

9 April 2013

Julie Dennett
Committee Secretary
Senate Standing Committees on Legal and Constitutional Affairs
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Dear Committee,

CHANGES TO FAMILY COURT AND FEDERAL MAGISTRATES COURT FEES

Thank you for the opportunity to comment on the changes to filing fees in the Family Court and Federal Magistrates Court.

The Women's Law Centre of WA Inc (WLCWA) is a not-for-profit community legal centre funded by the Commonwealth Attorney General's Department. We are a state wide service and operate through a human rights framework to achieve improved access to justice for women of Western Australia.

We prioritise our assistance to women facing disadvantage within our casework areas of family law (children's issues), family and domestic violence matters, care and protection, criminal injuries compensation and sexual harassment/assault. Our Centre is also committed to advocating for social change through law reform and policy in the interests of women. We have a particular focus on achieving reform in the areas of women's equality and access to justice.

We regularly provide advice, information, casework and legal education to women on family law and family violence matters. We have a particular interest in ensuring access to justice in the family law system, in particular women who are disadvantaged by their social and/or economic circumstances. Our target groups include women from culturally and linguistically diverse backgrounds, Aboriginal and Torres Strait Islander women, women in prison, women with disabilities and rural women.

We welcome the reintroduction of fee waivers and exemptions for individuals who are suffering financial hardship and believe this is a positive step towards improving access to the family law system by the most disadvantaged in our community. We refer to the National Association of Community Legal Centre's submission on the issue of Federal Court Fees in 2011 and welcome the Government's responsiveness to the concerns as raised in the submission.

We do, however, wish to raise concerns in relation to two aspects of the fee increases which we believe will impact detrimentally on women and children who have experienced family violence.

ABN: 44 551 144 230

PHONE	9272 8800	FAX	9272 8866	FREECALL	1800 625 122	EMAIL	wlc@wlcwa.org.au	WLC gratefully accepts donations. Donations over \$2 are tax deductible.
POSTAL	PO Box 3182 East Perth WA 6892	STREET	445 Hay Street Perth WA 6000	WEB	www.wlcwa.org.au	The Women's Law Centre of Western Australia Inc is funded by the Commonwealth Attorney General's Department		

New one third divorce fee of \$265 for individuals who previously paid \$60

Prior to 1 January 2013, individuals who suffer from financial hardship paid a \$60 fee for filing a divorce application. The changes increase this significantly to \$265. For a mother on a single parent benefit or a disability support pension this is prohibitively expensive. We believe that increasing the filing fee to such an extent will create a system of divorce that is only accessible to middle and high income earners. Clearly this is not what was intended by the changes.

It is in the interests of the community that all individuals, who would like to, are able to finalise the end of a marriage by being able to file for divorce. Divorce is often a positive step for individuals in rebuilding their lives after marriage. It can be particularly important for women who have experienced family violence as it can bring finality and positively impact on health and emotional well-being. As such, ensuring accessibility for all individuals in our community is extremely important.

Case Example

Helen married Chris in September 2010. On 7 January 2011, they separated due to family and domestic violence. There were no prospects of reconciliation. In August 2012, Helen was incarcerated for a period of 9 months for driving offences. Whilst in prison, Helen only receives \$37 per week in prison gratuities. She needs this money to pay for phone calls to her family. By the time Helen was able to make an application for divorce, 7 January 2013, the Family Court had introduced new fees. This now means that Helen has to find \$265 before she can make her application for a divorce. For women in receipt of Centrelink benefits, the fee will be very difficult to obtain. Helen feels that obtaining a divorce is very important for her to move on from the trauma she experienced as a victim of family and domestic violence. *

In light of our concerns, we call for fee waivers for financial hardship to be extended to all family law matters, including applications for divorce and consent orders.

Increase in filing fee for consent orders from \$80 to \$145

We consider that increasing the filing fee for consent orders will operate as a disincentive to parties who reach an agreement outside of court.

Increasing the filing fee so significantly may have the unintended consequence of pressuring parents who are suffering from financial hardship to agree to an informal parenting arrangement. In situations of family violence, it is important that women are able to formalise parenting arrangements so that if there are genuine concerns for a child's safety, this may be brought to the court's attention. An informal agreement can lead a perpetrator of violence to have significant control over parenting arrangements. Strategy 5.1 of the National Plan to Reduce Violence Against Women and their Children commits to enhancing the family law system's response to family violence. Supporting victims of family violence to apply for consent orders is consistent with this strategy.

If you require any further information or would like to discuss issues raised in this letter please do not hesitate to contact me

Yours faithfully,

Lesley Kirkwood
Managing Solicitor
WOMEN'S LAW CENTRE OF WA INC

** Please note the details in the case example have been changed to comply with confidentiality requirements.*