation services and encourage them to divert to these serves for negotiation in between court hearings to encourage them to reach their own resolution where possible. - there is anecdotal evidence that the high settlement rate of lawyer assisted FDR is due to abuse of process to force settlement so if the use of this process is extended safeguards such as more client-centered measures such as workability of agreements over time, client satisfaction rates etc should be used.

Question 27

Arbitration may reduce costs and delays associated with settlements but it must also support fair and equitable outcomes. An agreement is guaranteed but it involves parties giving up their right to self-determination in a process that has less scrutiny than the court. There is a risk of further abuse of the process by using Arbitration as it is a "private court" without the level of scrutiny that the court has. There is a risk that if people are forced to arbitration where there is a big imbalance of power the party with the lawyers who are not on par with the arbitrator will be disadvantaged. Arbitration may speed up the process for property matters especially if greater clarity is provided for the considerations for property matters so that the guidelines for arbitrators are less arbitrary than currently available in the FLA.

Question 28

There is scope to use online systems (technology) to give couples customised information about their particular scenario and self-represented litigants information about relevant cases. Video mediation is a low cost method of providing the benefits of face to face mediation without the risks and costs associated with face to face. This process is used by Interact Support currently to fully provide the services or in conjunction with face to face depending on the client's needs and wishes. Online courses such as the New Ways for Families provide education on the Four Big Skills (Managed Emotions, Flexible thinking, Moderate Behaviour and Checking yourself) as well as up to date information on the family law process and child development needs. The program can be used by parents in a self-paced format or used as preparation for mediation, while they are in court or to support post-separation parenting with the support of a New Ways Coach. The course has been developed in the US by Bill Eddy from the High Conflict Institute and is court ordered in all US states as well as Canada. Interact Support has fully updated the course to Australian legal environment and it is available at $198 per parent with up to 100% subsidy for low-income earners. We are training coaches and would like the course court recognised as an alternative to forcing parents to attend group sessions which are government funded, inflexible and oversubscribed. Group sessions can reinforce beliefs and may not be as good a learning environment as customized, one-to-one online learning and video coaching. Another program we are working with is Our Family Wizard which is an online tool for managing co-parenting which we would like to see court ordered (family violence and family law courts) in cases where there has been emotional and psychological abuse. The program allows all communication through the app and the parties lawyers, mediators and counsellors can have access to review the conversation and coach them on appropriate communication. Evidence of abusive behaviour can be easily downloaded for evidence. The results from overseas is that the possibility of getting caught inhibits the abusive behaviour. Where it doesn't it makes it easier for people who are being abused to prove it. Once again this service is low cost $145 per year per parent with up to 100% subsidy if required. Combining these services (New Ways Coaching) and Our Family Wizard with Video Mediation to provide a quick intervention when issues are unable to be resolved between parents would help prevent conflict from escalating into violence or the requirement to go to court for a resolution.

Question 29

A way to introduce more problem solving into the process for families with complex issues would be a Family Conferencing approach. Family Conferencing using a problem-solving decision-making approach incorporating the families, experts who can provide input, child protection workers and using a root cause analysis approach to understand the contributing factors to the instability of the family (without taking a blaming victim/perpetrator perspective) would be extremely helpful. Additional training and a model that looks for ways to support the families ability to function in a healthy and appropriate way would be imperative to ensure that such a model was beneficial. Parents could be supported individually through whatever issues prevent them from being able to work together and regular reviews progress their parenting plan. Oversight by the court would keep the process moving but not drain resources excessively. The hybrid model raises the question of qualifications of the "supervisor" - the administrative model providing suitable people are on the panel could be more suitable especially if they had the capacity to "meet" via video as well as in person to avoid disadvantaging regional people. This approach should not be seen as a "single event" but rather a support for the family until they no longer need it. Families should be considered in their entirety rather than nuclear if that is not the specific family structure such as indigenous. Parties to the meetings would not have to all be present in person. Video meeting technology could be used effectively to keep costs and disruption down to a minimum. Lawyers, support people and others should be included to ensure that everyone is supported sufficiently to understand their legal obligations and right. Education in the needs of children should be provided to all stakeholders so that there is a common understanding of the framework of what kids need e.g the New Ways Course training for parents / family and also coach training for professionals to help them understand how to deal with high conflict people. These people behave badly if they feel disrespected so training service providers to treat all clients with Empathy, Attention and Respect (EAR) would help enormously.

Question 30

As above FGC and FLDM should be encouraged and not just for indigenous families. The assumption that families keep victims of violence safe is a dangerous one as sometimes they keep them at risk due to cultural values and community expectations. Clear guidelines about the boundaries of acceptable behaviour, definitions and examples of family violence and child developmental needs should be part of a preparation process for any consultative model adopted to avoid families conspiring against victims of abuse.

Question 31

Better education about Family Law and family violence for all sector of community services. Doctors, psychologists and psychiatrists and other health professionals are often woefully ignorant of the issues and do not look for family violence as a contributing factor to mental health issues or make enquiries about family violence perpetration by clients with mental health or other risk factors. Much more effort to provide holistic client care such as asking permission to share information. A uniform client file which collects basic information that can be shared between organisations (with client permission) to prevent forcing clients to constantly repeat their information etc could help. Mandatory inquiry by all courts to identify if there are other concurrent or recent case and review to identify if the court is being used for a second opinion or punitively. Focus on child development needs and what children need to grow strong, healthy and resilient rather than the minimum of avoiding physical injury. Emotional and psychological injury to children is still very poorly understood even by those who are meant to provide response to complaints about threats to children. Better quality, authoritive and accessible information for parents about these guidelines are needed. Then service providers could work from the same baseline. As above use a standard screening tool such as DOORS across providers. Case management for people with complex needs. More work and short cycle feedback about services that are available and can be provided. There is insufficient information available about waiting lists, eligibility requirements. If one central database was available that all users of the system could access for government-funded AND accredited individuals working in the area it would help. Currently, government-funded services are preventing fully qualified and accredited individuals and appropriate programs access to the directory. Likewise, stop using government funding as a criterion to determine the quality of services. Preventative and support services using a user pays model as still infinitely less expensive than going to court and paying for barristers and lawyers to perpetuate an adversarial fight. The basis of any collaborative model should be respect for and empowerment of the client. They need to be supported to determine their own outcomes INFORMED BY advice about the law and the framework of what is required for children to be healthy and resilient. The FSM used in RA Victoria is a good example of how this can be done and the role that FDR can play even if there has been family violence. The location outside courts is optimal. These integrated services do not just have to be government funded. They can be user paid or supported by a voucher system to ensure that higher income people are also supported with a more integrated approach. The skills to make the warm referrals should already be held by FDRP's and the inadmissibility provisions of the family law act support a problem solving rather than legalistic approach. Make information about services available easier to access and existing FDRP's can provide the linkages as they are in a position to speak with and understand the needs of both parents in any dispute. Greater use of Child Inclusive Mediation by training child counsellors in the process of working with Mediators would help the voice of the child to be included in mediations where there is a high level of difference between what each parent believes is best for the child or what the child wants. This is not for scenarios where there are credible allegations of abuse (237) but simply where parents can't agree. Sometimes this is because the child tries to please both parents by telling them what they want to hear. The provision is currently available but there are not enough people trained in the process.

Question 32

244 There are significant risks in terms of the low level of evidence required for family violence orders if the jurisdiction makes permanent orders regarding children's family law orders. While it may be appropriate to make interim orders it would be more appropriate to refer the family to a more integrated, problem-solving approach outside of the court and using qualified professionals to work with and education family members. This process would not need to re-traumatise victims and would be required to identify contributing causes to incidents of violence to refer parties to appropriate support services such as behaviour change programs, substance abuse programs, parenting programs and mental health treatment. Failure to engage could see them returned to court for more punitive approaches. Digital hearing processes are well overdue as is the antiquated "muster" and lack of coordination in the court process. The goal that families only need to engage with one court to address safety issues for children is not a well-considered goal. There needs to be better coordination and handoff between the courts rather than attempting to get the state courts to make the decisions for the federal court. The state courts can and should put in place interim measures as they are more agile than the family court. Then the full information from those courts i.e. the transcripts and application not just the order should be transfered to the federal court in a back end process when triggered by an application in the Federal Court.

Question 33

As above. The applications and transcripts should be transfered to the federal court and reviewed by the associate or another appropriate person to provide input into the federal matter. The national data base should be of applications and orders so that inconsistencies can be identified. Better training of judicial officers especially in non-physical family violence is a must. It appears that some have little understanding of the psychological injuries that can result from abuse.

Question 34

ICL's need to be more appropriately qualified and trained to meet with children and be able to help the child to express their views. This is not being done in many cases. The high opinion that judges have for ICL's is generally not reflected in the opinion of the children or their parents as the ICL's views are often expressed and what they do does not reflect (or even articulate) the wishes of the child. They sometimes side with one parent and do not engage with the child they are representing. There does not appear to be a mechanism to provide any feedback or accountability with regards to how the child's views are expressed leaving children feeling even more powerless than they would without the ICL. Family Report writers vary in the quality of their reports and there seems to be little feedback or accountability. There seems to be no feedback loop for the children who are interviewed to provide them with help to understand why their expressed wishes are not followed by the court.

Question 35

Feedback to the children and an explanation of what the orders mean should be a standard part of the process where an ICL or family report writer meets with the child. This would increase the professionals accountability and understanding of the consequences of their representation/report. Judges would require additional training for them to be competent in interviewing children directly. If the ICL or report writer are not competent in providing this feedback they could do it in collaboration with the childs counsellor (if the family are in court about the children there is usually enough damage done that the child will have a counsellor or should have a counsellor)

Question 36

Have a specific form that the person collecting the childs views uses to provide the informaiton in a clear and concise way. Currently if a judge wanted to review what the child's views are it is probably very difficult to do that. It would cristalise the issue of the report writer or ICL no having a good understanding of the child's views and would assist in providing feedback to the child in six or twelve months about what the court has decided. This format would allow for an update from the child if necesary.

Question 37

Child Inclusive practice is rarely used because it is difficult to find qualified practitioners to work with children in child inclusive FDR. The training provided by Jennifer McIntosh is theoretical and more support is needed for people to develop the skills to interview children and then bring their views and expressed needs into the FDR decision making process in a cost effective manner. Family report writers are over priced and not suited to this role in general as they are more used to the adversarial approach and not empowering parents in the decision making process. Child Focused practice should be used by all FDRP's. Child Inclusive could be used more especially in independent dispute resoultion services which tend to be a higher level of service and with clients who are willing to pay for the support to resolve their family law issues without handing over their decision making authority to a judge or arbitrator. The constraint is qualified and experienced practitioners. Using a FDR family conferencing approach where older children (adolecents) are present and involved in the decision making process is another potential model that could be explored. I'm not aware of it's use in Australia but in situations where the child is at high risk of homelessness this could be a method of working with the family to reach an agreement regarding the child's care and support.

Question 38

The assessment of the potential harm caused to a child by voicing their thoughts in court or FDR is a difficult one. In any child inclusive model the parents need to be property prepared and screened to help them to understand the importance of their child's voice to be heard without fear of repercussions. Evaluating the history of the family, the interactions between the family members and any other relevant factors need to be taken into account because meeting with the child will raise their expectations that their thoughts will be valued and given careful consideration. If the process is to pay lip service (as can be the case with some ICL's ) then it is better that the child doesn't even know they have a lawyer as they are likely to be further hurt by the process. It is important that any worker interacting with children have specialist training in working with children, in family violence and family law context. This gap in knowledge of the three aspects is detremental to the children they interact with. The argument that a child should not be spoken with to avoid getting evidence of violence is disgraceful. Lawyers working as ICLs should take greater responsiblity in regards to the safety of the child. Information that children provide needs to be shared between professionals (see child's wishes form) so that professionals can work with children from a confirming basis rather than starting from scratch. Parental education about the effect of their conflict on their child's development such as the New Ways for Families program is the single best thing you can do to help their children. Those parents who genuninely care for their children and don't realise the harm they are doing will become more open about understanding their child's experience and needs leaving a smaller number of really difficult parents who can't separate their childs needs from their own or don't consider their childs needs as being important.

Question 39

Participation in the court should be based on a qualified professional working with the child to understand their views on the issues their parents are having in as much as it is affecting the childs ability to be happy and healthy. Issues such as stopping the child from seeing grandparents and extended family (an important source of support for resilience) and other factors need to be alowed to be expressed. A "childs views form" that is used by professionals they are working with, the use of video to allow the child to "send a message to the judge" or other more child appropriate methods could be explored. It is important to remember that if the voice of the child is heard high conflict parents may consciously or unconscioulsy try to distort their childs voice to reflect their own which is why it is important that processes that involve children are guided by professionals who understand child development, family violence and family law issues.

Question 40

Interviews with children who have been through the system quantifying the processes involved, duration and their story of their experience as well as their current situation in terms of developmental outcomes, substance or other issues, ongoing family violence during the court process etc to determine if any proceses are more satisfactory. A mandatory feedback step by the professional who was charged by the child with representing them or sharing their voice with the court or FDR process so that the professional learns from the child about the effect of their intervention. The FJYPB sound like a great initiative and would probably be very healing for the children involved to feel that they are making a difference even if their own experience was sub-optimal.

Question 41

- There should be mandatory training for all judges, registrars, anyone working in the family law courts, lawyers and others on the nature and dynamics of Family violence and child sexual abuse. Do not use the Duluth model as the basis for the training. Power and Control is only one of the root causes of family violence and this model is insufficient for training in this area. This training should also be made mandatory for all medical professionals, psychologists and others who provide any form of input into the Family Law System. Recently FDR Practitioners already have this training but it should be mandatory for practitioners who accredited before the changes to the definition of family violence. - The same group (everyone who interacts in the family law system) should also receive training (it can be delivered through an online program) in trauma, PTSD, the behavioural indicators of a trauma response and the effective treatment approaches to healing trauma. - All practitioners working with familes should be required to use a standardised risk assessment process - prescribe one for heavens sakes as each group keeps re-inventing the wheel with a committee to review and update as required. The risk assessment can be shared between agencies and when working cross functionally to prevent clients from having to continually describe their experiences as this just re-inforces trauma. - Cultural competency training including issues for indigenous families, refugees, very different cultural backgrounds etc, should also be available as a self-paced online learning with good quality video from people from various communities. In addition training in avoiding steriotypes and how to ask questions to identify the families past practices, beliefs and values around raising children. - Education about the family law sytem, child protection and DFV systems (basic principals for everyone with more advance and detailed for various roles) for anyone who works within the system especially those with a social science background - Education about High Conflict behaviour (e.g. New Ways for Families) Most of these competenies are existing units of competence in the AQF and no one has to re-invent the wheel. Just make the requirement that people participate in either orientation level or qualification level training in them. Creating a set of resources that training providers could use for the cultural competency work would be of high value like was done with the AVERT family violence program. - Family Report writers and judicial officers particularily require a high level understanding of family violence (not currently present) and trauma as I have seen many cases where trauma responses are treated as "bad behaviour" and punished when the parent genuinely and possibly correctly believes that their child is at risk based on their own experience of abuse at the hands of the other parent. Also cases where children are removed from trusted psychological support and forced to go to someone they don't like because a parent objects to the practitioner rather than considering the needs of a child who has been a victim of exposure to family violence. - Family Lawyers should have obligations to report unreported child abuse and to counsel their clients about family violence. They hide behind confidentiality provisions when children or adults are at risk and have no incentive to learn more about family violence. - All ICL's should have high level (competency based and assessed training) in working as a child inclusive practitioner (CIP). They should not be permitted to meet with children or should be required to work in partnership with a qualified CIP if they are not. This training is a unit of competency in the Graduate Diploma of FDR. - As mentioned above lawyers should be required to provide greater clarity to clients about the WATNA / BATNA and MLATNA of their case and realistic cost estimates and frequent updates. More importantly clients need to be educated about using legal services so that they demand this information and get it or go to another lawyer. -Interpreters, Counsellors, Psychologists and Family Violence Workers all appear to have limited knowledge about Family Law and should have at least orientation level training. - Interpreters as well as some counsellors and psychologist have limited knowledge of family violence. Interpreters should have orietation level training and mental health workers should have competency level training (certification) 283 - - Mandatory NMAS Mediator training should be included along with modules in family violence and child sexual abuse for the National Family Law Specialist Accreditation (orientation level for everyone with the option for certification) - Joint training of cross-juridictional professionals would be valueable and could be achieved in a combined family law / family violence/ child protection training with practitioners from each section having expertise in one area and learning more about the others in a collaborative, structured learning and sharing approach. - Greater scruitiny of the training providers for FDR. There are providers (uni's) who are not requiring the full 50 hour work placement and other in the VET sector who are not providing adequate training but the VET regulators auditors are not qualified to assess the quality of the training. - Mandatory upgrade training for FDRP's and other specialists every time there is a major change to the FLA e.g. Family Violence Definition - The development of a family law specialty for psychologists and counsellors as well as a program for family consultants and child inclusive practitioners to provide certification and accreditation standards for people providing pscychological support and evaluation in family law matters. The standards vary widely and there is no way to determine if someone offering services is adequately trained. - Training in family violence for lawyers and a requirement for them to undertake risk screening with their clients. If judges can't be required to be trained in family violence and associated issues do no allow them to be appointed till they are trained and make upgrade training freely available to them in a format that is respectful of their time. - Encourage training to be either accessed from the ATQF or added to it so that the curriculum is publicly available and able to be provided by multiple providers. The best way to maintain standards is to ensure that expectations are known, make orientation training freely available and mandatory (where possible) through online learning and encourage higher level training through certification which can become pre-requisites for employment or promotion, or ongoing accreditation where an accreditation system is present. Family Dispute Resolution Practitioners are ideally placed to be the "navigators" for the system because they are well trained (graduate diploma of family dispute resoulution) in family law system, family violence, mediation and child development needs. They are independent and can work with all family members (including children if they are trained in child inclusive work) and if a model for "navigators" was developed would be interested in gaining further recognition and a greater role in the system which would further enhance their work as FDRPs

Question 42

They should have a high level understanding of Family Violence, other juridictions that are relevant e.g. state child protection and family violence courts and there should be a requirement of currency linked to major changes in the legislation such as the definition of family violence to include psychological abuse.

Question 43

Greater awareness and education for clients of legal services about the legal and ethical responsibilities of lawyers. Oversight by the court of vexatious and abusive use of the courts by clients assisted by lawyers. A public listing of firms who's applictions are denied due to be without merit.

Question 44

Inclusion of traininig in vicarious trauma, stress and post traumatic stress disorders in the mandatory training in family violence. Also training in strategies to protect mental health, build resilience and resit taking on workplace stress to help them to protect their own mental health. There could also be a module in recognising a problem in friends and collegues and building a RU OK culture of checking in on each other. Greater education for health care professionals in these symptoms is required but beyond the scope of this enquiry but if a freely available online course was created other professionals such as health care professionals could access it as well because they need the training in family violence and self-protection as well. Supervision in many cases is a negative experience where workers don't feel safe to express their vulnerability. Good quality training in positive supervision is required to improve this process and make it part of the solution rather than part of the problem. I'm thinking particularily of anedotal evidence from government funded services. Education about High Conflict Personalities and understanding how to de-escalate their behaviour to prevent them lashing out would be highly beneficial for anyone working in the family law system. Well at work sounds like an excellent inititive worth emulating and sharing with other workplaces who don't have the resources to develop their own program through online learning.

Question 45

s121 is frequently breached in social media (e.g. facebook groups) and other technology as while parties may not mention names they indicate they are talking about their cases. They currently risk severe penalties and a compromise situation may be better that allows people to communicate about their own first hand experiences without impacting the privacy of others. It's difficult to work out where that balance should be but the current provisions are unenforcable and unrealistic. The provisions need to allow for complaints about the conduct of family report writers and other service providers in the sector.

Question 46

More information about judgements and trends in judgements to assist users of the system especially self-represented litigants with a search function to allow review by judge and matter key words and issues. This would also make judges who don't make their judgements based on the merits of the case but more on their own beliefs and values more exposed to scruitiny.

Question 47

A complaint body is badly needed who can identify not only misconduct but also problems with systems and processes that can support continuous imporvement within processes.

Other comments?

File

The results of this submission may be viewed at:

https://www.alrc.gov.au/node/8362/submission/7112