



Top End Women's Legal Service Inc.

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Committee Secretary
Senate Legal and Constitutional Affairs Committee

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

Dear Committee Secretary

Inquiry into the impact of federal court fee increases since 2010 on access to justice in Australia

Thank you for the opportunity to comment on the impact of federal court fee increases since 2010 on access to justice in Australia. Due to current capacity constraints at Top End Women's Legal Service (TEWLS), this is a very limited submission, focussing only on fees for divorce applications.

Who we are

TEWLS is a community legal centre funded by the Commonwealth Attorney-General's Department to provide referrals, legal advice, casework, law reform and community legal education to women in the Top End of the Northern Territory. We regularly provide advice and assistance to disadvantaged women, including Aboriginal, Torres Strait Islander, refugee and immigrant women, on family law matters.

Increased fee for divorce applications

Divorce application fees for those who are financially disadvantaged increased from \$60 to \$265 on 1 January 2013. This represents an astounding increase of 440%. The justification for such a significant increase is not readily apparent.

Such a significant increase to the reduced divorce application fee inadvertently creates a system in which only middle and high income earners can afford to apply for divorce. It creates a barrier for those financially disadvantaged members of our community.

Women are more likely to make a sole application for divorce than men.¹ Women also earn less than men on average over their lifetime and are more

¹ Australian Bureau of Statistics, 3310.0 – *Marriages and Divorces, Australian, 2011* (released 30/11/2012), accessed on 11 April 2013 at <http://www.abs.gov.au/ausstats/abs@.nsf/Products/B3C244469C9A39E6CA257AC5001131DA?opendocument>

likely to live in poverty in old age.² These changes will therefore have a gendered impact to the detriment of women.

TEWLS provides assistance and representation to women applying for divorce who are on a low income and who have difficulty completing the forms due to English language or literacy difficulties. A number of these women have been subjected to domestic violence by their former husbands and for some, the impact of the domestic violence has impacted on their ability to work. For these women, \$60 constituted a lot of money, particularly where there are dependent children. We fear that the increase of the fee to \$265 will be prohibitively expensive for women in such circumstances.

For victims of family violence, obtaining a divorce order can be empowering. Women that we have assisted with divorce applications have stated that getting a divorce is important to them for closure or for moving on.

Unlike parenting or property matters, a controlling, manipulative or violent spouse cannot refuse the application so long as there has been 12 months of separation and the procedural requirements have been fulfilled. Increasing the reduced divorce fee so dramatically creates another barrier to rebuilding and healing after experiencing domestic violence at the hands of a spouse. We also believe the increase in the divorce fee is inconsistent with Strategy 5.1 of the *National Plan to Reduce Violence Against Women and Their Children* (enhancing the family law system response to family violence).

Yours faithfully,
TOP END WOMEN'S LEGAL SERVICE INC

 Nicki Petrou
Managing Solicitor

² See generally, Australian Human Rights Commission, *Accumulating poverty? Women's experiences of inequality over the lifecycle: An issues paper examining the gender gap in retirement savings* (September 2009)