



Australian Women Against Violence Alliance

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

Submission in response to the public consultation on the Family Law Amendment (Parent Management Hearings) Bill 2017

Thank-you for the opportunity to make a submission on the Family Law Amendment (Parent Management Hearing) Bill 2017.

Australian Women Against Violence Alliance (AWAVA) is one of the six National Women's Alliances funded by the Australian Government to bring together women's organisations and individuals across Australia to share information, identify issues and contribute to solutions. AWAVA's focus is on responding to and preventing violence against women and their children. AWAVA's role is to ensure that women's voices and particularly marginalised women's voices are heard by Government, and to amplify the work of its member organisations and Friends and Supporters. AWAVA's members include organisations from every State and Territory in Australia, representing domestic and family violence services, sexual assault services, and women's legal services, as well as organisations representing Aboriginal and Torres Strait Islander women, young women, women educators, women in the sex industry and other groups. AWAVA's lead agency is the Women's Services Network (WESNET).

AWAVA endorses the submission made by the Women's Legal Services Australia on the 7th of February 2018. In particular, we wish to reinforce two of the overarching points made by WLSA in their submission:

1. WLSA's recommendation 11.1: In our view, such a significant reform should not be pursued separately from the other major review processes currently under way (particularly the Australian Law Reform Commission review of the Family Law Act). Rather, it would be appropriate for the proposed Parent Management Hearings to form part of these broader review processes, with the opportunities for wider consultation that these processes entail.

2. We strongly support WLSA in raising major concerns about cases of family violence being included in the proposed model. We share WLSA's concerns that the format and approach of the PMH is not conducive to managing the risks arising from family violence for victim/survivors and their children

In the event that the Government proceeds with the implementation of the Parent Management Hearing, we would like to reiterate the following recommendations made by WLSA:

3. We strongly support WLSA's recommendation 11.2.2. about the need for funded legal assistance and representation in matters involving family violence and child abuse, including additional funding for family law and family violence duty services; specialist women's legal services and programs; and specialist Aboriginal and Torres Strait Islander controlled legal service providers (including both Family Violence Prevention Legal Services and Aboriginal and Torres Strait Islander Legal Services).

4. We strongly support WLSA's recommendation for the panel members to be trained and highly experienced in family violence, child abuse and trauma informed practice. Panel members should undergo appropriate training to better understand and work with victims of violence and trauma, ensuring decisions are better informed, safer and more appropriate. Further, all panel members should have an understanding of the tactics a perpetrator may utilise within the court system to 'perpetuate a pattern of dominance and control'.¹ Increased knowledge regarding gender bias and the nature of family violence amongst panel members can assist in holding perpetrators to account, and ensure that victims are treated in a consistent manner.² We refer you to the National Domestic and Family Violence Bench Book³ that promotes best practice and consistency amongst judicial officers where family violence is involved, reiterates that understanding and training in managing cases of domestic violence need to permeate all staff in the legal system. We also refer you to the Women's Legal Services Australia Five-Step Plan for Safety First in Family Law.⁴

5. Lastly, we strongly support WLSA's recommendations 11.2.3-11.2.5 in relation to the cultural competency, sexuality and gender diversity as well as disability training of all panel members in relation to family violence, child abuse and trauma informed practice. Panel members should be trained to account for the specific needs of Aboriginal and Torres Strait Islander women, women with disabilities, women from culturally and linguistically diverse backgrounds (including working with interpreters), working with vulnerable clients, trauma-informed practices and working with lesbian, gay, bisexual, transgender and queer (LGBTQ) families.

The family law system is one of the major institutions that has to be navigated by people (often by themselves without any legal representation) who are living in violence and are trying to build safer lives for themselves and their children. Following the reform of the Family Law Act and the increasing engagement with families in crisis⁵, it is imperative that the main responsibility of the family law system is to ensure safety for women and their children, mitigate any risks of their further re-traumatisation and remove barriers to access to justice for women affected by violence.⁶

If you would like to discuss the contents of this letter further, please feel free to contact me using the details below.

Sincerely,

Merrindahl Andrew

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¹ Women's Legal Service NSW, Supplementary submission to the Family Law Council Reference on Families with Complex Needs and the Intersection of the Family Law and Child Protection System (16 October 2015)

<http://www.wlsnsw.org.au/law-reform/submissions/> (accessed 9 June 2016).

² Wakefield S & Taylor A. 2015. Judicial education for domestic and family violence. ANROWS Landscapes 02/2015. At: anrows.org.au/publications/landscapes/judicial-education-for-domestic-and-family-violence-state-knowledge-paper

³ See: <http://dfvbenchbook.aija.org.au/contents>

⁴ See: <https://safetyinfamilylaw.org.au/>

⁵ Reports on Families with Complex Needs and the Intersection of the Family Law and Child Protection Systems

<https://www.ag.gov.au/FamiliesAndMarriage/FamilyLawCouncil/Pages/FamilyLawCouncilpublishedreports.aspx>

⁶ Women's Legal Services Australia and Rosie Batty's Five Step Plan for Safety First in Family Law accessed at:

http://www.womenslegal.org.au/files/file/SAFETY%20FIRST%20POLICY%20PLATFORM.MAY%202016_FINAL.pdf