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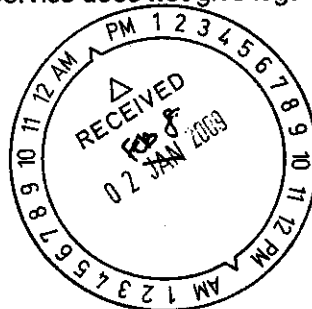
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Auspicing the Dubbo Financial Counselling Service

Note: The Financial Counselling Service does **not** give legal advice.

29th January 2009

Ms S Power
Assistant Secretary
Federal Courts Branch
Robert Garran Offices
National Circuit
BARTON ACT 2600



Dear Miss Power

RE: Review into the Delivery of Family Law Services

These are our written submissions in relation to the above inquiry.

Background

The Centre was established in the financial year 1995/1996, under the then Government's Justice Statement. The Centre was given specific funding to set up a Women's Outreach Service along with the Generalist Legal Service. We were initially required to provide assistance to people from Mudgee to the South Australian border. That is 42% of the State. The regional area we cover was thankfully reduced in 2000 when the Far West CLC based in Broken Hill commenced operations and services Broken Hill and Wilcannia. As no legal centre is funded to service Orange, Forbes & Parkes we also provide telephone advice services to them.

The Community Legal Centre aims to meet the legal needs of our far-reaching community by providing community legal education, law reform activities and media comment on issues of importance to that community. The provision of a professional casework service in areas of law where there is a wider community need, the client is disadvantaged and legal resources from other sources are inaccessible or inadequate is also an important part of our work. The most common, but by no means the only areas of law in which the service assists are Family Law, Domestic Violence, Child Support, Child Protection, Credit and Debt, Discrimination, Victims' Compensation, Social Security and Employment.

In reference to the ambit of the review, we would like to make the following submissions:

1. The funding of two independent, yet largely overlapping structures in the Family Court and Federal Magistrates Court, sees resources being spent in an inefficient

and ineffective way. The type of work conducted in the Federal Magistrates Court is overwhelmingly family law, as is all of the work in the Family Court. It makes sense that, if the family law system is focused on providing user friendly services and models, then matters should be dealt with in one jurisdiction with a simple, efficient and justice based approach. This would allow resources to be better utilised to provide a more effective family law system; including the provision of assistance to unrepresented litigants with filing documents, obtaining relevant forms and getting information etc.

2. The Federal Magistrates Court would be the better and more effective of the two systems currently in place to handle the running of the family law system. It has a more simplified process in place and could handle the taking over of more complex matters if funds that are currently duplicated between the two courts were solely directed towards that court. The general federal law component of the Federal Magistrates Court could be merged with the Federal Court of Australia.
3. The Family Law Court could be retained to act as an Appellate jurisdiction. Judges could be relocated from the Family Court to the Federal Magistrates Court to accommodate the increased workload this would create.
4. Provide more efficient and stream-lined services to rural and remote areas by increasing the number of sittings per year in outlying areas. There are currently 3-4 sittings scheduled for the Dubbo circuit in 2009, each of 1 weeks duration. However, the Dubbo circuit contains litigants from a vast area (approximately 200,000 square kilometres) resulting in delays due to insufficient periods of time for matters to be heard. It also places undue strain on the system with the Court often sitting til late in the evening so as to get through the lists.
5. Rules (such as rules of evidence) should be simplified to allow unrepresented litigants easier access to the system and the creating of a fairer "playing field". Our service provides a lot of assistance to clients who do not qualify for legal aid (in respect of children's matters) yet simply cannot afford private solicitor rates. They may be working part-time or in low skill level, low paying jobs. Family law is the biggest single area of law (which has an unmet need) in which it is almost impossible to get pro bono assistance from the law society, community legal centres and large private law firms. A simplifying of the procedure and rules would make the system more accessible for everyone.
6. The Registry and administrative services of both Courts should be merged to ensure more efficient use of resources, and thereby allowing costs saved in this area to be diverted to providing an increase of services, such as sittings of the Federal Magistrates Court in regional areas.

If you would to discuss any aspect of these submissions do not hesitate to contact the writer. We look forward to learning of the outcome of this review.

Yours Faithfully

Western NSW Community Legal Centre Inc.

Per:

Patrick O'Callaghan
Principal Solicitor