

9 April 2013

By email: legcon.sen@aph.gov.au

Dear Sir/Madam

I am writing to you to provide the views of Family & Relationship Services Australia (FRSA) on the impact of federal court fee increases on access to justice in Australia. FRSA supports this Senate Inquiry. As the national peak body providing leadership and representation for services that work to strengthen the wellbeing, safety and resilience of families, children and communities, we are well placed to understand the impact of the fee increases on families experiencing relationship breakdown.

We have two key issues to raise:

1. Increasing fees for a very broad spectrum of federal court users is not consistent with the Government's Strategic Framework for Access to Justice, particularly in the family law jurisdiction; and
2. To the extent that increased fees are being charged to users of the federal court, the revenue raised from those fees must be directed to provide better exemptions to Family Court users on a means-tested basis, or provided to increase the capacity of mediation or alternative dispute resolution services within the family law space.

According to the Attorney-General's Department website, the Government is committed to making the federal civil justice system more accessible. Yet it has failed to adequately justify the increases in fees for the federal court, which were introduced without reasonable public consultation. The filing fee increases do not, for example, reflect the capacity of different types of litigants to pay. Applying them to public companies with considerable resources is one thing, but in the family court the fees have increased by about 20 per cent, including for filing new matters, divorce and even conciliation conferences. FRSA believes the changes should be reshaped to ensure they do not negatively impact the ability of Australian families to access the family court system.

To the extent that fee increases have been introduced as a measure to force potential litigants into mediation, FRSA believes consideration needs to be given to the downstream effects. The revenue raised from the increases needs to be directed to supporting families to access services outside of the court system, such as improving the capacity of mediation services. According to the Law Council of Australia, approximately \$68 million over four years of this revenue has not been allocated.

In particular, FRSA would like to see an increase in funding for Family Relationship Centres (FRCs), through which FRSA member organisations provide valuable support to low income and ordinary Australians, including counselling, education and Family Dispute Resolution (FDR) services. The reduction in funding for FRCs that occurred in 2011 was introduced along

with the option for services to charge fees for FDR. Yet the majority of clients who access FDR through FRCs fit a low socio-economic profile, are often in receipt of government benefits, and thus do not have the capacity to pay for these services. The application of court fee revenue to decrease the burden on FRCs would be appropriate in the context of access to justice, and would result in reduced waiting times for vulnerable families looking for help; and reduce the length of time in which children in particular remain at risk.

In summary, FRSA urges the Senate Committee to recommend:

- the reshaping of the fee changes so that they are consistent with the access to justice agenda;
- the application of unallocated fee revenue to increase the capacity of family dispute resolution and other support services; and
- that research on the impact of these revised court fees be commissioned and undertaken within the first 12 months of operation.

Thank you for the opportunity to comment on this issue. For more information about FRSA's views, please feel free to contact me.

Yours sincerely

Steve Hackett
Executive Director