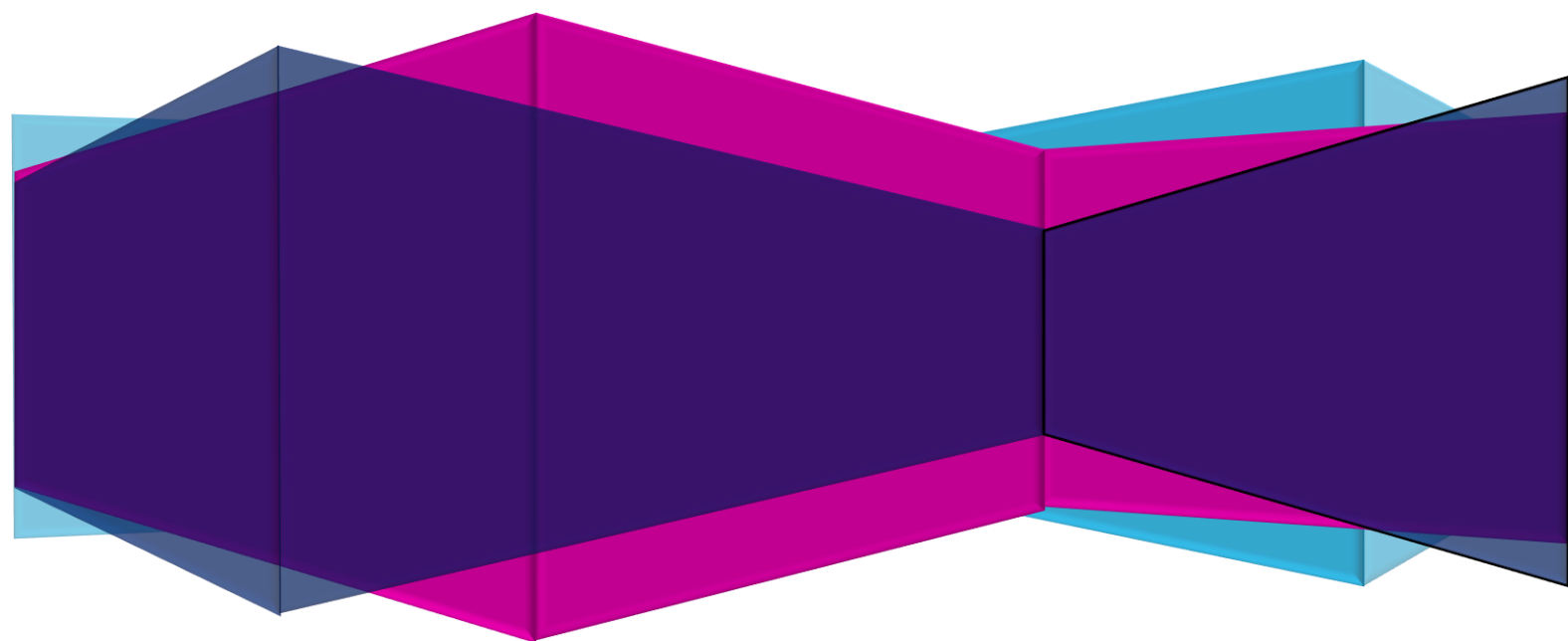




# Review of the Family Law System Submissions to Issues Paper

Brimbank Melton Community Legal Centre



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## **ABOUT BRIMBANK MELTON CLC**

BMCLC is a small legal centre which is part of CommUnity Plus Services Ltd operating as commUnity+. Community + is a multi-disciplinary community agency that provides programs and services to disadvantaged people and vulnerable people across Victoria.

Brimbank Melton Community Legal Centre (BMCLC) provides free legal services through its two offices in Melton and St Albans for disadvantaged people who live, work or study in the Brimbank, Melton and Bacchus Marsh communities. There are a high number of new migrants in BMCLC's catchment area which make for a culturally and linguistically diverse community.

The family lawyers advise and represent clients in family violence and family law matters. Given the large volume of CALD clients, much of the work involves working with interpreters. The family law practice also involves outreach services. These include attending legally assisted FDR in parenting and property matters at the Sunshine Family Relationship Centre and delivering family law and family violence legal services at health centres including Sunshine Hospital and Moorabool Shire Council as part of its two Health Justice Partnerships.

BMCLC also runs a Vietnamese Lawyer project and participates in the "Out of the Dark" Program at the Dame Phyllis Frost correction centre in Ravenhall.

## **SMALL PROPERTY POOLS AND PROPERTY DIVISIONS**

**Greta Haywood**

**Family Lawyer**

**Pilot Project: Property – LAFDRS:**

The Vietnamese community within the Brimbank local government area represents about 10% of the population. This community is isolated both by language and cultural barriers which prevent many from accessing legal services. BMCLC currently offers a Vietnamese Lawyer Project which aims to improve access to justice by delivering legal advice and information in the Vietnamese language through a bilingual lawyer. BMCLC has sought to expand on this in February 2018 when BMCLC together with Sunshine Relationships Centre and Westjustice, Western Community Legal Centre set up a pilot project offering Vietnamese Property LAFDRs using interpreters, specifically targeted to the needs of Vietnamese clients with small property pools who otherwise would have no access to legal representation.

**Case study:**

*Trang is Vietnamese. She speaks through an interpreter. She lives with her 4 children in the marital home. Only the husband's name is on title. Since her husband moved out, Trang has*

*been on Centrelink payments. She has gas and electricity bills that she is trying to pay off in instalments. She has a letter from the children's school requesting payment.*

*Trang has an intervention order in place against her husband. Legally assisted family dispute resolution previously took place in relation to parenting matters which was carried out by way of shuttle mediation. The mediation resulted in a parenting plan being entered into between the parties which also addressed the bills and school fees.*

*Prior to the property mediation, the client met with a BMCLC lawyer who explained the family law process in relation to property divisions via a telephone interpreter and handed the client a property intake sheet and checklist that had been translated into Vietnamese which simplified the process.*

*Valuations were duly obtained and documents exchanged.*

*The legally assisted property mediation was carried out by way of shuttle mediation in the initial stages with interpreters present. Both parties wanted the children to retain the marital home. A property split was duly negotiated with the assistance of the lawyers and an agreement was reached pursuant to which the home would be sold and the wife could buy another smaller property which was adequate for her and the children. This was recorded in a Heads of Agreement which was drafted by the lawyers together with the mediator and then provided to the parties and their respective interpreters. After the signing of the Heads of Agreement, appropriate referrals were made to private solicitors so that the agreement could be set out in an application for consent order to be filed with the court.*

Currently, legal aid is not available in cases where a sale of a property would be imminent or for stand-alone property matters.

Most CLC's do not offer property advice nor assistance with legally assisted family dispute resolution for property matters as their funding does not permit the provision of assistance in property matters. This leaves many people with small property pools who cannot afford a private lawyer with no option but to self-represent which puts further pressure on them and on the courts. For vulnerable non-English speakers with small property pools self-representation is not an option and there is no access to justice at all.

Putting more emphasis and resources into property LAFDRs would free up valuable court time and resources.

## **Recommendations**

### **Keeping costs low:**

**Question 22: How can current dispute resolution processes be modified to provide effective low-cost options for resolving small property matters?**

**Recommendation :** The Australian Government should fund training for Community Legal Centre lawyers to better equip them to assist client's with property and **parenting matters** as funding has reduced many centres to only being able to provide 'one-off' advices in parenting matters and family violence only.

### **Development of dispute resolution processes:**

**Question 26:** In what ways could non-adjudicative dispute resolution processes, such as family dispute resolution and conciliation, be developed or expanded to better support families to resolve disputes in a timely and cost-effective way?

**Recommendation:** We support the Womens Legal Service in their recommendation that the Australian Government fund an expansion of existing models of legally assisted Family Dispute Resolution, to give greater access to vulnerable people seeking property settlements.

### **Diversion away from the litigation process:**

**Question 21:** Should courts provide greater opportunities for parties involved in litigation to be diverted to other dispute resolution processes or services to facilitate earlier resolution of disputes?

**Recommendation:** Property Family Dispute Resolution should be made compulsory for parties to a dispute in the same way that parenting disputes are with an equivalent to the s60I certificate being issued and with the same exemptions of family violence and urgency.

### **Culturally and linguistically diverse communities:**

**Question 6:** How can the accessibility of the family law system be improved for people from culturally and linguistically diverse communities?

**Recommendation :** Services should provide Property LAFDRs using interpreters, specifically targeted to the needs of non-English speaking clients with small property pools.

## **DAME PHYLLIS FROST PRISON**

**Greta Haywood**  
**Family Lawyer**

The 'Out of the Dark Program' at the Dame Phyllis Frost Corrections Centre addresses domestic abuse/family violence issues for women in custody and aims to educate women about family violence in order to make positive changes in their lives. We attend and provide legal education to the women there.

Our case studies have found that two thirds of women in the Dame Phyllis Frost Corrections Centre have a history of family violence and for many family violence has been a contributing factor to their imprisonment

**Case Study :**

*Mandy is serving a sentence for breach of an intervention order. She advises that her husband obtained the order against her. After numerous arguments where the husband beat her and threatened her, she would become terrified and hysterical and contact the police. When the police arrived, her husband would tell them that she had caused the bruising and cuts to herself and that she was crazy. The police finally made an application for the husband and DHHS were contacted. Mandy had to move out. She had nowhere to go so she 'couch surfed'. The baby stayed with the husband. The husband would invite Mandy to phone him and then contact the police. "Then he called me and told me to come over. I missed my kid and so I came. I was sitting on the couch with the baby. He went into the kitchen and called the cops and breached me. It was that easy for him to put me in here". Mandy was duly imprisoned. The DHHS became involved and there is an order in place that the husband is to bring the child to the prison for regular visitation. This is not occurring. Mandy is concerned about whether the husband may now sell their house. She is not on title. Mandy doesn't know where she will live upon her release from prison.*

**The failure of the state systems has implications for Mandy's federal legal rights:**

- She will be disadvantaged in any parenting proceeding as she has no contact with her child;
- She may be disadvantaged should the husband dispose of assets;
- She will have access to lawyers, (LIV, CLC's and pro bono lawyers) however, there are issues as to timely access. Prisoners currently have direct phone access to the Victorian Ombudsman and the Health Services Commissioner.
- While lawyers attend the prison, prisoners' legal issues are still significantly under-served. This is partly due to the fact that, while there are services available, there is not coordinated response but rather, the service providers operate in 'silos'.

**The failure of the state systems has implications for the child's federal legal rights:**

- It is not in the best interest of the child for the child to have no contact with the mother;
- The child has the right to have a relationship with both of its parents;
- The child has the right to have a life free of violence.

Reports have found that regardless of whether a problem arises prior to, during or after a prisoner's term of imprisonment, unresolved legal problems have the potential to cause significant disruption to a prisoner both during their sentence and post release.

In the context of family law issues, various reports have made a direct link between the impact of family law issues and female prisoners' rehabilitation.

We believe that a coordinated approach to women's legal assistance in prison would greatly assist them in terms of their access to the family law well beyond their release from prison.

## **Recommendations**

### **Information sharing:**

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

**Recommendation:** That there be a single data base set up for information sharing between the courts, the Department of Human Services, Corrections and the Police.

### **Misuse of Process:**

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

**Recommendation:** That there be further police education about (how to identify primary perpetrators) abuse of process and that there be strict protocols in place addressing the need to take into account both the alleged victim and the alleged perpetrator's accounts of any family violence incident and making the use of interpreters mandatory when either a victim or a perpetrator requests same or is unable to speak English.

**Recommendation:** That there be further judicial education about the realities of imprisonment, the over-imprisonment of women, and the effect of imprisonment as punishment for children.

### **Integration of services:**

**Question 31: How can integrated services approaches be better used to assist client families with complex needs? How can these approaches be better supported?**

**Recommendation:** That ongoing funding be provided for the establishment of a coordinated taskforce to coordinate client families with complex needs.

**Recommendation:** That a Diversion/Special Circumstances Court Program be set up to assist women with housing and substance abuse problems.



## **FINANCIAL ABUSE**

**Greta Haywood**  
**Family Lawyer**

BMCLC is often approached by women in particular who are left destitute due to financial abuse perpetrated on them by their partner. This often occurs when a woman stops working and the man has financial control. These women find it difficult to then leave the relationship especially when there are also children involved. When they do try to access the legal system, they find that the legal system does not acknowledge financial abuse as a factor to take into consideration.

### **Case Study**

*Bella lived with Frank for 9 years. He discouraged her from working and Bella became a home keeper. Whenever she needed anything, she had to ask Frank for money. She had no access to the bank accounts, nor was she ever included or informed about financial decisions that were made. When she was finally able to leave the relationship, she had nowhere to go and left the relationship penniless.*

*Frank had his own business and shuffled money around such that it was very difficult to establish his income or net worth.*

*Bella has been unable to advise Centrelink about all the family assets and she has been advised by Centrelink that without this information and without an intervention order she will not be eligible for assistance.*

*Frank was able to hire a good lawyer. Bella faced the option of either representing herself or walking away from her entitlements.*

Clients like Bella would be precluded from obtaining a grant of legal aid as the guidelines restrict applications for property only cases.

The Family Violence Act Protection Act 2008 treats financial abuse as a form of family violence, however, it is difficult to obtain an intervention order on financial abuse alone.

There are no provisions in the Family Law Act 1975 that deal with financial abuse in determining a fair property settlement.

Financial abuse should be recognised as a stand- alone form of abuse and barrier to accessing justice

### **Recommendations**

#### **Changes to the Family Law Act 1975:**



**Question 17: What changes could be made to the provisions in the Family Law Act governing property division to improve the clarity and comprehensibility of the law for parties and to promote fair outcomes?**

**Recommendation :** Financial abuse should be included in s75(2) of the Family Law Act 1975 dealing with the parties future needs as a mechanism to make an adjustment due to financial abuse.

#### **Training for lawyers and the judiciary:**

**Questions 41 and 42: What core competencies should be expected of professionals who work in the family law system and judicial officers who exercise family law jurisdiction?**

**Recommendation:** The Australian Government should fund training for Community Legal Centre lawyers to better equip them to assist client's with property and parenting matters as funding has reduced many centres to only being able to provide 'one- off' advices in parenting matters and family violence only.

**Recommendation: There should be further judicial education as to the perpetration of financial abuse as a form of family violence.**

## **ACCESS AND ENGAGEMENT**

**Martin Ha  
Principal Lawyer**

Increasingly, government and community organisations are migrating a range of their services from telephone, paper, and in-person formats to an online service. This has been the case for Centrelink, Fines Victoria, VicRoads and the courts within the Family law jurisdiction.

BMCLC conducts Divorce workshops to assist divorce applicants who are unable to complete the required divorce application paperwork due to low literacy and/or language barriers. The workshops are also conducted in the Vietnamese language with the assistance of a qualified Vietnamese interpreter. The workshop provides practical assistance to divorce applicants by guiding them through every part of the paper application.

Since about 2016, divorce applications (and divorce information kits) are no longer available to be downloaded or printed online. Applications for divorce are now completed online and electronically filed. This process requires registration through the Commonwealth Courts Portal, completion of an online interactive form and the uploading of supporting documents. However, the Federal Circuit Court still accepts a divorce application in hard copy.

Whilst this digital platform provides convenience for “consumers” and cost savings for government agencies and organisations, applicants with poor digital technology abilities will experience difficulties with accessing services and in some cases, may be excluded entirely.

### **Digital inclusion:**

The first Australian Digital Inclusion Index (ADII) was released in 2016. The index is designed to measure three vital dimensions of digital inclusion: Access to digital technology and the internet, Affordability, and Digital Ability (attitudes, skills and activities).

At a national level, digital inclusion is steadily increasing over the four years from 2014 to 2017. The ADII data confirms that digital inclusion is unevenly distributed across Australia, with wealthier, younger, more educated, and urban Australians enjoying a much greater degree of digital inclusion.

All over the country, digital inclusion is influenced by differences in income, education levels, and the geography of socioeconomic disadvantage. For example, the gap between people in low and high income households is growing, as is the gap between older and younger Australians.

The authors of ADII note that digital disadvantage (which measures access to information and communications technology) coincides with other forms of social and economic disadvantage.

### **Facilitating online information access:**

According to the Longitudinal Studies of Separated Parents (2008-2012) and the Experiences of Separated Parents Study, the majority (over 60%) of separated parents who resolved their parenting arrangements indicated that they did so via discussions between themselves. Whereas a minority of parents with parenting agreements reported that their parenting arrangements were achieved by accessing the family law system services (courts 3-5%; lawyers 6-7%; Family dispute resolution 9-10%).

These studies were conducted between 2008 and 2014 and if such trends persist to the present time, it highlights the imperative that separated parents have access to parenting arrangement information that is clear and understandable.

In the modern age, large numbers of Australians are accessing legal information online and if they are to resolve their legal disputes outside of the court system, it is imperative that they be empowered to do so through accessible legal information.

Victoria Legal Aid’s (VLA) website contains a broad range of legal information relating to family law issues such as separation, divorce, dividing property, family dispute resolution, parenting arrangements, spousal maintenance parenting orders. There are also videos relating to some family law matters and family violence.

VLA has catered to CALD communities by publishing a number of factsheets in the following languages: Vietnamese, Arabic, Turkish and Chinese. The material available online is significantly less than the family law information produced in English and is current as at 2013.

VLA has produced an education kit, What's the law?, that can be used by teachers, educators and community workers to assist migrants, refugees and those undertaking community education. The kit provides information on common legal topics and employs a range of formats: video and the use of visuals and graphics and activity sheets in a question and answer format.

Family Dispute Resolution services such as the Family Relationship Centre and Relationships Australia Victoria also have practical information on their websites to help separated parties mediate their parenting and/or property disputes.

The significant amount of legal information online is particularly useful for those who are both proficient in the English language and possess digital technology ability.

However, in the ADII of 2017, it was noted that about 3 million Australians are still not online which undermines this cohort's ability to resolve their dispute independently and more significantly, deprives them of the socio-economic benefits of digital inclusion.

Many of the clients that BMCLC assists are from CALD communities where there are large numbers of people with low levels of educational attainment and English language proficiency. As a consequence of this circumstance, BMCLC's parent organisation, CommUnity Plus, operates a large adult education program teaching English to adults who have recently settled in the community and those who are long-term unemployed.

## **The Vietnamese Lawyer Project**

**Martin Ha**  
**Principal Lawyer**

The Vietnamese lawyer project is operated by BMCLC in partnership with the Australian Vietnamese Women's Association and commenced in March 2016. The project aims to promote and enhance access to justice for the Vietnamese community in Melbourne's western suburbs.

Research shows that a bilingual approach to service delivery is significantly more effective in providing legal assistance and representation to culturally and linguistically diverse clients. Given the large population of Vietnamese-speakers in the project's catchment area it is a project that is highly relevant and beneficial to the community.

## Case study

*Thi is a Vietnamese woman who arrived in Australia on a temporary partner visa. Thi's application for a permanent partner visa was refused and ultimately was listed for judicial review at the Federal Circuit Court. Thi has been working in her partner's business since her arrival in Australia, however she is not remunerated for this work.*

*Whilst the above legal proceedings were on foot, the relationship between Thi and her partner broke down. Thi's former partner informed her that if she did not sign a binding financial agreement (which contained a clause that she would forego her right to make a property settlement claim against the former partner).*

*BMCLC identified that Thi would need assistance to set aside the binding financial agreement; make a property settlement application; and for advice and assistance in respect of her judicial review hearing.*

*Understandably, Thi expressed a preference to be assisted by a Vietnamese-speaking family law lawyer who was willing to take on her matters on a fee-deferral basis.*

*An online search (including a search on the Law Institute of Victoria's Lawyer Referral search function) yielded a number of results, but upon inspection of individual websites, only one had a Vietnamese-speaking staff. It is likely that there are a number of legal firms with Vietnamese-speaking lawyers who practice in the area of family law, but the process of locating them has been difficult.*

*Thi was ultimately referred to a well-regarded private firm specialising in family law. The firm agreed to conduct the matter on a pro bono basis and coincidentally had a lawyer within the firm who spoke some Vietnamese. The firm requested permission to engage a Vietnamese interpreter through BMCLC's subsidised Interpreter service account in order to translate affidavit material.*

## Recommendations:

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

**Recommendation:** Increasing and improving computer and digital equipment (such as scanners and printers) for local libraries and community hubs so that communities experiencing digital disadvantage have access to online information and services. Further, there should be funding to train library staff on the availability of family law and family violence services.

**Question 6: How can the accessibility of the family law system be improved for people from culturally and linguistically diverse communities?**

**Recommendation:** Conduct a detailed study of screen reader and digital language translation technologies currently available with a view of employing such technology to assist people with a visual impairment; low literacy levels and for those who speak a language other than English. Specifically, as it relates to CALD communities, assess the language conversion capabilities of this technology to enable this cohort to engage with online material in their own language and for the data to be converted back into the English language.

**Recommendation:** Further funding for community legal centres who operate within areas of high cultural diversity so that they may employ bilingual staff to more effectively deliver family law services as well as develop projects aimed at addressing the legal needs of vulnerable CALD communities.

**Recommendation:** Further funding for translation services of online family law materials and to expand the number of languages in which the materials are published.

**Recommendation:** In addition to the language expansion of family law materials, the material should also be in a format appropriate for people with low literacy levels (for English and non-English speakers alike). The publications should employ graphics and plain language and supplemented by short video scenarios as well as more detailed webinars.

**Recommendation:** Individuals from CALD communities with limited and modest financial means are provided with a fixed number of free professional interpreter service hours when they are accessing the family law system, particularly when they are at the court proceedings stage. This will enable CALD clients to access a broader range of family law services.

**Recommendation:** Where an individual from a CALD community accesses services within the family law system, the practitioners and administrators within this system should be culturally competent through cultural awareness training. Where the individual and her family have complex needs, the actors within the system should also have the skillsets identified in the next recommendation.

## **ACCESSING JUSTICE**

**Martin Ha**  
**Principal Lawyer**

The skills required of professionals working in the family law system (a term of reference)

The Longitudinal Studies of Separated Parents (2008-2012) and the Experiences of Separated Parents Study also noted that while most parents did not report using a family law system service as their main pathway to sort out their parenting arrangements, parents who

did use a family law system services as their main pathway were more likely to report the presence of complex issues, including family violence, substance misuse, mental ill health, problematic social media use, pornography use (prior to separation) and current safety concerns for themselves and/or their child after separation.

Recommendation: practitioners and administrators within the family law system should receive training in some (ideally all) of the following competencies to ensure they are able to properly assist participants with complex issues: cultural awareness training; managing high conflict people; assisting individuals with multiple and complex needs; and trauma informed practices.

## **CALD COMMUNITIES AND FAMILY LAW**

**Jennifer Zacks**  
**Senior Family Lawyer / Family Violence Coordinator**

The following case study is intended to highlight particular issues and make recommendations relating to Access & Engagement, Integration & Collaboration and Family Law Principles.

### **MR F**

#### ***A Brimbank Melton Community Legal Centre Parenting Dispute Case***

*“Mr F” a client of BMCLC in a Federal Circuit Court parenting dispute faces a time period of 2 years or longer that he will be separated from his children.*

*Mr F is from a middle eastern cultural background, originally from Lebanon. His native language is Arabic. His religion is Islam. He entered an arranged marriage in 2008 in Lebanon. He has 5 children with his wife. The elder 3 were born in Lebanon, the youngest 2 born in Australia. He entered Australia on a 457 visa in 2013 for 12 months. He became unwell and was unable to work. He was placed on bridging visas from 2014 until 2018. He has no money, no Social Security and is financially supported in Australia by a nephew.*

*Mr F’s wife left their rented home unexpectedly in March 2017, taking all 4 children with her. At the time was pregnant with the 5th child. She had given no indication or prior warning of her intention to leave. Within a day, Mr F’s children had disappeared. The Wife claimed Mr F had committed family violence against her. Upon her disappearance she was uncontactable; she went directly to a women’s refuge and left no address for service. She then applied for a Family Violence Intervention Order against Mr F.*

*In May 2017 Mr F attended the BMCLC for assistance with responding to the IVO and parenting matters, wanting to see his children.*



*In July Mr F appeared at the Magistrates Court and consented to a final IVO against himself. The Wife attended, and refused to provide to Mr F's Lawyer an Address for Service.*

*In August 2017 Mr F initiated proceedings in the FCCA for a Location Order and parenting Orders. The wife did not attend the first Court date. The wife received mail from BMCLC for several months. She was given permission to take until November 2017 to file her family law documents. She did not actually file substantive documents until the third Court date in February 2018. The Wife at that stage alleged the Father was physically and psychologically violent towards her.*

*Mr F admitted to some of the alleged violence. He maintained however that he had been a loving and involved parent who had enjoyed a close bond with the children. In late 2017 Mr F became desperate to see his children. There was little action moving the case forward in the FCCA, e.g. after 4 mentions there was still no success for Mr F in getting Orders to spend time with the children. He had little understanding of the system itself and no understanding of how slow it was. He began to lose hope of success through the use of the Family Law system. In late 2017, some 8 months after their disappearance, and in breach of the IVO, he used facebook to locate the whereabouts of the mother. Mr F breached the terms of his IVO and turned up at a supermarket in her suburb. He admitted to Police that it was ultimately done in an attempt to try to see his children.*

*The breach incident was treated as superficial in the Magistrates Court: Mr F received a no conviction result & a 12 month good behaviour bond. However, it was treated with the utmost severity by the Independent Children's Lawyer (ICL) in the FCCA. The ICL described Mr F as a predatory stalker, saying that he had breached the Order with the single intention of causing fear to the mother.*

*The ICL also described in Court that the mother had been the "victim of an arranged marriage" and that she had been "used to bear children"; implying that it was Mr F's own responsibility that the marriage itself had taken place, and that Mr F was also a sexual predator. There was no evidence supporting these comments. As a result of them, the Judge responded with the comments "we might be talking about a no time case".*

*A family Report was ordered and a final hearing set for September 2018. At the time of this report in May 2018, the Father had been separated from his children for 14 months. Only at this stage could he achieve Orders to be placed on a waiting list for a supervised contact centre. The waiting list was estimated 6 months. His contact time with the children commencing at all, is subject to a number of conditions including the result of the family report, and subject to the ICL's interview with the children, and subject to his completion of a Men's Behaviour Change program. There is only one Arabic-specific Mens Behaviour Change program in Melbourne, and Mr F is currently still on the waiting list for a spot to have an assessment to be considered suitable for the opportunity to participate in it.*

*On 4 May 2018, he is still just waiting.*



## **ACCESS AND ENGAGEMENT**

### **QUESTION 6: How can the accessibility of the family law system be improved for people from culturally and linguistically diverse communities?**

Mr F's case highlights that there is a lack of cultural competency, and the presence of cultural bias in the family law system.

**Recommendation:** That there be unconscious bias training for professionals working in the family law system including ICLs.

**Recommendation:** That there be cultural specific training be given to Judges, ICLs and to Family Report writers so they better understand the intimate relationship cultural norms, and cultural norms with respect to family violence, especially in cultures where arranged marriages are accepted as normal.

**Recommendation:** Perpetrators of Family Violence who have not had the opportunity to complete a program in Australia ought to be given that opportunity in order to be in a position to demonstrate a change to their behaviour before a decision is made about their ongoing risk.

If the above dispute had been through FDR, it is possible the interim and final result would be more positive for Mr F. Culturally specific FDR processes should be funded and set up, to have the parties more likely to engage in FDR to make it a real alternative to Court proceedings.

## **LEGAL PRINCIPLES IN RELATION TO CHILDREN AND PROPERTY**

### **Question 14: What changes could be made to the Provisions in part VII of the Family Law Act to produce the best outcomes for children?**

**Recommendation:** The Act should make more emphasis of reference to cultural norms of the children's heritage culture.

Section 60CC(3)(g) mentions cultural background as an "additional consideration".

Whereas Section 60CC refers to encouragement of Aboriginal children in developing a positive appreciation of their culture, it seems that in contrast, other cultures are not allocated the same degree of value.

### **Question 15: What changes could be made to the definitions of Family Violence or other provisions regarding family violence to better support decision making about children and their families?**

**Recommendation:** There should be a greater understanding of family violence in the cultural context of families who have come from countries where the use of family violence is considered normal within the society of their home culture.

The extent to which a CALD community parent has received any education about family violence laws in Australia at the time when they arrive in Australia ought to be considered;

The extent to which a CALD community parent has had the opportunity to take steps to correct family violence behaviours ought to be better emphasised and more considered in parenting cases decision making.

## **INTEGRATION AND COLLABORATION**

### **QUESTION 31: How can integrated services approaches be better used to assist client families with complex needs? How can these approaches be better supported?**

There are many families in dispute attending State Magistrates Courts for family violence intervention order matters. For many families this commonly coincides shortly after the separation of a relationship, thus for these people there are likely to be pending family law disputes.

#### **Recommendations:**

It would assist any family with a parenting or property dispute to have FDR services co located with the Magistrates Court, or located nearby. The parents know and are already familiar with where they have to go.

Procedures implemented in State Magistrates Courts that after FV IVO proceedings all parties who have children are asked to make contact with FDR service.

Culturally specific FDR - e.g. Arabic specific FDR services available.

If there had been an Arabic muslim specific FRC, it is questionable whether this matter concerning Mr F would have ever escalated to Court. There may have been an out of court resolution.

## **REDUCING DELAYS IN THE FAMILY LAW SYSTEM**

The delays in the system in Mr F's case will contribute to the children's changing attitudes towards their father, whom they increasingly over time will forget. The delays also add a greater opportunity for parental alienation practice by the mother to occur.

#### **Recommendations:**

One way for the delays to be lessened is better case management.

There should be a zero tolerance judicial attitude for a party's non-attendance at mention dates.

There should be proper consequences for failure to comply with Court directions.

There should be a requirement for Standard procedural Orders, including e.g. the filing of a Notice of Address for Service within a certain time from the date of service.