

17 August 2023

## Victoria Legal Aid answer to questions on notice

Dear Committee

### Answers to questions from the inquiry into the *Family Law Amendment Bill 2023*

#### 1. *Information sharing*

*Question from Senator Scarr: For the record, are you happy with the provisions in the Family Law Amendment (Information Sharing) Bill? Do you think that will address that particular concern in relation to the sharing of information, so a judge in that position will have the benefit of that, or are there still some concerns?*

#### Support for the scheme but need to review regulations

We are broadly supportive of the provisions of the *Family Law Amendment (Information Sharing) Bill 2023*. However, we note that the regulations have not yet been released. As they will contain critical elements of the reforms it is difficult to assess the likely effectiveness of the overall framework for information sharing.

VLA supports the introduction of a safe and effective system to allow information sharing about risk between state child protection and family violence courts and the family law courts. In our experience, information sharing can lead to better decision making, informed by the best evidence and all relevant information. It can also go some way to minimising the burden on parties of needing to re-tell their experience to multiple professionals. However, it is critical that only appropriate information is shared, and that the receiver of information understands its relevance to the decision they are making.

#### Principles for safe and appropriate information sharing

The information sharing scheme should:

- Safeguard against inappropriate sharing of information, particularly where family violence is present.
- Ensure procedural fairness.
- Clarify the purpose and relevance of sharing information.

- Ensure family law system professionals understand how to interpret shared information.
- Take responsibility for the culturally safe sharing of information about Aboriginal and Torres Strait Islander peoples.
- Provide for earlier and streamlined information sharing processes, and
- Clarify alignment with state-based information sharing regimes.

In the absence of the regulations, we cannot assess how effectively the complete legislative framework addresses these issues.

## **2. Family report writers**

*Question from Senator Waters: What criteria would you like to see included in any regulations for accreditation of family report writers?*

### Importance of family report writers

We welcome the proposed creation of a new power for Government to regulate standards, expectations and duties for family report writers as we see variations in quality of reports.

Highly skilled and experienced family report writers are crucial to achieving good, safe outcomes for children. In highly contested matters, family report writers provide expert evidence and recommendations for care arrangements that are in the best interests of children.

### Lack of clarity in role of report writer and purpose of reports

However, as shared in VLA's 2021 [submission](#) to the Attorney-General's Department's consultation on 'improving the competency and accountability of family report writers', the role of the family report writer and the purpose and significance of a family report is not always clear and can cause confusion particularly to parents and families. This is also a contributing factor to the inconsistency we see in content, structure, risk identification and rationale across family reports.

### Issues with family reports

We see, in some cases, limited understanding of the family law legislative framework and court processes, resulting in recommendations that are not within the jurisdiction of the court.

Other significant factors we see as contributing to inconsistency, and at times lack of quality, is that there is varied understanding amongst family report writers of a range of risk factors for families including the dynamics of family violence and child abuse, and varied understanding of trauma informed practice applied in a family law setting.

### Impact of problems with family reports

As a result of inconsistency in written reports, skill and competency and limited applied quality control oversight, VLA lawyers have seen negative outcomes for children and families, and at times potentially unsafe placements.

### Addressing these issues

Equitable access to high quality and informed family report writers should be consistent across the family law system to ensure that the safety and best interests of children are at the centre of decision-making.

It is our view that family report writers should operate as accredited practitioners (similar to family dispute resolution practitioners) and be required to have gained relevant qualifications and competencies to meet accreditation standards specific to the role.

To facilitate this, in our view the Attorney-General's Department (AGD) should:

- Develop a single comprehensive binding guideline for report structure, content, and methodology applicable to all cohorts of family report writers.
- Establish a register of family report writers (similar to the AGD's Family Dispute Resolution Register [FDRR]). To register, family report writers should be required to meet specified accreditation standards. Only people included in the register should be able to provide family reports.
- Develop as part of the accreditation a competency framework for family report writers that sets out the knowledge and skills needed to practice as a report writer. This framework should outline a progressive or 'tiered' model of capacity building from foundational to continuing professional development to ensure family report writers obtain, maintain and continue to develop a consistent level of knowledge and skill.
- Specify key competencies in the framework, including: understanding family violence, family violence risk identification, assessment and management, trauma informed practice, working with victim survivors of family violence, working with people who use violence, cultural competency, working with children, working with families with complex issues, working with diverse communities, court and report writing, and relevant family law frameworks
- Fund and resource specialist First Nations and culturally diverse family report writers.

See our submission on family report writers (linked above) for more information.

We are happy to provide further information, if requested by the committee.

**Sincerely**

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**Family, Youth and Children's Law**