Richard Stanfield

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This submission is from an individual

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Question 1

To ensure equality in the parental responsibilities and rights each parent in relation to the children. To recognise the benefit to the child of having a meaningful relationship with both parents, and how this relationship is mutually beneficial to both parents of the child.

Question 2

Fairness and equality regardless of gender or sexuality as traditional gender based roles have changed in our modern society and within families. Application of a non- adversarial system focusing on inclusiveness in decision making for the benefit and welfare of the children. A move towards a less formal self-representation conciliatory process with consultation of Family Law practitioners in an advisory capacity only without exercising their undue influence in the court. Acknowledging the emotional needs of the children as the main priority with emphasis on supporting positive outcomes for now and into the future. Property and financial matters only to be heard once child welfare benchmarks have been set and met as agreed to by both parties. Greater enforcement of breaches and contraventions of Consent Orders / Parenting Plans and the establishment of a fast-track process to remedy any non-compliance issues; • making both parties accountable but with less harsh punitive action, • having a contravention register with a tiered based approach before punitive action is taken, • ensuring both parties "do what they say" and "say what they mean" in relation to care arrangements and time spent with the children.

Question 3

If there are any concerns raised about risk of family violence and the courts are required to give greater weight to the need to protect children from harm which has huge implications for the outcome in terms of care arrangements. Then there should be an immediate assessment done for both parents as to the extent and nature of the alleged family violence. In some cases early intervention into family violence is completely necessary. However, there are instances of misuse or abuse of this process in obtaining personal protection orders to gain legal advantage over the other party. This misuse of court processes is costly, wasting time and resources and could potentially exacerbate tensions in the family dispute or even be an attempt to provoke violence. A mandatory family violence risk assessment should be undertaken to alleviate any number of potential problems or concerns and could provide some clarity surrounding any alleged behaviour with appropriate measures to be taken. These could range from relationship coaching and anger management therapies and/ or the signing of agreements or undertakings without the need to seek personal protection orders, and thereby, avoiding vexatious claims and the of misuse of court processes.

Question 4

I agree with the issues paper concept of appointing a case worker or ‘navigator’ available to assist clients or families to identify and access services that are relevant to their needs. I also believe Family Law practitioners should take on a role of guidance with a focus on the children's needs to achieve positive outcomes and the de-escalation of family disputes rather than that of an adversarial litigation role. Since the Family Law Courts are unable to provide legal advice or referrals, then provide some alternatives which can, for example, a Family Law HUB that can provide the following; • legal advice for self-representation; • assist with correct forms to use and how to complete them; • what documents to prepare and how to file them; and • what evidence is needed to support the person’s case and how to obtain it And directing clients to; • family Law advisory or 'navigators' • family dispute resolution organisations • family violence, counselling services and other relevant community based services

Question 5

Question 6

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Question 8

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Question 11

I feel the issues paper has addressed this with the concept of Legally-assisted FDR in the form of a conciliatory process. I think it is necessary that each party is both legally represented and supported during the dispute resolution process. The discussion paper mentions children a number of times, however, the focus here is on the 'process' and not the 'subject' which is the children. Therefore, having legal representation is not important to the children but to the individuals and their lawyers representing the process. I feel it simply does not deliver positive outcome for children. I believe there should be minimum standards or clearly defined benchmarks used as a starting point similar to my T.E.S.T acronym. • Time spent with each parent is adequate • Emotional needs of both the children and parents have been met • Safety concerns and welfare of children and parents are to an acceptable standard • Transition to these care arrangements have been implemented .

Question 12

Question 13

Question 14

The intent of Part VII of the Family Law Act is very adequate and quite profound, however, the application of the legislation is somewhat less than desirable? "the benefit to the child of having a meaningful relationship with both parents, and the need to protect the child from harm from being subjected to, or exposed to, abuse, neglect or family violence—as primary considerations". The first part is straight forward 'having a meaningful relationship with both parents', whereas the second part is open to interpretation and manipulation. The discussion paper briefly explains other forms of abuse from your more commonly known forms of physical abuse. Some child psychologist now hold a view that it is a form of emotional abuse to prevent a child from having a meaningful relationship with either parent. It's this emotional support that children of divorced couples need for their emotional development and future success. The problem is the family law system is ill-equipped and outdated to deal with these modern social concepts and this industrialisation of a self-perpetuating legal process to keep family lawyers employed just doesn't deliver.

Question 15

This is a significant issue or an area of law which is in contention and often manipulated and abused without evidence or any recourse. The discussion paper outlines a number of topics considered within the umbrella of 'family violence' so let's discuss this and define exactly what is meant by family violence and then categorise it by its severity. Why? Because you have two people at odds with each other from the very beginning and that in itself can be considered a form of family violence or abuse by definition. "Enact requirements that a risk assessment for family violence be undertaken upon a matter being filed and at each hearing or court event and that findings of fact be made about allegations of family violence as soon as practicable after proceedings are filed." I wasn't aware but apparently instigating and re-instigating legal proceedings in multiple courts, including applications for final orders and for enforcement of parenting orders in the family courts can be considered a form of family violence. Is that right? But I haven't seen my children since Easter so why don't I have the right to enforce parenting orders? Then surely to withhold a child from spending time with a parent must also be considered a form of family violence or at the very least emotional abuse?!?

Question 16

The suggestion here is that the legislation is at fault and being 40 years old and would seem like it's well overdue to be reviewed. But is it a question of Law or more the misapplication of an existing law with a convenient interpretation of modern family problems.

Question 17

In this modern life of equal opportunity and equal pay it should be whatever your bring into a relationship in the form of cash and assets you keep and what you accumulate together in the form of cash or assets you share. We should all be treated as equal regardless of gender or sexual preferences and stereotypical gender based role should no longer apply. I feel that everyone has the right to be considered equal and there shouldn't be any distinction from that of heterosexual people or those in the (LGBTIQ) community. Property division is currently based on the concept of wherever the children go the assets then should follow. The children are the first priority and should not be confused with the distribution of assets. Prior to any asset reallocation the relationship between each parent and child needs to be agreed and established and not the other way around. I had an idea around the use of an T.E.S.T acronym for establishing and meeting a minimum standard or benchmark which is to be presented to the magistrate for review prior to any discussions around the property settlement. • Time spent with each parent is adequate • Emotional needs of the children and parents have been met • Safety concerns and welfare of children and parents are established • Transition to new care arrangements have been implemented

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Question 33

A mandatory family violence risk assessment should be undertaken to identify and outline areas of concern and to avoid vexatious claims and the of misuse of court processes. Allowing children to discuss experiences and perspectives with child psychologists / counsellors.

Question 34

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Question 38

Yes - children naturally have unconditional love of both parents and could potentially feel as if they are betraying either parent or could fear getting either parent into serious trouble.

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Question 43

Their needs to be a reporting mechanism within the Family Law Court for the ability to report unethical standards, like collusion with opposing solicitors, vexatious claims of family violence and other such unethical behaviour to an ethics committee, or perhaps family legal representatives should take out insurance cover for 'legal indemnity' for cases where they have been found to have conducted themselves in an unethical manner. As per discussion paper - It basically comes down to the appropriateness of adversarial processes, and the ethics of adversarial practices, in a system concerned with the wellbeing of children. The practices of some lawyers that operate to extend the conflict between the parties doesn't produce positive outcomes for children.

Question 44

Question 45

Question 46

Question 47

Other comments?

File

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