

22 November 2018

The Executive Director
Australian Law Reform Commission
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RE: Review of the Family Law System: Discussion Paper

Dear Executive Director,

The Judicial Council on Cultural Diversity (JCCD) is pleased to note that the Australian Law Reform Commission has taken the JCCD reports¹ regarding access to justice for Aboriginal and Torres Strait Islander Women and Migrant and Refugee Women into consideration with regard to some of the issues under the wider scope of the review of the family law system.

In addition to our rich indigenous cultures, Australia is a nation built on migration. Our migration program sources people from more than 200 countries and nearly half of all Australians were either born overseas or had at least one parent who was born overseas. Over 300 separately identified languages, including indigenous languages, are spoken in Australian households. This diversity has benefited Australia enormously, both in economic and social terms. However, it has also created challenges. One area in which this is evident is the justice system – individuals from culturally and linguistically diverse backgrounds can experience significant barriers to accessing justice. In order for accessible, equitable and fair justice to be delivered to all, the justice system must recognise, understand and respond to the needs of culturally diverse communities especially in a context of increasing demographic diversity.

The JCCD aims to support procedural fairness and equality of treatment for all court users – regardless of their race, colour, religion, or national or ethnic origin – and to promote public trust and confidence in Australian courts and the judiciary. In that view, the JCCD is very supportive of a proposed cultural safety framework to guide the development, implementation

¹[The Path to Justice: Migrant and Refugee Women's Experience of the Courts; The Path to Justice: Aboriginal and Torres Strait Islander Women's Experience of the Courts; National Framework to Improve Accessibility to Australian Courts for Aboriginal and Torres Strait Islander Women and Migrant and Refugee Women.](#)


and monitoring of reforms to the family law system (Proposal 12-8). The JCCD strongly encourages consultations with Aboriginal and Torres Strait Islander organisations as well as with organisations representing culturally and linguistically diverse populations to develop a comprehensive responsive framework.

Within the scope of a cultural safety framework and culturally safe and responsive legal support services, the JCCD proposes that consideration should be given to the role of Indigenous Liaison Officers and Cultural Liaison Officers to assist Aboriginal and Torres Strait Islander people as well as migrant and refugee people to navigate and better understand the justice system. This would reduce their feelings of stress and improve their experience in an often alienating and intimidating environment.

Finally, we would like to draw your attention to the JCCD's Recommended National Standards for Working with Interpreters in Courts and Tribunals. These Standards are intended to provide guidance to courts, tribunals, judicial officers, interpreters and members of the legal profession. They could also be applied more broadly to service providers within the legal system. The JCCD proposes that these Standards can be adapted where necessary to meet the needs and legislative context of each jurisdiction. The Standards are intended to promote a better working relationship between courts, the legal profession, and the interpreting profession, they are vital to promoting and ensuring compliance with the rules of procedural fairness. They benefit the administration of justice generally and facilitate equal justice for linguistically diverse populations.

We appreciate your consideration of our comments in your review of the family law system.

Yours sincerely,



CS Kourakis

The Hon Chris Kourakis
Chief Justice of South Australia
Chair - Judicial Council on Cultural Diversity