



Australian Association of Social Workers

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Robert McClelland MP
Attorney General
Parliament House
Canberra ACT 2600

Federal Courts Branch
Attorney-General's Department
Robert Garran Offices
3-5 National Circuit
Barton ACT 2600

January 2009

Dear Minister McClelland,

Re: Review of Future Governance Options for Federal Family Law Courts in Australia

The Australian Association of Social Workers (AASW) is the key professional body representing professional social workers in Australia. Social workers are employed at the interface between the person and their environment, and act as an important support mechanism to families involved in the federal family law courts.

At present, the Family Court and the Federal Magistrates Court are largely indistinguishable in jurisdiction, with no clear formula or rule guiding choice of entry. The two are governed by different structures, policies and procedures; and take vastly different approaches to resolving issues. Taken overall, there is a duplication of responsibilities and confusion for many users as to the best ways to resolve their situation.

Family law issues are typically complex and delicate in nature, and the best interests of those involved must be the key consideration in any change in the legal structures and processes. In particular, the timely resolution of difficult issues, reduction of systemic complexities, provision of support services, reduction of costs for users, and accessibility for families, should be at the centre of the new model.

With this in mind, the AASW makes the following recommendations:

1. That an integrated court system dealing with family law issues be established

An integrated system should encompass the functions of the Federal Magistrates Court and Family Court. This would reduce confusion, improve efficiency and simplify legal processes for families involved.



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2. That the culture and flexibility of the Federal Magistrates Court be retained and further developed within an integrated system

It is important to preserve the accessibility and flexibility currently offered by the Federal Magistrates Court. Retention of the Court's focus on the provision of support services and family dispute resolution would help to achieve early, non-adversarial solutions.

3. That a two-tiered system with one point of entry be adopted

The AASW believes integration would be best achieved within a two-tiered model, with one point of entry to eliminate confusion for families. This would allow for a simplified process for initial assessment of issues, alternative dispute resolution and early interventions. The aim of this would be to retain the conciliatory culture of the Federal Magistrates Court. Complex matters would then be referred on for appellate work.

This system would allow the new court to encompass the functions of the existing family law courts. The single entry point would also create efficiency and simplify difficult processes for families.

4. That a documented case management model be adopted

The AASW supports National Legal Aid's proposal for the adoption of documented case management for federal family law issues. This will assist support agencies to deliver services, enhance family dispute resolution processes, help families to prepare for court and give those involved an idea of the likely time and cost associated with their case.

5. That the specialised approach to child sexual abuse be retained and extended

The AASW strongly supports the Family Court's current approach to resolving matters related to suspected incidents of child sexual abuse. At present, these cases referred to a specialised investigative process overseen by a judge with expertise in the area. The issue is dealt with quickly and comprehensively, minimising the risk of harm. Given the success of this model, we would like to see it extended and applied to other areas, such as family and domestic violence.

6. That further consultation be conducted to enhance the provision of services out of the new federal family law court

We believe additional consultation will be necessary following the establishment of the new system. This should be focused on the provision of support services, the extension of alternative dispute resolution mechanisms and the further development of family relationship services.



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The AASW congratulates the Government on initiating this review as the need for changes to improve the outcomes for families and children has been evident for some time. We look forward to further involvement in the implementation of reform initiatives.

Yours sincerely,

Kandie Allen-Kelly
Chief Executive Officer
Australian Association of Social Workers

Professor Bob Lonne
National President
Australian Association of Social Workers