Parliamentary inquiry into a better family law system to support and pro Submission 20 - Supplementary Submis

# FINANCIAL REHABILITATION IN DIVORCE



"90% of couples financially sorted out within 90 days"



Up to 90%

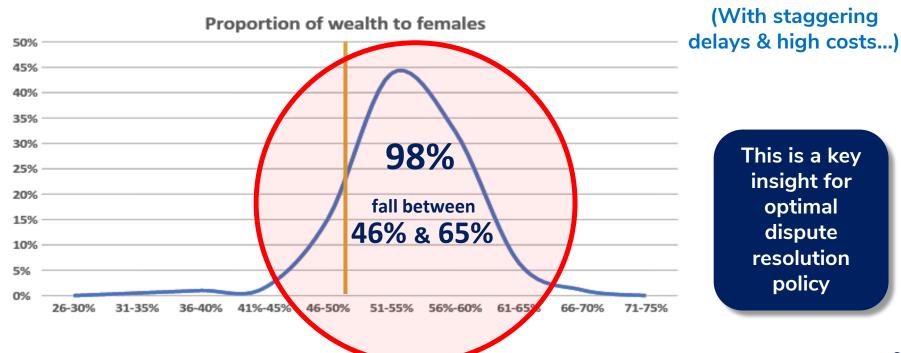
of domestic violence includes financial abuse

[But the Family Court and FCC hear only 0.26% of them]



This is a cycle we can break

#### What financial outcomes look like when couples separate



In all except the 2% "outlier" cases...

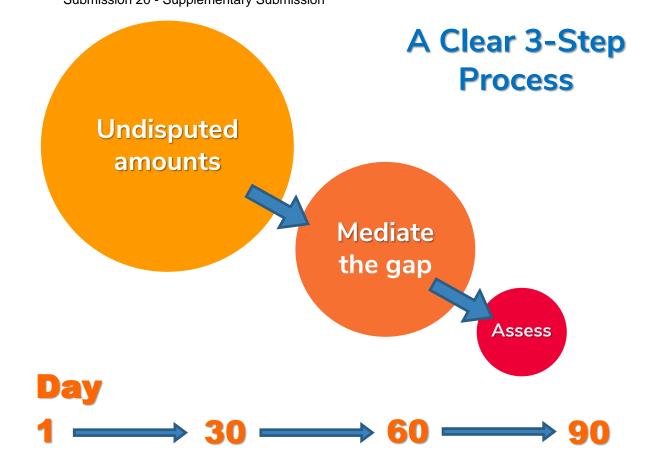
...each spouse will end up with at least 35% of their wealth.

So there is no rational reason not to have 2x35%=70% of wealth paid or payable immediately.

# THE CORE CONCEPT:

Couples must distribute their wealth in a timely manner





Naturally, there are detailed procedures:



Specific mechanisms for houses, business valuations etc

Exemptions for genuine 2% "outlier" fact patterns

**Appeal & opt-out options** 

Penalties for non-compliance

The 90:90 Solution

The working draft legislation that you have is a version of existing mechanical sections of The Family Law Act, Income Tax Assessment Act, Civil Procedure, Construction Payments, etc

### Major Benefits





Financial rehabilitation for separating couples



**Lower financial stress** → **lower violence** 



Up to 67% of cases out of the court queue



More resource focussed on children and victims



Up to \$50m funding for Rosie Batty and other community initiatives

### Justice delayed is justice denied

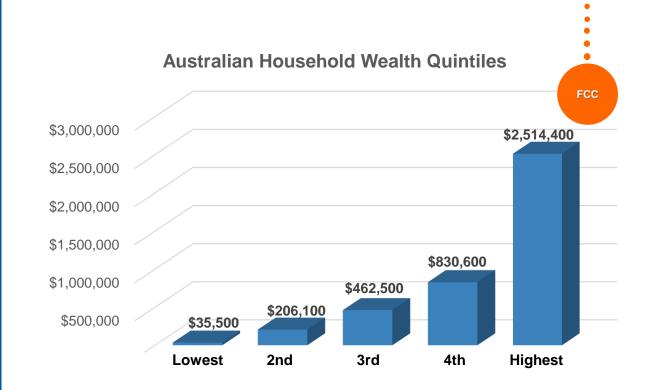
WHAT	WHEN	HOW	
Court Hearings	24-36 months	Freeze assets	1.3% of cases
Collapse in Court queues	20 months	Freeze, Attrition	
Solicitors bartering	23 months	Delay tactics	No enforcement mechanisms
Mediation	4 weeks	Low stress	
Others	15 months	DIY, Legal Aid	

## Who are the 1.3%?

Average wealth:

Fed Circuit Court \$2,800,000

Family Court \$6,800,000



# Resource Allocation

"What's the net effect?"

On average around 25% of the family courts' resources – around \$50,000,000 per annum...

...is spent on property matters for 1.3% of the divorcing population...

...whose average \$2.8m+ of wealth places them in the top 5% of the nation...

...while the family courts address only 0.26% of domestic violence cases.

#### Clean reform

No cost to taxpayers

Legislation drafted

Access to justice for all

Break the cycle: "Safer, Sooner"



What will be the legacy of The Henderson Committee?





#### More reports





Request even more money from Treasury





Reallocate resources to where they're really needed

Parliamentary inquiry into a better family law system to support and protect those affected by family violence



#### **Annexure A:**

Suggested solutions to financial violence received by The Henderson Committee

	Proposal Proposal	Promoters	Constraint
1	More money for Courts	The Law Society, Legal academics; The Barristers Associations of various states.	No money & proven ineffective.
2	Defer & form another committee	Law Reform Commission; AGs Dept.	Delay is political death.
3	Try semi-formal tribunals	Prof Parkinson; Sexual Assault Support Service; Vic Legal Aid; Good Shepherd; Monash Legal.	Great for parenting issues. \$12m.
4	Arbitration	National Legal Aid Secretariat.	Chapter III of the Constitution.
5	More money for Legal Aid	Legal Aid NSW; Aust Women Against Violence; Victims of Violence.	Lots of sympathy from MPs - but little cash.



#### **Annexure A:**

#### Continued

	Proposal	Promoters	Constraint
6	Can't say at this point	The Family Law Council.	Status quo is a political death wish.
7	Merge Courts for greater efficiency	Kay Hull - former Parliamentarian.	
8	Peoples Tribunal	Fathers Groups; individuals; One Nation Policy paper.	Chapter III of the Constitution.
9	Pay citizens ASAP	Divorce Partners.	



**Annexure B:** 

**Divorce Partners** 

☐ Focus on behavioural economics ☐ Focus on the middle class: ☐ Quintiles 2 and 3 □ \$200k - \$750k wealth ☐ Enjoy no state subsidies ☐ Can't afford legal advice ☐ Solved: 92% in 3 weeks

#### **Sources:**

Australian Bureau of Statistics

Australian Institute of Family Studies

**AUSTLII** 

Bureau of Crime Statistics and Research (BOCSAR) NSW

Family Court - 2016 Annual Report

Federal Circuit Court - 2016 Annual Report

Commonwealth Treasury Reports