



23 February 2021

Hon Kevin Andrews MP, Chair
Joint Select Committee on Australia's Family Law System

Dear Chair,

Thank you for the time that you and some of your Committee members have taken to consider *For Kids Sake's* views and detailed submissions.¹ On behalf of future generations of Australian children, we're writing one, final letter before your Committee submits its report and recommendations in the hope that you may yet create a report that's truly transformational ... the report that Australian children and families so desperately need.

The COVID crisis has reminded us all how precious families and family relationships are. It's also reminded us how fragile they are, being exposed to financial and emotional stresses of all kinds. We believe this crisis provides your Committee with **a once-in-a-lifetime opportunity to rethink and reset how we deal with families** - and to ensure that, unlike so many prior reviews (each of which, no doubt, thought its recommendations good and important), it has a valuable legacy.

We highlight here just three of the many **carefully considered recommendations** we made to your Committee, both for family law reform and for more holistic, progressive change. If adopted, each of these would ensure an invaluable legacy.

1) MINISTER FOR CHILDREN/FAMILIES

This Committee has the opportunity to prevent great harm to many children by triggering a long-overdue transformation: from too-late, reactive, financially unsustainable systems to safer, more cost-effective, early interventions and education for children and families. By advocating the creation of a holistic *Child and Family Wellbeing Policy*², under the remit of a Minister for Children/Families, to be placed at the centre of government policy, the Committee would protect many of our most vulnerable citizens. Holistically. Pro-actively. Preventing harm before it starts and making sure that, when parents do break up in future, their families are better equipped to avoid the damaging outcomes of today. Surely, nobody can argue against that?

FAMILY LAW REFORM IS NOT ENOUGH. NOT EVEN CLOSE.

Some may feel that this is not the role of this Committee; was it not established (like so many before it) with a prescribed focus on simply improving family law? Some, we know, are so ideologically attached to the conception of the Family Law Act that they won't ever countenance another approach. **When children's lives are at stake, though, we believe it's never too late to stop asking the wrong question** - "How can we improve family law?" - and start asking the right one: "How do we best look after, and protect, children when a family breaks up?"

¹ Our non-profit, and international foundation **Two Wishes**, are not affiliated with any party, profession, religion, gender or ideology. Our members and representatives include, among others, scientists, health and legal professionals and senior family court judges. Our recommendations are based on current scientific evidence and world's best practices. We have no vested interests and gain no benefits from the positions we take or the recommendations we make.

² See, e.g. **New Zealand's model** for Child and Youth Wellbeing.

The evidence is overwhelming and indisputable: “tinkering” with family law does not work (sample size: 100+ Acts of Parliament and counting); reviews of family law don’t work either (sample size: 60+ and counting); and family law is not “broken”, but actually “unfit-for-purpose” and harmful (as experts increasingly recognise) because it’s intrinsically slow and unaffordable and frightening and adversarial. Surely it’s long past time to stop doing more of the same?

With terms of reference that allow for addressing “any related matters”, we’re hoping that the Committee may be persuaded that its responsibility for doing what’s best for the wellbeing of hundreds of thousands of children is simply incompatible with confining recommendations to family law reform. Especially when there is abundant evidence of programs, policies, world’s best practices and countries that deal with separating families so much better.

2) PRODUCTIVITY COMMISSION REPORT

A second, critical recommendation to ensure an enduring legacy from this Committee’s work would be to establish a Productivity Commission investigation - into the financial costs to Australia of family breakdown. Much as its report into mental health showed a \$220 billion/year cost to the economy, such a report would provide the launchpad, and financial incentive, for the introduction of progressive policies years into the future, by governments of all persuasions.

Without such hard, financial evidence, the debate will remain forever mired in such issues as how much money should go to family courts or judges or Legal Aid, while much better, safer interventions will forever struggle to get the investment their proven outcomes warrant in competition with the behemoth that is the pre-existing, Australian family law system.

3) PROMOTIONAL CAMPAIGN

Finally, but equally importantly, nothing will be able to compete with the family law system (and everything will continue to be described as “an alternative”) until safer, earlier interventions and educational programs are heavily promoted - for instance, through advertisements in GPs surgeries and on television/online. If children are not to continue to be harmed in droves by the dominance of a system that increases risks of harm, it is essential that the Government not only invests in the safe, modern approaches to family breakdown that we have detailed elsewhere but that it invests, also, in providing substantial promotion for these to prevent them remaining forever as lesser “alternatives” to court systems that are massively funded by comparison.

There are many significant improvements to the current family law system that this Committee will, no doubt, recommend (and many that we have recommended too) and it’s understandable that the Committee may see these as its priorities for a family law system in crisis. But, if that’s where this Committee stops, it will (like its many, many predecessors) have failed another generation of our most vulnerable Australians.

If we’re not to miss the best opportunity in a generation to start truly acting in the best interests of our children, we urge you to recognise explicitly that family breakdown is a public health issue - a public health crisis, no less - and that a major shift in thinking from law- to health-focused approaches is both urgent and essential for the wellbeing of our children and families.

Please do not hesitate to make contact with us for any further information, anytime.

Yours faithfully,

Toni Leahy
Board Member, For Kids Sake, WA