



Court Network Limited Submission to the Review of the Family Law System



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Background

Court Network

Court Network was established in 1980, in a small court in the Melbourne suburb of Prahran after founder Carmel Benjamin AM saw a service gap for people in contact with the justice system. Over the past 38 years, the service has grown significantly with Court Network volunteers (known as 'Networkers') available in all major metropolitan and regional courts in Victoria, including the Children's Court, Magistrates' Court, County Court, Supreme Court, Coroner's Court, and the Victorian Civil and Administrative Tribunal. Court Network is also available in a number of Queensland courts, including the Supreme, District and Magistrates' Courts in Brisbane, Cairns and Townsville Supreme, and the Queensland Civil and Administrative Tribunal.

Since 1990, Court Network has operated in the Federal Circuit Court and Family Court of Australia in the Melbourne and Dandenong registries; and, since 2006, in the Brisbane Commonwealth Law Courts.

Court Network's service is an important component of accessing justice, particularly for vulnerable and disadvantaged court users who may be attending court for the first time, be unfamiliar with court rules and processes, lack knowledge about what is expected of them, feel frightened and unsafe, be representing themselves in a matter, be challenged in being able to understand and participate effectively in the court process, and/or be in need of someone to listen, provide support, and to assist in navigating the court systems.

Court Network operational model

Court Network operates across jurisdictions, being one of the only services to do so. Our free, non-legal court support service is delivered by over 400 volunteers who are trained to provide tailored support, information and referral services on an impartial and non-judgemental basis to all persons, including applicants, respondents, victims, witnesses, defendants, and their families and friends who attend court with them. Any court user is eligible to receive services from Court Network, and many court users assisted by Court Network have no legal representation.

Court Network offers information, support and referral to court users via:

- Telephone referral and support services
- Pre-court: including tours of the court before hearings, explanation of procedures and how the courts operate, having access to the safe room to support applicants who have safety concerns
- In-court: sitting with court users during court hearings (and in remote witness facilities), assisting people to feel safe whilst at court
- Post-court: enabling court users to understand the range of supports that exist outside of the court (such as specialist family violence services, mental health, drug and alcohol, and housing), referring people to other support services in their local area
- Information desks, staffed by Networkers, provide court information at selected courts.

Extensive and ongoing professional development is provided to Networkers to ensure quality and consistency in their practice. This is important in ensuring that the wider sector can have confidence in the complementary role that Court Network can play. Professionally qualified Program Managers are responsible for the overall management of the program, support and supervision of Networkers, and ongoing communication with court personnel and community agencies.

In the Family Law Courts, the Court Network service operates at the Melbourne registry five days a week, with three Networkers volunteering each day.¹ At the Dandenong registry, Court Network operates three days a week, with five Networkers across these days. Prior to the closure of the service at the Brisbane Family Law Courts, Networkers were available five days a week, with a team of 20 Networkers across the week.

Networkers connect with court users requiring assistance predominantly through an active outreach style – ‘working the floor’ – on the day, introducing themselves to court users who are entering the court or waiting for their matter to be heard. They also accept referrals from court staff and service organisations (either on the day or prior to the court matter being heard). Networkers are highly visible and well-known to court staff and other services operating at the courts.

Many of the court users supported by Court Network in the Family Law Courts have no legal representation and would otherwise have faced court with little to no understanding of what was required of them or of other options that may exist in terms of gaining access to legal, community or social assistance.

The Family Law Review

The Australian Law Reform Commission is currently undertaking a review of the Family Law system which has not had a major review since the Commonwealth Family Law Act was introduced in 1975 and commenced in 1976. Significant changes in society over the ensuing decades have had an impact on the way Family Law is practiced and implemented, and the review is seeking to address some of these issues to ensure the system is contemporary and reflects current social needs.

An issues paper released in March 2018 identified 47 questions that the public has been invited to respond to. Court Network have decided to focus on submitting a response to 14 of the 47 questions. In addition to their significant practice wisdom, Court Network employed a consultant to undertake a consultation with Court Network staff and Networkers to inform their response.

Access and engagement

Question 3: In what ways could access to information about family law and family law related services, including family violence services, be improved?

Court Network’s almost 40 years’ experience of providing non-legal support to court users places it in a unique position to comment on the information provided to people involved with and presenting to the Family Court in Victoria and how the quality and accessibility of this information could be improved. Currently, there is an overwhelming amount of information available but the lack of systems to coordinate the information and the complexity of language used make it difficult for court users to understand and access. Further, when court users do seek additional information, they experience difficulties getting through to the Family Law National Enquiry Centre.

Within the Melbourne and Dandenong family courts in Victoria, Networkers have and continue to play a “navigator” role in assisting court users, particularly those self-representing, to navigate the significant amount of information available. This ensures court users have access to and understand the information they need on the day of Court. This is particularly the case for unrepresented people, and first-time users of

¹ The exception to this is on Fridays, when two Networkers are available at the Courts.

the courts, many of whom have had no previous interaction with the legal system and find the amount of information, combined with their anxiety and stress, extremely overwhelming.

Networkers play a significant role in helping court users navigate the system and information available to allow them to participate in the court process in a meaningful way. From their significant experience, Networkers identify that information on its own without a knowledgeable person to support court users to navigate and understand it, has limited effectiveness. Rather than adding more information into this highly complex area of law, greater collaboration among services might enable a more systematic and coordinated approach to information provision.

One consideration raised in the Issues paper refers to the introduction of “navigators” to support family court users. Court Network’s strong view is that this role of navigators could readily be performed by skilled volunteers such as Court Network.

Court Networkers:

- Provide highly visible, ‘outreach’ services from the floor of the court precinct so people can more easily seek assistance. This is particularly helpful for unrepresented court users who are unaware of the required processes
- Work in close partnership with other court-based services to connect vulnerable court users to legal and non-legal services
- Work hand-in-glove with court registry staff, particularly in connecting unrepresented litigants
- Are trained in outreach practice and are skilled in approaching vulnerable people with higher or more complex support needs
- Assist people with tasks that present challenges to them due to literacy or language challenges e.g. completing forms, referral to other services
- Offer a continuity of service in that they are able to ‘walk alongside’ the court user throughout their court day including offering in-court support if required
- Deliver a non-partisan service in that we provide support to family/friends of defendants, respondents and witnesses who otherwise may not receive assistance

While the concept of introducing a workforce of ‘navigators’ that can assist families from the first point of contact through to completion, might be ideal, the cost implications will be significant. The cost-benefit of Court Network’s ability to deliver quality services, including offering navigational assistance that will assist court users once their matter has reached court, has been well evidenced (KPMG cost benefit research).

Recommendation

Expand Court Network’s operations into family and federal circuit court jurisdictions to function as ‘navigators’ in supporting the court users’ non-legal needs...

Networkers that participated in a focus group for the purposes of this submission suggested a range of other considerations could be investigated to assist people to prepare to attend court. One of these was to include a pre-hearing meeting or ‘information session’ for all attendees but particularly for those who are self-representing. This may lessen the anxiety on the day of the hearing as court users will already be familiar with the court environment. If group education sessions were held, safeguards would need to be put in place to ensure opposing parties do not attend the same session.

Other suggestions include the use of technology to share information such as emailing or text messaging information to court users the day before court with a basic outline of what to expect and where to go so that they are better prepared and know how to locate support services such as Court Network.

Recommendation

Consider introducing information sessions for court users prior to the day of court to familiarise them with the court process and environment.

Investigate sending court users a single page of email information or a text on the day prior to court that includes a checklist of what to bring, where to go and what to expect (including delays).

While new systems and technologies need to keep pace with growth in these areas, digital platforms and technology will not be the solution for all court users particularly those who don't have reliable access to tablets, smart phones and computers or if information on these platforms is not provided in simple or community languages. New technologies on their own are not going to provide a solution for all court users and having a knowledgeable person such as a Networker to navigate the information will still be very important for vulnerable groups of court users.

Recommendation

In addition to improvements in technology to support court users access information the Networker role should be expanded to all family courts to support court users who do not have access to technology.

In developing new systems and technologies, consideration should be given to barriers to accessing information. Information on digital platforms should be available in alternative formats to meet the needs of vulnerable court users.

Question 4: How might people with family law related needs be assisted to navigate the family law system?

As outlined in our response to Question 3, within the Melbourne and Dandenong family courts in Victoria, Networkers have and continue to play a "navigator" role in assisting court users, particularly those self-representing, to navigate the family law system. Unlike most services at the court, Networkers have the capacity to stay with a person throughout their whole day at court which allows Networkers to link them into court-based services and ensures they understand each step of the court process.

Court users are often referred from the Family Law Pathways Network (Pathways) volunteers who might initially come into contact with a court user when they arrive at court. Pathways volunteers have access to an iRefer kiosk which contains information on services for separating families. The Networker can provide additional information on these services and take the court user to the service if it is based at court.

Issues of accessibility are further exacerbated for people from culturally and linguistically diverse (CALD) backgrounds who have limited or no English. Court users from CALD backgrounds can experience additional barriers to navigating the family law system including issues that arise from the use of interpreters and limited information available in community languages.

While interpreters can be booked in advance the process is neither effective nor efficient. Issues identified by Networkers included:

- General lack of availability of interpreters
- Booked interpreters not knowing where to find clients when they arrive at the court

- Male interpreters booked to interpret for women who have experienced violence from within their communities
- Availability is limited to translating legal issues and not the broader issues that court users are dealing with
- Interpreters are only booked for the morning and if matters are held over until the afternoon then court users are left without support or matters are adjourned delaying outcomes

Limitations in the availability and suitability of interpreters means that at times CALD court users rely on their children, relatives and friends to interpret for them. This is extremely concerning given the sensitive nature of the matters being discussed. It is not in the child's best interests to interpret for their parents and family and friends lack of legal understanding and knowledge to interpret effectively. The issues in relation to the CALD community have been raised continually over the years and to date there has been no real commitment to address these.

One option identified by Court Network is to consider having roving interpreters or cultural advisors (for major language groups) available at the Courts.

Recommendation

Undertake a consultation process with relevant minority and CALD groups to understand the communication needs of each group and to develop information that is accessible cross culturally.

Increase resources for access to interpreters in all family law matters and ensure interpreters are suitably qualified and experienced to interpret in family law matters.

Court Network finds that the family court is an “uninhabitable” environment for Aboriginal and Torres Strait Islander people. The court could benefit from training on cultural safety, including reference to the impact of stolen generations, understandings of kinship and extended family, and the overall fear that Aboriginal people have that their children will be removed by Child Protection.

While Koori Courts and the Neighbourhood Justice Centre models have more elements of cultural safety for Aboriginal and Torres Strait Islander people, no elements of these models are currently available in the family courts. Legal practitioners and judicial staff could benefit from further training to better understand the cultural sensitivities for Aboriginal and Torres Strait Islander people and that the adversarial and austere practices of the legal system is unlikely to result in successful outcomes for these court users.

Recommendation

Consider introducing or having matters heard in alternative court settings for Aboriginal and Torres Strait Islander people. Make Aboriginal cultural safety and competence training part of induction for court staff.

Question 9: How can the accessibility of the family law system be improved for people living in rural, regional and remote areas of Australia?

Access issues for people living in regional, rural and remote areas are also significant. Issues identified by Court Network include:

- Travel time and cost (petrol/ parking)
- Lack and unreliability of public transport

- Reduced privacy and increased visibility of people in small communities
- Limited access to independent legal representation as people are more likely to be known to each other
- Lack of localised support infrastructure
- Accommodation costs for fear of being late on the day of court
- Multiple trips to court for appointments and assessments adding to overall costs
- Anxiety about being late home to collect children from school or care

Due to the sporadic nature of family law listings in regional areas staff in regional or circuit courts are not as literate in family law matters as their day to day work is more focused on state court business. In some regional areas of Victoria, the family circuit court may only sit a few times per year which makes it difficult for court staff to develop experience knowledge and expertise in this area of the law.

Due to costs of accommodation Networkers are increasingly coming across people from rural communities who are forced to stay in their cars or on the streets the night before court as they are unable to afford accommodation and are concerned about being late. Many court users assume that the time they are given to appear at court is the time when matters or appointments will occur. This is not the case adding further anxiety on the day of court as arrangements for child care and other matters have not been made as the court users assumed they would be home in time to collect children.

Recommendation

Ensure that court users are provided with clear information on what is likely to happen at court including delays so that they are able to plan their time and make arrangements for other matters in their life.

Question 11: What changes can be made to court procedures to improve their accessibility for litigants who are not legally represented?

Court Network provides a significant amount of support to litigants who are not represented. In 2014, Court Network piloted and evaluated an enhanced model of support to unrepresented litigants appearing at Final Hearings in the Family and Federal Circuit Courts in Australia. The 2016 evaluation identified the following outcomes from this project:

- Providing information and support to enable unrepresented people to effectively engage in the court process
- Reduction in the anxiety, frustration, anger and distress experienced by court users particularly those who had experienced family violence
- Improving people's perception of the court system by making the process easier to navigate and providing information on how the justice system operates
- Enabling court staff and duty lawyers to focus on their main roles and responsibilities
- Their ability to take pre-emptive action to prevent issues escalating

The project also developed a highly-valued Resource Booklet specifically designed for unrepresented litigants that detailed in plain language the processes and terminology of the Family Law Courts in relation to final hearings. A smaller initiative arose during the course of the project for CALD people that included translating the Resource Booklet into Vietnamese and Dinka.

The Resource Booklet has been of great interest to the Commonwealth Government who have been exploring the option of adding further content to it (i.e. inclusion of the FCC/FC's family violence principles

and other family violence related information). Court Network believes the Resource Booklet, in conjunction with the enhanced level of Networker support, would be well utilised by other jurisdictions. The Resource Booklet could also be adapted for other language and cultural groups.

Recommendation

Expand the Court Network model to other states across Australia to provide cost effective non-legal support to court users with emphasis on supporting the increasing numbers of unrepresented people. This should include resources to support continued development of the enhanced model of support to unrepresented people attending the final hearing in the family court and further development of the Resource Booklet including translations into community languages.

Question 12: What other changes are needed to support people who do not have legal representation to resolve their family law problems?

Increasing legal costs and a reduction in legal aid funding is seeing the number of self-represented court users increasing, creating further strain on the system. People who do not have legal representation lack legal knowledge and understanding of legal language which presents a significant barrier to them fully participating in the process and being able to make informed decisions.

In matters where one party is represented and the other is not, issues of equity and fairness arise. Of increasing concern is in matters where family violence has been identified and perpetrators can cross-examine victims if they are not represented.

Networkers observe a noticeable difference in the legal outcomes between women who are represented and those who are not. Specifically, Networkers commented that people with financial resources who can afford the best legal support often get better outcomes.

Networkers also observe significant inconsistencies in the level of service duty lawyers provide. Some give advice, some negotiate, some go into court with people however it is variable depending on the person. Networkers have also observed variation in how opposing counsel work to resolve matters with some attempting to do the best thing for both parties while others aggressively pursue their own client's needs, regardless of the impact this has on the other party.

Recommendation

Create a duty lawyer system that is transparent and consistent and ensure duty lawyer services are available to all unrepresented court users.

Question 13: What improvements could be made to the physical design of the family courts to make them more accessible and responsive to the needs of clients, particularly for clients who have security concerns for their children or themselves?

Court Network believes substantial improvements could be made to the physical design of the courts to ensure they are more responsive to the needs of court users. The buildings are austere and designed to reflect the seriousness of the judicial system with limited attention to court users experience. Issues identified by Court Network over many years include poor signage generally leading to people wandering around not knowing where to go or who to see. While there is a large and imposing desk in the Melbourne Family Court it is rarely staffed and provides no introduction for court users.

Space generally is an issue in family courts with overcrowding common. There is limited space for confidential meetings, co-located services, secure spaces and seating.

Mobility access is poor, limiting access for those with disabilities. Secure rooms in some courts do not have toilets so people using these spaces have to access toilets in more public areas of the courts where the other party may be waiting. The system for booking the secure room is done remotely, however when court users arrive there is no guidance on how to find it.

While there are some ad hoc systems in place to separate perpetrators and victims of violence these are generally unsatisfactory. Further, there is only one entry into the court resulting in victims potentially coming into contact with the perpetrator when they arrive at court. Security staff usually do not have the capacity to interact with court users and generally don't move around the court to assess potential risks. Currently there are no security processes in place for women leaving court following completion of proceedings and perpetrators could potentially follow them out.

Recommendation

Review the training needs for security staff in family courts. While security staff need to monitor entrance/exits, consider having additional staff who move around the court and interact with people as an additional means of monitoring risk and reducing the fear some people have from uniformed officials.

Recommendation

Ensure that there are active systems developed to escort women from courts following proceedings to promote their safety. Mechanisms for this should be identified at the individual level as each person's circumstances will be different.

As part of their role, Networkers have been taking people into court rooms to orient users to the environment prior to proceedings commencing. This reduces anxiety and establishes a sense of familiarity with the court.

Recommendation

Consider what further opportunities there are for court users to access court rooms prior to their own hearings to reduce their anxiety.

Court Network also supports further scoping the possibility of family violence victims giving evidence or 'appearing' in matters remotely. For example, in Victoria, use could be made of remote witness facilities in community settings, or victims who are clients of Family Violence Support and Safety Hubs could access legal personnel who may be 'out posted' to these facilities rather than court users having to attend family court buildings. Evidence of the success of approaches like this include the Victorian Neighbourhood Justice Centre, that while not purpose built for family court matters was nonetheless designed in a way that is less intimidating for court users and more accessible to their needs.

Recommendation

Consider holding family court proceedings in alternative community venues including the Victorian Family Violence Support and Safety Hubs.

Recommendation

If new family courts are built or renovated ensure attention is given to the needs of court users particularly women and children with security and safety concerns. This could include separate entrances for each party, having artwork on walls, maps, more seats, a coffee cart, signage, and areas for children play in.

Recommendation

Ensure that appropriate signage is installed in family courts so that users are clear on where to go and how to access supports they need. Signage should be in a range of community languages.

Resolution and adjudication processes

Question 23: How can parties who have experienced family violence or abuse be better supported at court?

Court Network supports early intervention and prevention approaches to family court matters including the use of Family Dispute Resolution and mediation processes. However, for those families separating where violence is an issue, this option is not readily or safely available, which increases the stress for victims and families if perpetrators choose to contest child contact and property matters. This can be further complicated if there are criminal proceedings co-occurring in other jurisdictions delaying or confusing decision making and outcomes in family court matters.

Alongside the increased numbers of victims representing themselves, there are additional concerns that result in victims being placed in position where they have to cross examine perpetrators or be cross examined by them, which would obviously be retraumatising for them.

As identified in the Issues paper the adversarial nature of the court process mirrors the power and control dynamics of family violence and can retraumatise victims. There appears to be limited understanding by court and legal personnel on trauma generally or how trauma informed practice can make a difference to the experience of women and children. While options identified for consideration include the embedding of family violence practitioners in the family courts, in Victoria, where the Family Advocacy and Support Service is operating in the Melbourne and Dandenong courts, Networkers experience is that they have limited impact on the legal process, are not well known by judges and their input is not sought in decision making.

Recommendation

Provide training to judicial staff on the role of the FASS workers and how their input could be beneficial for judges in making decisions that relate to women and children who are victims of violence.

Where family violence is identified as an issue, a specialist family violence worker should be consulted by the court. This could be a FASS worker if available at the court.

Court Network supports changing to a safer mediation and dispute resolution model that is currently being trialled with CALD and Aboriginal and Torres Strait Islander people. This process should include expert lawyers, mediators and other relevant people, not just the opposing parties. Networkers also suggest that where mediation and dispute resolution fail there needs to be another step between mediation and trial.

Court Network are also concerned about the lack of sensitivity demonstrated in the court rooms with women's personal issues being openly discussed in court in the presence of other people not invested in the process, including being asked to declare their address. Matters heard later in the day are less likely to have others present in the court room, but this is a matter of luck rather than it being a standard process to protect privacy.

Court Network suggest that all family law matters including those that involve family violence should be heard in a closed court to protect privacy.

Recommendation

Consider making all family law matters, or at least those that involve issues of family violence, closed to other people.

Question 25: How should the family law system address misuse of process as a form of abuse in family law matters?

Court Network agrees with the range of concerns raised in the Issues paper relating to misuse of process as a form of abuse in family law matters. These include:

- Use of self-representation to cross examine victims
- Requesting multiple psychological assessments - Court Network identified that multiple requests are made for women to undergo psychological assessments, however this rarely is the case for men
- Multiple rehearing of matters
- Instigating proceedings in multiple courts
- Multiple notifications to child protection
- Using one court to advantage another
- Seeking multiple legal advisors
- Use of subpoenas to access sensitive information

Suggested improvements included needing judges to recognise when abuse of process is occurring, changing practice directions in relation to misuse of subpoenas, protecting vulnerable witnesses from cross examination, dismissing matters that are frivolous and not likely to proceed and restricting appeals for interim decisions.

Court Network identified that there are times when judges intervene with unrepresented people by asking them the right questions, but this practice is not consistent. Court Network suggests that more targeted questioning of litigants could be introduced to prevent matters not likely to proceed taking up court time and further stressing opposing parties.

Recommendation

Provide education to court and judicial staff so that they can identify when abuse of process is occurring and formulate practice directions for judicial staff to follow when abuse of process is identified.

Integration and collaboration

Question 32: What changes should be made to reduce the need for families to engage with more than one court to address safety concerns for children?

Court Network shares the concerns raised in the Issues paper in relation to lack of integration between the family court and local state-based courts including children's and magistrate's courts. This is problematic for people attending family court as due to the complexity of their situations, they often have multiple matters in different jurisdictions. The jurisdictions all have different processes and terminology requiring parties to understand the complexities and differences of each. While matters being heard in each

jurisdiction are different they generally relate to a single underlying issue requiring parties to retell their story to multiple people for matters to proceed.

Proceedings being heard in one jurisdiction often delay outcomes and hearings in another with courts at times unclear as if and how matters have progressed.

There is currently no central register of matters being heard in different jurisdictions impeding access to information that may impact on decision making in each court.

Recommendation

Establish a central register of all court matters occurring in the range of jurisdictions that can be accessed by court officials to ensure that they are aware of the potential interplay between the various courts and matters.

While state courts currently can make consent parenting orders they rarely do this due to capacity issues and concerns. If this was implemented it would result in the resolution of matters at one court hearing and reduce the cost and time of seeking orders in the family court.

Recommendation

Consider providing additional resources to state courts to enable them to make consent parenting orders and reduce the need for additional costly matters being heard in the family court.

The issue of having a national child protection system has been raised not only in the context of family court matters but more broadly across the child welfare systems as these services operate differently across states and lead to jurisdictional issues when families reside in multiple states or move frequently. The issues paper identified that a national child protection system would reduce the complications of having two different systems that currently operate very differently.

Recommendation

Introduce digital systems to enable people who have matters being heard in multiple courts to present remotely to reduce costs and time.

Question 33: How can collaboration and information sharing between the family courts and state and territory child protection and family violence systems be improved?

Court Network supports the range of options identified in the Issues paper to improve collaboration between the family courts, and state and territory child protection and family violence systems including having a national data base of court orders from family, children, and magistrate's courts where there is often significant overlap in matters heard. Other considerations also supported include locating family court registry staff in state magistrates and specialist family violence courts.

Joint professional development between court staff, child protection, family violence and sexual abuse services is supported.

Children's experiences and perspectives

Question 34: How can children's experiences of participation in court processes be improved?

Generally, the adversarial nature of the court process works against the best interests of children as in most separations there are complex emotions involved for all parties. The least stressful option for children is more likely to be met through conciliation processes where the parent relationship is not further damaged, and the parents can agree on outcomes. By the time matters reach the family court children are more likely to have been negatively impacted by ongoing uncertainty and parental distress. Early resolution of matters relating to children should be actively sought to avoid matters going to trial in the family court.

Recommendation

Review the current processes available to support separating couples to reach agreement in custody and property matters to prevent issues deteriorating to the point where matters reach the family court. If improvements or additional resourcing are identified, then these should be implemented.

There are different understandings on what is meant by the "best interests" of children between the family court and the broader child and family welfare system. Significant court time is tied up in dealing with day to day issues of residency, access and education that could be better dealt with outside the court room but historically these issues have been the one's predominantly focussed on in family court matters.

The broader understanding of "best interest" in the child and family welfare system focus more on the emotional needs of children, including their need for safety and stability, and their developmental and psychological needs. While residency, access and education are part of this system they receive a higher priority in the family court than these more fundamental needs of children.

Recommendation

Provide training to judicial staff on the full meaning of "best interests" of children including the focus on their emotional, safety and stability, developmental and psychological needs.

The family court environment is not set up for children nor designed for their comfort and safety. Children are required to go through security screening that can be frightening and are in an environment where other people attending court are distressed and emotional.

Ideally children should not need to physically attend court, but this is not the reality. Alternative venues should be considered in relation to family court matters that relate to residency and access where children are required to attend.

Recommendation

Consider what alternate venues could be used for matters that require children's attendance. This could include venues such as the Family Violence Support and Safety Hubs being established in Victoria.

Court Network has significant concerns with the role of Family Consultants based at the family court. Judges, at short notice, can order an assessment of children by a Family Consultant to support their decision making. Consultants are not known to the child, the environment for the assessments is strange and unfamiliar and overall the process is confusing and distressing for children. Over and above this Court Network are concerned with the weight given to these assessments by judges who make significant decisions based on the views of consultants who have spent an hour with a child under these circumstances.

While no comment can be made on the training of consultants Court Network has concerns about their general understanding of children's welfare, their knowledge of trauma informed practice, and in particular their understanding of the dynamics of family violence.

Recommendation

Review the training and practice of family consultants to ensure that they understand and use trauma informed practice in their assessments of children and have a strong understanding of the dynamics of family violence.

Ideally, children requiring assessments in relation to family court matters would be seen in their own environment including at home or school. While families can choose to have independent assessments of their children, cost is a barrier to having this done separately to the family court process.

Recommendation

Consider undertaking children's assessments in venues where children are familiar and more likely to give a true picture of their wishes.

While the views of family consultants are given significant weight by judicial officers, it is of concern to Court Network that other specialist services co-located at the family court lack visibility including family violence workers. Their views are rarely sought by judicial officers and Court Network identified that few judges would be aware of the FASS program or its role within the family court.

Recommendation

Promote the role of FASS within the family court including using their input more formally in decision making particularly in cases where family violence is present.

Professional skills and wellbeing

Question 41: What core competencies should be expected of professionals who work in the family law system? What measures are needed to ensure that family law professionals have and maintain these competencies?

Court Network has significant concerns in relation to the knowledge and understanding of professionals working in the family law system, especially their understanding of the dynamics of family violence, and the impact of trauma on victims that effects their response and decision making. In addition, the style of some judicial officers can be perceived as controlling which mirrors women's experience of violence and abuse.

Court Network notes the significant change in the understanding and behaviour of Magistrates since extensive training on family violence was introduced ten years ago. The treatment of family violence matters, and the careful manner in which various orders are constituted have become remarkably consistent and leads to better outcomes for all parties, particularly with respect to arriving at appropriate conditions that promote safety and reduce risk for family violence victims and their children.

Recommendation

Introduce extensive and ongoing professional development in family violence and sexual abuse for all professionals including the judiciary involved in family court matters where family violence is an issue. As identified in the Issues paper this could include:

- *Training and ongoing professional development through the National Family Law Specialist Accreditation Scheme*
- *Training and accreditation for FDR professionals*
- *Joint professional development with family violence and sexual assault professionals*
- *Legal training for non-court dispute resolution*
- *Risk identification training for family lawyers*
- *Improved training for Independent Children's lawyers*
- *Training of interpreters*
- *Professional development for judicial officers*

Importantly, training should also include clear information and education of risk and safety needs of women and children, that should be central to their decision making in family law matters.

Networkers also raised issues of court personnel's knowledge of specialist service like FASS that operates in the Melbourne and Dandenong family courts. In addition to Networkers identifying people appropriate to refer, duty lawyers identify family violence needs from the completion of a form that asks questions in relation to this. If these are flagged, then people are referred to FASS. People presenting at court who have the support of barristers may not be flagged as requiring this support and fall through the cracks in relation to their family violence needs.

Recommendation

Provide additional training to barristers on how to recognise family violence risk indicators with which people they are representing may present.

Question 42: What core competencies should be expected of judicial officers who exercise family law jurisdiction? What measures are needed to ensure that judicial officers have and maintain these competencies?

While there are compulsory units on family violence in law schools these are generally limited to interpreting the law, are mechanistic and don't address the dynamics and impacts of violence on women and children.

Court Network is concerned about the impact of vicarious trauma on family court personnel and judicial officers in dealing with matters including those relating to significant violence. There is limited support including supervision and debriefing, and concerns that this may adversely impact on their thinking and decision making.

Recommendation

Develop baseline capability indicators on responding to and understanding family violence and sexual abuse for Universities and Judicial colleges to address in training law students.

Recommendation

Develop a strategy to address the support needs of court staff and judicial officers to ensure that issues of vicarious trauma are addressed systematically.