



**Australian
Human Rights
Commission**

National Children's Commissioner

Megan Mitchell

23 December 2015

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

Dear Committee Secretary,

Senate inquiry into the Family Law Amendment (Financial Agreements and Other Measures) Bill 2015

The Australian Human Rights Commission welcomes the opportunity to provide this submission to the Senate Legal and Constitutional Affairs Legislation Committee in relation to the above inquiry.

As you may know, in 2015 I conducted a national investigation into how Australian children under 18 years of age are affected by family and domestic violence. The findings and recommendations are contained in the *Children's Rights Report 2015*.

Pages 144-149 in section 4.5.6 of the report contains a number of findings about how children affected by family and domestic violence who are involved with the family law system. I have attached the relevant section to this letter. I encourage the Committee to consider these findings in the conduct of the inquiry.

Recommendation 10 of the *Children's Rights Report 2015* is that:

A review of the criteria for entry into the Magellan program should be undertaken by the Family Court of Australia or another appropriate entity.

The Magellan program was developed to deal with Family Court cases involving serious allegations of physical and sexual child abuse. As these cases involve the most vulnerable children, the Family Court has implemented this fast-track program in all of its registries.

Magellan involves:

- rigorous judicial management including the imposition of strict timeframes
- an early 'front loading' of resources such as the appointment of an independent children's lawyer
- requesting information from the relevant state or territory welfare authority early in the trial process, and

- close liaison on case management between external information providers and a small team of judges, registrars and family consultants.

At present the Magellan program includes only children who have experienced 'serious physical abuse or sexual abuse'. Consideration should be given to expanding the Magellan program to incorporate the broader definitions of family violence and abuse. A broader definition should be consistent with the family violence amendments to the family law system in 2012.

Amending the criteria for access to the Magellan program has resource implications for child protection agencies and the family law system. However, broadening the Magellan program also has the capacity to promote and protect the wellbeing of significantly more children affected by family violence.

Thank you for considering the information I have provided to you and I hope that it is of use in your inquiry and report.

Yours sincerely.

Megan Mitchell
National Children's Commissioner