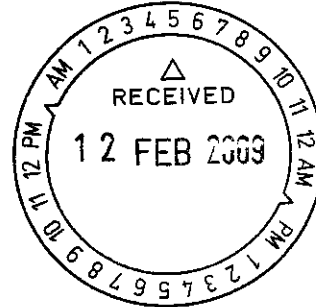




Cairns Community Legal Centre Inc

10 February 2008

Federal Courts Branch
Australian Attorney-General's Department
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IMPROVING ACCESS TO JUSTICE – A BETTER FRAMEWORK FOR FEDERAL COURTS

REVIEW OF FUTURE GOVERNANCE OPTIONS FOR FEDERAL FAMILY LAW COURTS IN AUSTRALIA

We refer to the Report of the Review of the delivery of family law services: Future Governance Options for Federal Family Law Court in Australia – Striking the Right Balance; and consultation paper released on 20 November 2008 (the Review).

Background and Experience of the Cairns Community Legal Centre Inc

The Centre provides legal services for the benefit of socially and financially disadvantaged members of the community. The objects of the Centre include provision of free and accessible legal services; and development of self-help strategies.

The Centre provides legal advice, referrals, information; casework; community legal education; and law reform work including in the areas of family law.

Through its provision of family law work in particular for socially and financially disadvantaged people, the Centre is acutely aware of the issues which act to inhibit access to the current family law system.

The Centre's comments in this submission aim to focus on what in its opinion will most likely facilitate easy access of the family court system for users of that system, in particular self acting litigants. Given the number of self acting litigants in the family court system we perceive access for those individuals to be imperative.

Our Submission to the Review

We believe that the aim of any new family court structure should be to achieve easy use of the family court system including:

1. clarity regarding which court family law applications should be filed in.
2. clarity regarding which forms should be used.

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3. clarity regarding what processes are to be followed during the course of a matter.
4. ready access to clear information and assistance.

We also believe that any new family court structure should be inexpensive for users and produce results which are as speedy as possible.

We believe that the above aims would be achieved by:

1. Merging the Family Court and Federal Magistrates Court into one court exercising family law jurisdiction for all matters falling within the Family Law Act.
2. We suggest simply calling this one court the 'Family Court of Australia'.

This does not mean however that we consider that there would be a 'take over' by the Family Court of the Federal Magistrates Court or that the culture of one court would dominate that of the other.

We simply consider the name 'Family Court of Australia' to be appropriate given that is the name loosely used by many people in the community to refer to any court which deals with family law matters. Not only is it a name which the community is familiar with, it is a name which seems to most clearly identify the work to be undertaken such court.

3. Having one initial entry point for filing of all matters falling within the Family Law Act.
4. Making all forms simple and easy to use.

In this regard we believe that most of the current forms used in the current Family Court of Australia and Federal Magistrates Court are sufficiently simple, but they should as far as possible be 'merged' into one set of forms for use in one new court.

This is not to say that there will not be some forms specifically required just for 'complex' cases (referred to further below). Such forms should as far as possible however be limited in number.

5. Establishing case management practices that are as simple and straight forward as possible.

We consider that following filing there should be 2 possible case management paths – one for 'complex' cases and one for 'other cases'. We would envisage that most matters would be treated as 'other cases', with such matters to be treated along the lines of a more simplified path of progression such as that of the current Federal Magistrates Court.

We also consider that matters should be 'channelled' along the appropriate case management path at the earliest possible stage of a matter. In this regard we envisage that there would be 2 divisions of the Court - one dealing with the 'complex cases path' and one dealing with the 'other cases path'.

In our view the case management path for 'complex' cases should in our view be clear and consistent; and the case management path for 'other cases' should be clear and consistent. This is not to say however that there cannot be 'optional pathways' built into the 2 case management pathways that can be employed to allow flexibility where appropriate.

We also consider that it would be helpful if these pathways including the 'optional pathways', were clearly documented (including in the form of a flow chart) and readily available to the public. We would suggest that notations be included at each stage of the flow chart to indicate the factors taken into account when deciding how a matter progresses.

6. Having one easy to use Family Court website.
7. Development of further do-it-yourself kits by the Court.

8. Retention of the many valuable brochures and do-it-yourself kits already available.
9. Continuing the practice of the Court making brochures and do-it-yourself kits available in hardcopy format as well as via the internet (but on one Court website as outlined above).
10. Retention of the knowledge and helpful nature of many people currently working in court registries to provide information and referrals as appropriate, to users of the court system.

Conclusion

We strongly believe that the matters raised in 1 – 3 will operate to reduce confusion with users of the Court as to where to commence family law proceedings.

We also consider that many of the above matters raised would assist with resourcing matters which the current system appears to be experiencing.

Finally and most importantly we believe that all of the matters raised will result in effective service delivery to users of the family court system in particular the parties.

Thank you for the opportunity to respond to this important community issue and for taking the time to consider our submissions.

Regards

CAIRNS COMMUNITY LEGAL CENTRE INC

Per:
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