

Mr William Fleming



Hello,

the following is my submission to the Review of the Family Law System.

Included are my submissions based upon what I believe could be a safer way to guide ex partners through the separating process and to minimise the occasional suicide. It is based upon my observations of various Men's sheds and the reason Men's sheds were created in Australia. It is also focused upon the current statistics which indicate an alarming 9.1% increase in male suicides over the last year to average approximately six per day.

By initial observation and in generally available information including the leading document recommend for this comment by Bruce Smyth et. al. it would appear that there is a substantial degree of equity and confidence in this whole process. In fact it would lead one to believe the settlement process favours men. I believe the statement in the introduction; "*By contrast, men appeared to be as well off, or better off, than before they separated*" to be outrageous and contaminated with bias when viewed from those amongst our members in the many Men's sheds in Australia and the thousands of others too damaged to socialise. We strive to enlist men that have socially disconnected for whatever reason and provide a formal and supportive platform for them to re-connect and establish friendships, trust and to restore worth to their lives. In many cases if they did not have this then they would remain isolated.

Australian Men's sheds have been created to reduce the suicide rate amongst men and to help them re-connect with society, form friendships and to give value to their lives. The reasons for the actual suicides are many and often complicated but from my view there are significant threads that appear to be major contributors.

I don't wish to be diverted to generalising here but there are significant pathways that I am aware of that do exist in destroying or stripping a man of his emotions, resources and in too many cases lead to his suicide. Many of these pathways have an uncanny single origin of a severely biased settlement after a failed marriage with loss of access to children, financial failure, loss of friends, property and many have problems securing reliable accommodation. At this stage it falls to community organisation such as St Vincent de Paul, Men's sheds, Salvation Army and many others with limited resources to assist them as best they can when in reality the situation is a failure of the court system. It would be better community value if the courts had to consider their duty of care to either party and not just ensure the woman achieves a certain standard and then to award remnants if any to the man who just may not survive. Currently there is no audit on the effect of court

outcomes regarding the survival of either person and this is sadly displayed in the increasing annual suicide statistics.

Regardless of whatever process is chosen to dismantle and re-distribute the property, chattels, child contact and all other components, it should not rely wholly upon the skill of a contracted legal negotiator especially where one partner cannot afford this process. In the current climate of massive house prices and fully committed incomes some are just not able to retain a lawyer and yet the penalty for not doing so could be his eventual death. To employ a skilled negotiator and to then fail enhances this loss.

Frustration of the process over frivolous detail can be used to force an opponent to yield when financially compromised. I believe this major limitation is a failure to engage in negotiating by means of repetitive research and supportive writing necessary to make their case. If a man does not have a clerical or similar background then his skills in this field are diminished especially if the negotiating exchange by this medium becomes repetitive, frivolous and robust. I am aware of many men that have virtually walked away in frustration from a strong position having failed on this one point.

Awarding to one side where the other created it beforehand is happening. If one party had very much more upon entering the marriage then they should be able to retain this upon exit and not have it pilfered in the name of equity.

Awarding most to one side over the other is happening. It is understood a woman must survive after divorce, equally if she is given precedence it can often result in a man eventually choosing suicide.

Currently at the end of the process there is no final audit on the loser. Can he survive financially, emotionally, re-establish friends or has the court put him on an unrecoverable ramp to his death?

It is currently legal to put in place a pathway where a once loved partner is emotionally destroyed, financially destroyed, lost most friends and removed from all known survival resources and is legally constrained after the matter is settled. He must now survive as best he can, unsupported, unsheltered and unwashed in many cases. (around 114,000 men are currently in this situation in Australia)

At present if a solicitor tries to impress his client and get much more regardless of impact it can have serious life threatening consequences and is out of place in a modern and caring society. If a solicitor is to be employed then the new role should be to ensure equity and represent both husband and wife equally, more as a formal mediator in a time limited process. It should be their legal duty to ensure the end result would put either side on a best possible footing and it would remain their duty for a set period afterward to ensure what they have achieved has not failed leading one to potential suicide. This process could relieve part of the consequential community burden and would also leave more funds, in many cases thousands of dollars for either of the couples to re-establish rather than lose it entirely. It may not be necessary for judges to enter into this process unless an outcome cannot be achieved between the parties within the limited time, this would also reduce community costs. Solicitors should be banned from membership of organisations with extreme views such as the new bitter feminist movement.

<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/3303.0~2017~Main%20Features~Intentional%20self-harm,%20key%20characteristics~3>

https://www.alrc.gov.au/sites/default/files/dp86_review_of_the_family_law_system_4.pdf

