

<i>this documentation.</i>		
Issues		
<i>Please indicate which issues from the committee's Terms of Reference are relevant to your submission</i>		
<p>a. ongoing issues and further improvements relating to the interaction and information sharing between the family law system and state and territory child protection systems, and family and domestic violence jurisdictions, including:</p> <ul style="list-style-type: none"> i. the process, and evidential and legal standards and onuses of proof, in relation to the granting of domestic violence orders and apprehended violence orders, and ii. the visibility of, and consideration given to, domestic violence orders and apprehended violence orders in family law proceedings; 	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<p>b. the appropriateness of family court powers to ensure parties in family law proceedings provide truthful and complete evidence, and the ability of the court to make orders for non-compliance and the efficacy of the enforcement of such orders;</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<p>c. beyond the proposed merger of the Family Court and the Federal Circuit Court any other reform that may be needed to the family law and the current structure of the Family Court and the Federal Circuit Court;</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<p>d. the financial costs to families of family law proceedings, and options to reduce the financial impact, with particular focus on those instances where legal fees incurred by parties are disproportionate to the total property pool in dispute or are disproportionate to the objective level of complexity of parenting issues, and with consideration being given amongst other things to banning 'disappointment fees', and:</p> <ul style="list-style-type: none"> i. capping total fees by reference to the total pool of assets in dispute, or any other regulatory option to prevent disproportionate legal fees being charged in family law matters, and ii. any mechanisms to improve the timely, efficient and effective resolution of property disputes in family law proceedings; 	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
<p>Cause 1 - Lawyers battling over the same wealth pool</p> <p>How can one families proposed financial split % be different based on which lawyer each party engages? They are the same assets, the same income and the same family circumstances so why do we have a system that allows the family wealth to be put "out to tender" to see who can get the best deal?</p> <p>A family unit has created it's wealth of assets and income as a team throughout the duration of the marriage which has been mutually achieved by various combinations of roles, whether that be a paid income or a homemaker role. The contribution should be seen as equal and therefore split 50/50 at the time of separation. Exception to this rule should ONLY be if assets or a business were brought into the start of the marriage, whereby assessment would need to be made on a case by case basis.</p> <p>Cases are taking years to get to court as the volume is too high to process. Instead of crying out we need more judges, we need to go to the root cause and see why the volume of cases is so high. The family law system provides guidelines but doesn't mandate a 50/50 split then ONLY allowing exceptions to go to court for a judge to make a ruling so results in bad behaviours fuelled by greed by both clients and lawyers alike</p> <p>Solution</p> <p>Financial Settlement should be legally mandated to be 50/50 split recognising the marriage as a team effort by both parties until separation whether they are in a paid or unpaid role. The ONLY exception being if assets or a business were brought into the onset of the marriage which would be accepted to go to court for a judge ruling on financial settlement. The benefit of this would be removing the opportunity of clients and lawyers to "fight" for financial gain out of greed enabling a fair deal for all and free up the courts to deal with complex</p>		

<p>cases.</p> <p>Cause 2 – Clients engage with a lawyer as their Divorce Resource who are ill-equipped to provide emotional support</p> <p>At the onset of separation, clients immediately engage a lawyer as their Divorce Resource and proceed to not only seek legal advice BUT spend a lot of time discussing their emotional grief, daily challenges, and impacts on children. A lawyer is the MOST expensive resource in Divorce and are not trained to provide emotional support. This results in being very costly financially but also emotionally as they do not receive the right emotional support to accelerate their recovery.</p> <p>Solution</p> <p>Leverage the “The Divorce Centre” model which exists as a virtual centre with a national team of divorce coaches, lawyers, mediators, counsellors/psychologists and financial planners. A Separation Facilitator is assigned to create the divorce documentation and parenting plans/orders for couples who have agreed on the desired divorce outcome to sign before submitting for processing with the option to be referred to a lawyer if they choose. The benefit of leveraging “The Divorce Centre” model is that it provides a one stop shop for Divorce referring clients to the right professional at the right time to minimise their cost and accelerate their recovery.</p>	
<p>e. the effectiveness of the delivery of family law support services and family dispute resolution processes;</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>f. the impacts of family law proceedings on the health, safety and wellbeing of children and families involved in those proceedings;</p> <p>Cause 1 - Poor Co-Parenting with parental alienation denying access for children to see parents/grandparents</p> <p>At The Divorce Centre we see so many cases where separated families have high conflict, stress, and anxiety due to very poor co-parenting skills. The total disrespect and disregard for each other has an enormous impact on the children being in a toxic environment. Couples are lacking the awareness of how their behaviour escalates into conflict, being poor role models, and the impacts on the children’s development and mental health. Parents punish their ex through parental alienation, poisoning children against the other parent, denying access for children to see grandparents out of spite, or restrict financial access.</p> <p>Solution</p> <p>Mandatory co-parenting education program at the onset of separation is required to provide guidance of how to co-parent successfully. It is key parents separate how they feel about their ex and the cause of divorce from their co-parenting responsibilities where they need to put the children first. Focus on understanding that the children need both parents in their lives, two happy loving homes as an environment for development and growth, learn how to respond rather than react, how to be good role models, impact of their behaviours on their ongoing co-parenting relationship and relationships with their children. This will also help children to see their parents as problem solvers, united in their co-parenting roles and role models for when the children have future relationships. These co-parenting programs need to be at the onset of separation to equip parents with education, tools and techniques to transition and adjust to their co-parenting roles. The program would be a 12 week program held at local schools 2hours per week providing role play scenarios, tools and techniques to help parents with the challenges of co-parenting to promote good behaviour and respect for each other as parents. The benefit will be a reduction of conflict and anxiety that feeds parental alienation, punishment of denied access to non-custodial parent and grandparents, abuse and apprehended violence orders.</p> <p>Cause 2 – Clients engage with a lawyer as their Divorce Resource who are ill-equipped to provide emotional</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>

<p>support</p> <p>At the onset of separation, clients immediately engage a lawyer as their Divorce Resource and proceed to not only seek legal advice BUT spend a lot of time discussing their emotional grief, daily challenges, and impacts on children. A lawyer is the MOST expensive resource in Divorce and are not trained to provide emotional support. This results in being very costly financially but also emotionally as they do not receive the right emotional support to accelerate their recovery.</p> <p>Solution</p> <p>Leverage the “The Divorce Centre” model which exists as a virtual centre with a national team of divorce coaches, lawyers, mediators, counsellors/psychologists and financial planners. A Separation Facilitator is assigned to create the divorce documentation and parenting plans/orders for couples who have agreed on the desired divorce outcome to sign before submitting for processing with the option to be referred to a lawyer if they choose. The benefit of leveraging “The Divorce Centre” model is that it provides a one stop shop for Divorce referring clients to the right professional at the right time to minimise their cost and accelerate their recovery.</p>	
<p>g. any issues arising for grandparent carers in family law matters and family law court proceedings;</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>h. any further avenues to improve the performance and monitoring of professionals involved in family law proceedings and the resolution of disputes, including agencies, family law practitioners, family law experts and report writers, the staff and judicial officers of the courts, and family dispute resolution practitioners;</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>i. any improvements to the interaction between the family law system and the child support system;</p> <p>Issue – Primary carer gets a greater % of financial wealth</p> <p>The Primary carer is a contributing factor for the financial settlement which is driving bad behaviours in parental alienation denying access to non custodial parent to secure a larger percentage of the financial pool impacting co-parenting responsibilities and ultimately the mental health of the children. Generally the primary carer is deemed to be at a long term disadvantage financially in their future earning capacity compared with the partner with an established career. The financial settlement should be at a point in time, at the time of separation as no one knows of the future financial prosperity of either party. For example, the primary carer could enter into a relationship with another partner on similar income as ex, come into an inheritance, study for a career etc The non custodial parent with career could be made redundant or get an illness. That’s why financial settlement shouldn’t be made on future possibilities but should be made at the time of separation and be equally split. We see a lot of fathers lose significant wealth (upto 75%) as well as the loss of access to the children which is contributing to the rise in male mental illness and suicide in Australia. The Primary carer should ONLY be funded by ongoing child support and NOT be a contributing factor of the financial settlement.</p> <p>Solution</p> <p>The primary carer should be financially supported via child support/maintenance, keeping it separate from the family financial settlement. The benefit would be a reduction in parental alienation used to gain primary care for a bigger share in the financial settlement resulting in less conflict, anxiety and mental illness for the whole family.</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>j. the potential usage of pre-nuptial agreements and their enforceability to minimise future property disputes; and</p> <p>This is becoming a significant issue for divorcees who question whether it is financially risky to re-partner or re-marry in fear of going through a future financial settlement. After already losing 50% or more of their assets in their first divorce some are opting to stay single to secure their wealth.</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>

<p>Solution</p> <p>The law mandates that any assets taken into a defacto or marriage union continues to be the sole asset of that owner and only any future joint purchase of assets would be split 50/50 in a future financial settlement. The benefit is there would be no need for pre-nuptial agreements at all and divorcees would feel financially secure their assets are protected going into a new defacto relationship or marriage.</p>	
k. any related matters	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Your submission

Please provide a brief summary of your experience and any relevant issues. Your submission should respond to one or more of the committee's Terms of Reference

As the founder of Australia's National Divorce Centre, certified divorce coach and author of best seller "The Divorce Tango" I see many issues separating families experience during the divorce process. Primarily, the family law system enables "family wealth" to be put up for tender driving inappropriate behaviours impacting the co-parenting responsibilities of parents. My website is www.thedivorcecentre.com

At The Divorce Centre, the main issues seen are –

1. High Cost of Divorce due to lawyers battling over the same wealth pool
2. Poor Co-Parenting with parental alienation denying access for children to see parents/grandparents
3. Higher allocation of assets to primary carer leaving some people receiving less than 25% of the family wealth pool

Proposed Solutions –

1. Financial Settlement should be legally mandated to be 50/50 split recognising the marriage as a team effort by both parties until separation whether they are in a paid or unpaid role. The ONLY exception being if assets or a business were brought into the onset of the marriage which would be accepted to go to court for a judge ruling on financial settlement. The benefit of this would be removing the opportunity of clients and lawyers to "fight" for financial gain out of greed enabling a fair deal for all and free up the courts to deal with complex cases.
2. Leverage "The Divorce Centre" model which exists as a virtual centre with a national team of divorce coaches, lawyers, mediators, counsellors/psychologists and financial planners. A Separation Facilitator is assigned to create the divorce documentation and parenting plans/orders for couples who have agreed on the desired divorce outcome to sign before submitting for processing with the option to be referred to a lawyer if they choose. The benefit of leveraging "The Divorce Centre" model is that it provides a one stop shop for Divorce referring clients to the right professional at the right time to minimise their cost and accelerate their recovery.
3. Mandatory co-parenting education program at the onset of separation is required to provide guidance of how to co-parent successfully. These co-parenting programs need to be at the onset of separation to equip parents with education, tools and techniques to transition and adjust to their co-parenting roles.
4. The primary carer should be financially supported via child support/maintenance, keeping it separate from the family financial settlement. The benefit would be a reduction in parental alienation used to gain primary care for a bigger share in the financial settlement resulting in less conflict, anxiety and mental illness for the whole family.
5. The law mandates that any assets taken into a defacto or marriage union continues to be the sole asset of that owner and only any future joint purchase of assets would be split 50/50 in a future financial settlement. The benefit is there would be no need for pre-nuptial agreements at all and divorcees would feel financially secure their assets are protected going into a new defacto relationship or marriage.

These solutions will reduce the conflict and anxiety in the battle to "win" in Divorce ensuring everyone is working toward a fair deal for all.

If there is insufficient room above to summarise your experience and relevant issues, please attach an additional page to this submission.

Proposed solutions

Please indicate any proposed solutions you may have that correspond to the committee's Terms of Reference

- a. *ongoing issues and further improvements relating to the interaction and information sharing between the family law system and state and territory child protection systems, and family and domestic violence jurisdictions, including:*
 - i. *the process, and evidential and legal standards and onuses of proof, in relation to the granting of domestic violence orders and apprehended violence orders, and*
 - ii. *the visibility of, and consideration given to, domestic violence orders and apprehended violence orders in family law proceedings;*
- b. *the appropriateness of family court powers to ensure parties in family law proceedings provide truthful and complete evidence, and the ability of the court to make orders for non-compliance and the efficacy of the enforcement of such orders;*
- c. *beyond the proposed merger of the Family Court and the Federal Circuit Court any other reform that may be needed to the family law and the current structure of the Family Court and the Federal Circuit Court;*
- d. *the financial costs to families of family law proceedings, and options to reduce the financial impact, with particular focus on those instances where legal fees incurred by parties are disproportionate to the total property pool in dispute or are disproportionate to the objective level of complexity of parenting issues, and with consideration being given amongst other things to banning 'disappointment fees', and:*
 - i. *capping total fees by reference to the total pool of assets in dispute, or any other regulatory option to prevent disproportionate legal fees being charged in family law matters, and*
 - ii. *any mechanisms to improve the timely, efficient and effective resolution of property disputes in family law proceedings;*

Cause 1 - Lawyers battling over the same wealth pool

How can one families proposed financial split % be different based on which lawyer each party engages? They are the same assets, the same income and the same family circumstances so why do we have a system that allows the family wealth to be put "out to tender" to see who can get the best deal?

A family unit has created it's wealth of assets and income as a team throughout the duration of the marriage which has been mutually achieved by various combinations of roles, whether that be a paid income or a homemaker role. The contribution should be seen as equal and therefore split 50/50 at the time of separation. Exception to this rule should ONLY be if assets or a business were brought into the start of the marriage, whereby assessment would need to be made on a case by case basis.

Cases are taking years to get to court as the volume is too high to process. Instead of crying out we need more judges, we need to go to the root cause and see why the volume of cases is so high. The family law system provides guidelines but doesn't **mandate a 50/50 split** then ONLY allowing exceptions to go to court for a judge to make a ruling so results in bad behaviours fuelled by greed by both clients and lawyers alike

Solution

Financial Settlement should be legally mandated to be 50/50 split recognising the marriage as a team effort by both parties until separation whether they are in a paid or unpaid role. The ONLY exception being if assets or a business were brought into the onset of the marriage which would be accepted to go to court for a judge ruling on financial settlement. The benefit of this would be removing the opportunity of clients and lawyers to "fight" for financial gain out of greed enabling a fair deal for all and free up the courts to deal with complex cases.

Cause 2 – Clients engage with a lawyer as their Divorce Resource who are ill-equipped to provide emotional support

At the onset of separation, clients immediately engage a lawyer as their Divorce Resource and proceed to not only seek legal advice BUT spend a lot of time discussing their emotional grief, daily challenges, and impacts on children. A lawyer is the MOST expensive resource in Divorce and are not trained to provide emotional support. This results in being very costly financially but also emotionally as they do not receive the right emotional support to accelerate their recovery.

Solution

Leverage the “The Divorce Centre” model which exists as a virtual centre with a national team of divorce coaches, lawyers, mediators, counsellors/psychologists and financial planners. A Separation Facilitator is assigned to create the divorce documentation and parenting plans/orders for couples who have agreed on the desired divorce outcome to sign before submitting for processing with the option to be referred to a lawyer if they choose. The benefit of leveraging “The Divorce Centre” model is that it provides a one stop shop for Divorce referring clients to the right professional at the right time to minimise their cost and accelerate their recovery.

e. the effectiveness of the delivery of family law support services and family dispute resolution processes;

- f. the impacts of family law proceedings on the health, safety and wellbeing of children and families involved in those proceedings;*

Issue 1 - Poor Co-Parenting with parental alienation denying access for children to see parents/grandparents

At The Divorce Centre we see so many cases where separated families have high conflict, stress, and anxiety due to very poor co-parenting skills. The total disrespect and disregard for each other has an enormous impact on the children being in a toxic environment. Couples are lacking the awareness of how their behaviour escalates into conflict, being poor role models, and the impacts on the children's development and mental health. Parents punish their ex through parental alienation, poisoning children against the other parent, denying access for children to see grandparents out of spite, or restrict financial access.

Solution

Mandatory co-parenting education program at the onset of separation is required to provide guidance of how to co-parent successfully. It is key parents separate how they feel about their ex and the cause of divorce from their co-parenting responsibilities where they need to put the children first. Focus on understanding that the children need both parents in their lives, two happy loving homes as an environment for development and growth, learn how to respond rather than react, how to be good role models, impact of their behaviours on their ongoing co-parenting relationship and relationships with their children. This will also help children to see their parents as problem solvers, united in their co-parenting roles and role models for when the children have future relationships. These co-parenting programs need to be at the onset of separation to equip parents with education, tools and techniques to transition and adjust to their co-parenting roles. The program would be a 12 week program held at local schools 2hours per week providing role play scenarios, tools and techniques to help parents with the challenges of co-parenting to promote good behaviour and respect for each other as parents. The benefit will be a reduction of conflict and anxiety that feeds parental alienation, punishment of denied access to non-custodial parent and grandparents, abuse and apprehended violence orders.

Issue 2 – Clients engage with a lawyer as their Divorce Resource who are ill-equipped to provide emotional support

At the onset of separation, clients immediately engage a lawyer as their Divorce Resource and proceed to not only seek legal advice BUT spend a lot of time discussing their emotional grief, daily challenges, and impacts on children. A lawyer is the MOST expensive resource in Divorce and are not trained to provide emotional support. This results in being very costly financially but also emotionally as they do not receive the right emotional support to accelerate their recovery.

Solution

Leverage the "The Divorce Centre" model which I setup as a virtual centre with a national team of divorce coaches, lawyers, mediators, counsellors/psychologists and financial planners. A Separation Facilitator is assigned to create the divorce documentation and parenting plans/orders for couples who have agreed on the desired divorce outcome to sign before submitting for processing with the option to be referred to a lawyer if they choose. The benefit of leveraging "The Divorce Centre" model is that it provides a one stop shop for Divorce referring clients to the right professional at the right time to minimise their cost and accelerate their recovery.

- g. any issues arising for grandparent carers in family law matters and family law court proceedings;*

- h. any further avenues to improve the performance and monitoring of professionals involved in family law proceedings and the resolution of disputes, including agencies, family law practitioners, family law experts and report writers, the staff and judicial officers of the courts, and family dispute resolution practitioners;*

- i. any improvements to the interaction between the family law system and the child support system;*

Issue - Primary carer gets a greater % of financial wealth

The Primary carer is a contributing factor for the financial settlement which is driving bad behaviours in parental alienation denying access to non custodial parent to secure a larger percentage of the financial pool impacting co-parenting responsibilities and ultimately the mental health of the children. Generally the primary carer is deemed to be at a long term disadvantage financially in their future earning capacity compared with the partner with an established

career. The financial settlement should be at a point in time, at the time of separation as no one knows of the future financial prosperity of either party. For example, the primary carer could enter into a relationship with another partner on similar income as ex, come into an inheritance, study for a career etc The non custodial parent with career could be made redundant or get an illness. That's why financial settlement shouldn't be made on future possibilities but should be made at time of separation and be equally split. We see a lot of fathers lose significant wealth (upto 75%) as well as the loss of access to the children which is contributing to the rise in male mental illness and suicide in Australia. The Primary carer should ONLY be funded by ongoing child support and NOT be a contributing factor of the financial settlement.

Solution

Separate the two. The primary care giver given a greater proportion of the financial settlement is creating behaviours detrimental to the parties involved, especially the children.

The primary carer should be financially supported via child support/maintenance, keeping it separate from the family financial settlement. The benefit would be a reduction in parental alienation used to gain primary care for a bigger share in the financial settlement resulting in less conflict, anxiety and mental illness for the whole family.

*j. the potential usage of pre-nuptial agreements and their enforceability to minimise future property disputes;
and*

This is becoming a significant issue for divorcees who question whether it is financially risky to re-partner or re-marry in fear of going through a future financial settlement. After already losing 50% or more of their assets in their first divorce some are opting to stay single to secure their wealth.

Solution

The law mandates that any assets taken into a defacto or marriage union continues to be the sole asset of that owner and only any future joint purchase of assets would be split 50/50 in a future financial settlement. The benefit is there would be no need for pre-nuptial agreements at all and divorcees would feel financially secure their assets are protected going into a new defacto relationship or marriage.

k. any related matters