



The Royal
Australian &
New Zealand
College of
Psychiatrists



12 July 2018

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

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

Dear Committee Secretary

Re: Family Law Amendment (Family Violence and Cross-examination of Parties) Bill 2018

The Royal Australian and New Zealand College of Psychiatrists (RANZCP) welcomes the opportunity to provide feedback regarding the Family Law Amendment (Family Violence and Cross-examination of Parties) Bill 2018 (the Bill).

The RANZCP is the principal organisation representing the medical speciality of psychiatry in Australia and New Zealand and is responsible for training, educating and representing psychiatrists on policy issues. The RANZCP represents more than 6000 members, including more than 4000 qualified psychiatrists and over 1500 members who are training to qualify as psychiatrists. The RANZCP is guided on policy matters by a range of expert committees.

The RANZCP is strongly committed to reducing family violence. As experts in mental health, we recognise the profound impacts violence of this sort can have on the long term health and well-being of affected individuals. Research shows that people who experience family violence are at heightened risk of developing mental health issues related to the stress and trauma they have encountered. Conversely, people living with mental illness are at heightened risk of experiencing family violence. Mental health practitioners therefore have an important role in both screening for, and managing the mental health impacts of, family violence.

Personal cross-examination can have deleterious effects on the mental health of victims of family violence. Firstly, the cross-examination itself can be an opportunity for further victimisation, exposing victims of family violence to the risk of retraumatisation. It is also common for perpetrators of family violence to raise claims about the mental health issues of victims; such public disclosures are often used frivolously to maintain post-separation emotional abuse and are likely to induce fear and have severe effects on the mental health of family violence victims.



As a result, the RANZCP strongly supports the object of the Bill to ensure that appropriate protections for victims of family violence are in place during cross-examination in all family law proceedings. In particular, we support the empowering of courts to make orders prohibiting personal cross-examination to ensure the protection of individuals where there are no relevant convictions, charges, family violence orders or injunctions.

The RANZCP also supports the Bill's objective to balance the right to safety and protection from further abuse with the right to procedural fairness. While procedural fairness is provided with the requirement for a legal representative, the Bill will inevitably have a financial impact on legal aid organisations which already have significant budgetary pressures to contend with. The RANZCP would encourage further tools to address this issue to ensure that alleged and convicted perpetrators of family violence have access to timely legal advice and representation, the lack of which is a form of disadvantage and would cause a delay in proceedings for both parties.

If you would like to discuss any of the issues raised in the submission, please contact
Executive Manager, Practice, Policy and Partnerships via
or by phone on

Yours faithfully

Dr Kym Jenkins
President

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