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Ms S. Power
Assistant Secretary
Federal Courts Branch
Civil Justice Division
Attorney-General's Department
Robert Garran Offices
National Circuit
Barton, ACT, 2600

30 May 2008

Dear Madam,

Re: Review - Family Court of Australia and Federal Magistrates Court

I refer to your letter to National Legal Aid (NLA) dated the 3rd April 2008 in relation to the review into the optimal structure for the delivery by the Family Court and Federal Magistrates Court of family law services.

I also refer to the attendance of Mr Kym Duggan, Assistant Secretary, Family Law Branch, Attorney-General's Department, at the NLA Family Law Working Group (FLWG) meeting on the 4th April 2008.

NLA suggests that in considering the optimal structure for the delivery of family law services, the most important factors to be considered are ensuring timely outcomes for people who are in difficult and stressful circumstances, reducing the capacity for confusion about venue amongst users, and keeping provider and user costs down.

NLA is aware of various suggestions involving the melding of the Courts or abolition of one Court with the judicial officers and staff of the abolished Court being folded into the remaining Court. Either of these approaches carries with it the risk of importing and entrenching existing practices and cultures which can be time consuming and complex.

NLA's long term preference would be for the establishment of an integrated Court system responsible for all matters arising out of family relationship breakdown including family violence and child protection. This would reduce confusion for users and help to address the risk referred to above.

Whatever approach is taken in relation to either the short or long term future of the delivery of family law services by the courts, NLA recommends the following principles as the necessary underpinning:

- one Court
- one clearly identifiable entry point
- documented case management practices which provide both consistency and flexibility
- inexpensive, simple, expeditious practices and procedures
- two tiers within the Court, with the majority of matters being dealt with using the type of simple rules currently used in the Federal Magistrates Court, and with this tier filtering matters coming into the Court
- a single funder
- one management/administrative structure

One Court with a clearly identifiable entry point will help to reduce confusion by users, and eliminate the issues we understand currently exist in relation to resourcing of the courts.

One management/administrative structure will ensure that money is not wasted on duplicated functions/activities.

One funder will ensure that resources are not consumed by debate about who should be responsible for funding the service.

Documented case management practices will assist users to understand what will happen at Court, what is expected from them, how best to prepare, the period of time involved, and the likely cost. Flexibility should be sufficient to enable individual cases to be responded to as appropriate. From a legal aid perspective documented case management procedures assist with management of case load and cost, and enable the effective and efficient use of limited resources.

The system must provide for the simple, speedy and inexpensive resolution of matters.

If you would like to discuss any aspect of this submission with us please do not hesitate to contact Ms Smith who will refer matters accordingly.

Yours sincerely,

H. Gilmore
Chairperson
National Legal Aid