



## Western NSW Community Legal Centre Inc

7 February 2018

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

By Email: [legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au)

Dear Sir

**RE: Inquiry into the Family Law Amendment  
(Parenting Management Hearings) Bill 2017**

### Introduction

The Western NSW Community Legal Centre ("the Centre") was established in the financial year 1995/1996, under the then Government's Justice Statement. The Centre employs seven solicitors, an Executive Officer, three administrative staff and two caseworkers who support female victims of family and domestic violence. We cover a geographic region in central and north-western NSW of approximately 180-200,000 square kilometres that takes in remote communities with high levels of disadvantage. We are strong advocates of social justice for disadvantaged people whom often do not have a voice.

The Centre aims to meet the legal needs of our far-reaching community by providing community legal education, law reform activities and media comment on issues of importance to that community. Providing casework to disadvantaged clients who cannot access other publicly funded legal services is a significant part of what we do. The most common, but by no means the only areas of law in which the Centre assists, are Family Law, Domestic

Violence, Child Support, Child Protection, Credit and Debt, Discrimination, Victims' Compensation, Social Security and Employment.

The Centre also operates a specialist Women's Domestic Violence Unit where we provide a holistic legal service to women who are victims of family and domestic violence. We have one senior solicitor, a solicitor and two case workers who meet with the clients, refer, advise, conduct risk and safety assessments, and provide advice and representation services.

### **Recommendations**

1. We support the use of a less formal body to resolve "simple" family law matters where parties are unrepresented. However, suitably qualified people must assess the appropriateness of matters being dealt with via PMH's including screening for the absence of family violence, domestic violence, and child abuse; imbalance of power between parties; cultural complexities; serious mental health issues; and extensive history of violent criminality. Where any of these issues are present, or become evident throughout the course of a matter, it is our preference that the matter be referred to the appropriate court, rather than being dismissed.
2. PMH's must be accessible to people in rural, regional and remote areas by ensuring that they are located/sitting regularly in country regions across Australia.
3. Filing and other fees related to proceedings must be kept to a minimum to allow accessibility to disadvantaged people. In the alternative, fee waivers must be available to low income earners, clients of Community Legal Centres and Legal Aid, and all people on Centrelink benefits.
4. We support having appropriately qualified legal and non-legal members on the PMH but we have concerns that, if matters involving family violence, domestic violence and child abuse can be determined, a minimum of five years' experience is insufficient to properly gain the necessary skills to make decisions. This could have potentially significant ramifications where outcomes can include removing parental responsibility from a parent.



5. Parties in matters involving family violence, domestic violence and child abuse must have access to legal representation. However we propose that legal representatives' primary role is that of advising parties along the way and not conducting the proceedings on their behalf. An inquisitorial approach is supported and direct communication with the parties is preferred.
6. Given the lack of evidence supporting the successful viability of using the PMH model, the approach should be referred to the ALRC Inquiry for more thorough analysis before embarking on this course.
7. If the PMH model proceeds, we support the announcement of additional funding from the Commonwealth Government for more family consultants. Currently there is a large delay in the Family Court and Federal Circuit Courts, especially those sitting in Western NSW. This is largely due to the extended waiting times for a family consultant and family report. If PMH's are going to be referring matters to a family consultant it is imperative that they are adequately funded to ensure a timely process.

### **Endorsement**

We endorse the submission provided by Women's Legal Services Australia.

If anything further is required please do not hesitate to contact the writer.

Yours faithfully

**Western NSW Community Legal Centre**

Per:

Emma Johnson  
Solicitor