

**Submission in Response to Proposals,
Questions and Analysis in the
Discussion Paper released by the
Australian Law Reform Commission
Inquiry into the Family Law System**

Submission by:

Sherika Ponniah, Deputy Head of Legal Content, Wolters Kluwer (Sydney, Australia)

Meera Klemola, Co-Founder and Lead Legal Designer, Dot. (Helsinki, Finland)

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1. Introduction

The Australian Law Reform Commission (ALRC) 'Review of the Family Law System: Discussion Paper' released on 2 October 2018 (the Discussion Paper) is an important and valuable initiative.

This document makes submissions in response to proposals outlined in the Discussion Paper.

2. Focus

The focus of this submission is on 'Family law system information package' Proposals 2-5, 2-6, 2-7 and 2-8 found on page 28 of the Discussion Paper.

3. Background of those making this submission

Sherika Ponniah, BA LLB, Grad Dip LP

Contact: sherika.ponniah@wolterskluwer.com

Sherika started her career in family law at the Family Court of Australia as Associate to the Honourable Justice Jennifer Boland, Judge of the Appeal Division. She also held the position of Assistant to the Eastern Regional Appeals Registrar while at the Family Court of Australia's Sydney registry. After Sherika's admission to practice, she worked exclusively in family law private practice in leading family law specialist firms such as Argyle Lawyers, Hartley Healey and Pearson Emerson Meyer. While in practice, Sherika was also a volunteer solicitor at the Women's Legal Service. Sherika joined Wolters Kluwer CCH in 2007 as Family Law Editor, progressed to Portfolio Lead of the Family Law & Litigation team in 2013 before taking on the role of Deputy Head of Legal Content in 2016. Sherika has authored many titles and articles on family law.

Meera Klemola, BCom LLB, Postgraduate studies Global Innovation by Design

Contact: meera.sivanathan@dot.legal

Meera is the Co-founder and Lead Legal Designer of Dot., a leading legal design agency, which is recognised by the Financial Times as one of the most innovative legal agencies in Europe 2018. With backgrounds in both law and design-thinking, Meera combines her ‘best of both world’s’ expertise to help clients modernize legal thinking and develop legal solutions that are interpretable, engaging, and empower the user. Clients include multinational entities, legal institutes and universities, charities and government organisations.

Meera and the team at Dot. are recognised thought-leaders in the area of legal design. Margaret Hagan, Director of the Legal Design Lab at Stanford University serves as advisor to Dot. Meera is a frequently requested keynote speaker and presenter at many global conferences including Europe’s largest legal conference Legal Geek, Daimler DigitalLife Day, Legal Hackers and Brand & Design Congress. She has also authored several articles on legal design and its use cases.

Originally from Australia, Meera started her career as a lawyer practicing in New South Wales and Queensland across both public and private sectors. She now specialises in legal design.

4. Submissions

a. Proposal 2-5

Proposal 2–5 states as follows:

“The Australian Government should convene a standing working group with representatives from government and non-government organisations from each state and territory to:

· advise on the development of a family law system information package to facilitate easy access for people to clear, consistent, legally sound and nationally endorsed information about the family law system; and

· review the information package on a regular basis to ensure that it remains up-to-date.”

Adopting legal design principles to create a clear, engaging and useable information package.

This proposal has merit as an information package forms the very basis of client-led interactions. As we attempt to move to a less adversarial family law system, **we submit** that

the information package needs to be built using the principles of legal design which promote an empathic and human-centred approach to the creation and communication of legal content.

Legal design is a human-centered approach to legal problem solving and innovation that combines legal expertise with design principles. When executed correctly, legal design results in legal information, services and environments that are clear, engaging and user-friendly for all.

Legal design has broad applicability and is increasingly being adopted in all sectors of law, including court systems to enhance navigability and useability and promote access to justice for lay-persons. Equally, adopting legal design principles in the building of legal information ensures that the legal information is designed in a way that assists legal representatives to perform their duties more efficiently and communicate to litigants in a transparent way.

Legal Design and its human-centered principles have already been embraced by court leaders and legal aid representatives in the UK, Netherlands and British Columbia, Canada to improve the quality, accessibility and efficiency of the information and services they offer to users of the justice and courts systems¹. **We submit** that the Family Law Courts embrace the same approach.

If the aim of the proposal is to ensure a family law information package that is more useable, then legally designed content ensures that a more satisfying and user-friendly experience is had by the litigant while ensuring it covers all legal information.

We submit that the information package be built using legal design principles and methodologies to ensure the end user is engaged and aided by the package. The legal design process can be described as a cycle with five phases: user research, prototyping, testing, validating and refining. By going through the legal design process to produce the information package, we will be able to ensure a creative and practical solution to knowledge sharing that will be clear and easily understood by the intended user (ie litigants). This will ensure that the package is used as intended, serves a meaningful purpose and is not put on a pile of other literature, inevitably ensuring access to justice for users of the family law system.

¹ *Hagan, Margaret D. (2018) "A Human-Centered Design Approach to Access to Justice: Generating New Prototypes and Hypotheses for Intervention to Make Courts User-Friendly," Indiana Journal of Law and Social Equality: Vol. 6 : Iss. 2 , Article 2.*

Research suggests that by taking a legal design approach to creating legal information may also result in reduced anxiety, disengagement and confusion amongst litigants, thereby resulting in litigants that feel empowered to take greater initiative in their matter².

We submit that an information package for litigants that adopts legal design principles will assist lawyers to explain the complex process in an effective, efficient and user-friendly manner to their clients.

We submit that an information package be created specifically for children who are part of the family law system to help them to understand the system that they are part of, the emotions they might be feeling, strategies for coping and information on further assistance. We propose that such an information package will again be best served by applying legal design to the legal information that we are trying to convey, to ensure an information package that is empathetic and enhances perceived control and confidence to children as they navigate through a complex time in their life.

We submit that an information package for lawyers be created to ensure lawyers are across the new landscape. Time poor lawyers would also benefit from a legally designed cheat sheet resource to guide them as they navigate the reformed system.

Further information on Legal Design can be found at the following locations:

www.dot.legal

<http://www.lawbydesign.co/en/legal-design/>

<https://law.stanford.edu/organizations/pages/legal-design-lab/>

<https://medium.com/legal-design>

<https://thelegalforecast.com/what-is-legal-design-qa-with-meera-sivanathan-legal-designer/>

[The Finland Arbitration Institute recently used legal design to develop an online tool that communicates the complex arbitration process to its core stakeholders in a clear, engaging and business-friendly way: https://medium.com/legal-design/my-legal-design-journey-heidi-merikalla-teir-on-driving-customer-centric-innovation-in-arbitration-e1f3cc48f3ad](https://medium.com/legal-design/my-legal-design-journey-heidi-merikalla-teir-on-driving-customer-centric-innovation-in-arbitration-e1f3cc48f3ad)

² Hagan, Margaret D. (2018) "A Human-Centered Design Approach to Access to Justice: Generating New Prototypes and Hypotheses for Intervention to Make Courts User-Friendly," *Indiana Journal of Law and Social Equality*: Vol. 6 : Iss. 2 , Article 2.

b. Proposal 2-6

Proposal 2–6 states as follows:

“The family law system information package should be tailored to take into account jurisdictional differences and should include information about:

- the legal framework for resolving parenting and property matters;*
- the range of legal and support services available to help separating families and their children and how to access these services; and*
- the different forums and processes for resolving disputes.”*

We submit that each package be written based on persona rather than jurisdiction so that a tailored, legally designed package might be targeted and catered to the audience so as to have the greatest impact. Those personas might include:

- The family lawyer
- The parties
- The children of the parties
- Grandparents
- The Independent Children’s Lawyer
- The Family Relationships Centre
- Legal Aid
- Family Court of Australia staff
- Family Court of Western Australia staff

We agree that there is a need to ensure jurisdictional differences are included.

c. Proposal 2-7

Proposal 2–7 states as follows:

“The family law system information package should be accessible in a range of languages and formats, including:

- electronically via a central website;*

· as printed material available at key entry points to the family law system and universal services; and

· through interactive means, including a national telephone helpline and a national web-chat service.”

We submit that as technological dependence grows, creating an information package that is downloadable as an app or website as well as a print package is needed. Users might not want to have a physical package with them due to confidentiality and hence having the information as an app or website allows them to dip into the information package as and when needed.

d. Proposal 2-8

Proposal 2–8 states as follows:

“The family law system information package should be:

· developed with reference to existing government and non-government information resources and services;

· developed in consultation with Aboriginal and Torres Strait Islander, culturally and linguistically diverse, LGBTIQ and disability organisations; and

· user-tested for accessibility by community groups including children and young people, Aboriginal and Torres Strait Islander people, people from culturally and linguistically diverse communities, LGBTIQ people and people with disability.”

We submit that the information package must be inclusive and be created having consulted with a diverse audience.

Appendix 1: We include a draft prototype of what an information package accompanying a specific order could look like to provide an initial idea of how information that is legally designed is more human-centric and user-friendly.

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