



Community and Public Sector Union
Beth Vincent-Pietsch ♦ Deputy Secretary

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

2 April 2020

Email: legcon.sen@aph.gov.au

Dear Committee Secretary,

Federal Circuit and Family Court of Australia Bill 2019 and Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Bill 2019 [Provisions]

As the primary union representing people working in the Federal Court and Family and Federal Circuit Court, the Community and Public Sector Union (CPSU) is committed to providing a strong voice for our members in key public policy and political debates. We welcome the opportunity to make this submission to this inquiry into the Federal Circuit and Family Court of Australia Bill 2019 and Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Bill 2019 [Provisions].

The CPSU opposes the Government's decision to merge the Family Court and Federal Circuit Court. The combined Courts have already gone through five significant changes to structure over the past decade, most recently the administrative merger of the Federal Circuit and Family Courts into a single administrative entity from 1 July 2016. These constant changes only increase pressures on judges and staff and distract from addressing underlying problems with the courts system caused by inadequate funding, reducing staffing levels and growing caseloads.

The Federal Circuit and Family Court of Australia Bill 2019 and Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Bill 2019 [Provisions] have not attempted to incorporate findings from the Australian Law Reform Commission (ALRC) Inquiry into the Family Law System report. The report was released in April 2019, eight months before these Bills were introduced, and provided recommendations based on submissions from important stakeholders in relation to improving the family law system¹. To this date, the Government still has not provided a response to the ALRC report and instead sought to reintroduce Bills drafted prior to the Commission's report being released.

¹ Australian Law Reform Commission. *Family Law for the Future — An Inquiry into the Family Law System*. Final Report, 135.

The ALRC report provided accounts of how the deprivation of resources impeded the *'quality of justice expected of a country like Australia'*.² The CPSU strongly concurs with the recognition of *'the need to reassert the importance of ancillary staff within the family courts in protecting the rights of children and promoting their welfare'* and endorses the recommendation that *'the Australian Government provides sufficient funding to increase the number of Family Consultants within the family courts'*³. Implementing this recommendation will require the lifting the Average Staffing Level (ASL) on Family and Federal Circuit Court to ensure that the Australian family matters are *'resolved in the most timely, informed and cost effective manner possible'*⁴.

Rather than merging the Federal and Family Court, the CPSU recommends that:

- The proposed Bills are withdrawn;
- The Government provides a formal response to the ALRC inquiry into the family law report;
- The ASL cap in the Courts is abolished; and
- A genuinely consultative process involving all stakeholders occurs to improve the family law system.

The CPSU is happy to provide information on the matters raised in this submission and supplementary information on other relevant issues.

Yours sincerely,

Beth Vincent-Pietsch
Deputy Secretary
Policy, Services and Revenue
Community and Public Sector Union

² (ibid, p.35)

³ (ibid p.359)

⁴ *Federal Circuit And Family Court Of Australia (Consequential Amendments And Transitional Provisions) Bill 2019*.