Senate Legal and Constitutional Committee Inquiry: Access to Justice
Response by the Chief Justice of the Family Court and the Chief Federal Magistrate
on behalf of the Family Court of Australia and the
Federal Magistrates Court of Australia
13 May 2009

The Family Court of Australia ("the Family Court") and the Federal Magistrates Court of Australia ("the FMC") ("the Family Law Courts") welcome the opportunity to provide a joint response to the Senate Legal and Constitutional Committee's ("the Committee's") Inquiry into Access to Justice. This submission is made by the Chief Justice of the Family Court and the Chief Federal Magistrate of the FMC in consultation with the Judges and Federal Magistrates of the Family Law Courts.

As the Committee would be aware, there have been numerous inquiries into access to justice and the costs of litigation and this response builds upon the findings of these inquiries.

Where considered appropriate, discrete terms of reference have been grouped and responded to accordingly.

INTRODUCTION

In his opening address to the National Access to Justice and Pro Bono Conference in 2006 the former Chief Justice of Australia, the Hon. Murray Gleeson AO, said:

> *Access to justice has a much wider meaning than access to litigation. Even the incomplete form of justice that is measured in terms of legal rights and obligations is not delivered solely, or even mainly, through courts or other dispute*

> *resolution processes. To think of justice exclusively in an adversarial legal context would be a serious error.*[1]

His Honour's comments are apposite to the Committee's inquiry. But equally however, access to justice in an adversarial context is not achieved only through the availability of alternative dispute resolution mechanisms. Justice cannot exist without courts as the ultimate arbiters of disputes.

The family law system is replete with alternatives to litigation. Indeed, it is now a statutory requirement that parents in dispute about care arrangements for their children participate in family dispute resolution prior to issuing court proceedings. The Family Court has imposed similar, albeit less onerous, requirements on separated couples who are embroiled in a financial dispute.

Parties should be encouraged to resolve their family law dispute outside the court system wherever possible, whether through negotiation, mediation, conciliation, arbitration, or collaborative law processes. The Government has provided significant additional resources to the community sector to support the resolution of disputes without recourse to litigation.

However, not all conflict is amenable to or appropriate for resolution by agreement. Where there are allegations of violence or sexual abuse of children, where conflict between parties is entrenched, or where the issues requiring resolution are highly technical and complex, a judicial determination is usually the only solution.

This much was acknowledged by the Attorney-General, the Hon. Robert McClelland MP, when making his opening address at the 2009 Inaugural Family Law Conference. The Attorney-General said:

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[1] The Hon. Murray Gleeson AO, Chief Justice, High Court of Australia, *Opening Address*, National Access to Justice and Pro Bono Conference, Melbourne, 11 August 2006, p. 1, http://www.hcourt.gov.au/speeches/cj/cj_11aug06.pdf (accessed 23 April 2009).

> *My view is that separating families and children should not have to work through their issues alone, but should be able to access services to assist them through the process.*
>
> *Where they are unable to resolve differences, court resources and services should be available to ensure issues in dispute are identified early and resolved.*[2]

In order to meet the multiple and often evolving needs of people affected by relationship breakdown, the family law system is multi-faceted, comprised of many parts working (or seeking to work) together as a cohesive whole. The Family Law Courts are an inherently vital part of that system, not only for their function of deciding issues in dispute for those who cannot decide for themselves but in the consideration and application of legal principle. Ready access to low-cost, timely and effective court processes is therefore essential to access to justice.

TERMS OF REFERENCE

a) The ability of people to access legal aid

b) The adequacy of legal aid

The Committee conducted an inquiry into the legal aid system in Australia and tabled a series of three reports in March 1997, June 1997 and June 1998. The Committee undertook a further *Inquiry into Legal Aid and Access to Justice* and reported to the Parliament in June 2004. The Family Court made a submission to the 2004 inquiry and that submission is commended to the Committee in the context of its current inquiry.

[2] McClelland, the Hon. Robert, Attorney-General, Commonwealth of Australia, *Opening Address*, Inaugural Family Law System Conference, Parliament House, Canberra, 19 February 2009, para 33, < http://www.attorneygeneral.gov.au/www/ministers/robertmc.nsf/Page/Speeches_2009_19February2009-OpeningAddressInauguralFamilyLawSystemConference> (accessed 10 April 2009).

It is noted that the findings and recommendations made by the Committee in 2004 included:

- That the Commonwealth Government increase as a matter of urgency the level of funding available for family law matters.
- That the Commonwealth Government should act to ensure the necessary data on operation of the "cap" in family law matters is collected, analysed, published and acted upon to ensure that capping does not deny justice in particular cases.
- That a project similar to the Magellan Project[3] as initiated by the Family Court be adopted whereby the usual legal aid guidelines are altered in cases involving allegations of domestic violence. In effect, this would mean removing the "cap" on legal aid funding so that victims of domestic violence would be guaranteed unlimited legal aid funding.
- That a separate pool of funding for child representation ultimately be established so that decisions made by the Family Court and/or the Federal Magistrates Court to appoint child representatives (now Independent Children's Lawyers (ICLs)) do not impact on the availability of legal aid funds for parents in family law proceedings.
- That the Commonwealth Government provide legal funding to enable legal representation to be available to all parties in family law disputes where there are allegations of domestic violence or child abuse, or other serious allegations.

It is understood that these recommendations were either not accepted or, where accepted in part, they have still not been implemented.

The availability and adequacy of legal aid are of critical importance to the users of the Family Law Courts.[4] The Family Court has advanced the view in earlier submissions that

[3] The 'Magellan Project' was the pilot of a case management system for dealing with cases involving allegations of sexual abuse and serious physical abuse of children. Following a successful evaluation, 'Magellan' has been implemented in the Family Court on a national basis.

[4] See comments of the former Chief Justice of the Family Court, the Hon. Alastair Nicholson AO RFD QC in *Legal Aid and a Fair Family Law Justice System*, paper delivered at the Legal Aid Forum: towards 2010, Old Parliament House, Canberra, April 1999, p. 1.

there is a causal link between the lack of adequate legal aid funding and self-representation in the Family Court and the impact of self-representation on the Court process and the parties involved[5] and the FMC supports these views.

In her 2006 paper *Self Represented and Vexatious Litigants in the Family Court of Australia*, Chief Justice Bryant wrote:

> *It is beyond doubt that the numbers of self-represented litigants in the Family Court has markedly increased in the last ten years. Cuts to the legal aid budget for family law, the cost of legal services, the introduction of simplified procedures to reduce complexity and cost, changes to the substantive law in the area of children's cases, the rise of the father's rights movement and the perception that family law is not 'real' law such that the services of a lawyer are not required have all been identified as factors contributing to this increase.*

In their 2003 study *Legal Aid and Self Representation in the Family Court of Australia*, Rosemary Hunter, Jeff Giddings and April Chrzanowski found as follows:

> *The results of the research makes it clear that there is an extensive relationship between the unavailability of legal aid and self-representation in the Family Court. That relationship is found not just in legal aid rejections or terminations, but also in non-applications for legal aid. They also show that in some cases, litigants may appear unrepresented even when holding a grant of legal aid.*
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> *The research examined the respective associations between the means test and the merits test and self-representation. The data suggests that the level at which the means test is currently set does not accurately reflect the level at which people can and cannot afford to pay for their own lawyer, but rather creates a group of*

[5] See for example the Family Court's submission to the Committee's *Inquiry into Legal Aid and Access to Justice*, Submission No. 85, 2003.

people who are not eligible for legal aid but who are unable to afford private legal representation.

Both qualitative and quantitative data was collected for the *Litigants in Person in the Family Court of Australia* study, commissioned by the Family Court and released in 2000. Qualitative data was obtained through focus groups and interviews. Judges, judicial registrars and registrars who were interviewed for the project reported that proceedings in which there was one or more unrepresented party often increased the time taken for a hearing. They also reported that proceedings were characterised by more Court mentions, return dates and administrative tasks when compared to proceedings where both parties were represented.

Quantitative data was obtained through surveys. Questionnaires completed by Judges, Judicial Registrars and registrars indicated that 63% thought that the unrepresented party was disadvantaged by the lack of legal representation. In only 31% of cases was it considered that the unrepresented party participated competently in the proceedings. 77% of people who responded to the survey considered that they or the Court would have been assisted if one or more of the parties had been represented.

In summarising the research findings, the authors of the study concluded that matters involving litigants in person are frequently more consuming and wasteful of the time of judicial officers, registry staff and other parties and their representatives than where all parties are represented. The authors suggest that matters involving litigants in person remain in the system for shorter periods of time but while they are in the system they are more time-intensive than in cases where both parties are represented.

Self-evidently, legal aid is fundamental to facilitating access to justice. This observation applies with equal force to representation at interim or interlocutory proceedings as to representation at trial. The outcome of many interlocutory applications, such as evidentiary rulings, discovery, disqualification and interim costs orders, affect or are

dispositive of the outcome of the substantive proceedings (recognising, of course, that in parenting cases it is the best interests of the child that determines the outcome).

It is important to keep in mind that the availability of legal aid is central to many litigants' ability to successfully prosecute an application for enforcement of orders made in family law proceedings, whether they be parenting or property orders. As the Committee would be aware, the Family Law Courts cannot initiate enforcement proceedings of its own motion and is reliant upon an application being brought before it can consider whether there has been a breach and what sanctions to impose on a non-compliant party.

Since the Committee's inquiry in 2004, an apparent contraction in the availability of legal aid funding has been observed.

For example, Victoria Legal Aid has limited funding available for the appointment of ICLs in cases heard in the Melbourne registry of the Family Law Courts. ICLs are lawyers appointed by the Court to form a view as to what orders would be in a child's best interests and make submissions in accordance with that view. They do not represent the child as such or act on a child's instructions. The reduction in funding for ICLs has the potential to inhibit the Family Court in fulfilling its responsibilities and in particular the obligation to further the best interests of the children involved.

Any reduction in legal aid coverage has obvious and severe ramifications for access to justice by those unable to afford private legal representation.[6]

One final matter pertaining to term of reference a), the ability of people to access legal representation, deserves mention. That matter is the availability of case guardians (as they are referred to in the Family Court) or litigation guardians (as they are referred to in the FMC).

[6] Australian Law Reform Commission, *Managing Justice: a review of the federal civil justice system*, report no. 89, Canberra, 2000, p. iv.

Case guardians are appointed by the Family Court under rule 6.10 of the *Family Law Rules* 2004 (Cth) to manage and conduct a case for a child or a person with a disability. A "Person with a disability" is a person who, because of a physical or mental disability:

(a) does not understand the nature or possible consequences of the case; or

(b) is not capable of adequately conducting, or giving adequate instruction for the conduct of, the case.

Similar rules apply in the FMC with respect to the appointment of litigation guardians under Division 11.2 of the *Federal Magistrates Court Rules 2001* (Cth).

The role of the case guardian or litigation guardian is to conduct litigation and provide appropriate instructions to so do. A person must consent to being appointed as a case or litigation guardian.

There are increasing difficulties with respect to the appointment of public officials or office holders as case or litigation guardians where there is no one else available and there is no funding for such officials or office holders to enable them to instruct legal counsel. For example, in a parenting dispute in which the Family Court found that the husband was not capable of conducting his own case or giving instructions for its conduct, the Public Advocate agreed to act as the husband's case guardian, provided that funding was secured for him to instruct a solicitor. As the husband did not have funds available, the appointment could only be made on the basis that the case guardian would act for as long as it took for legal aid to be granted and if aid were not forthcoming, the case guardian would be forced to withdraw.

Pursuant to rule 6.11 of the *Family Law Rules 2004* (Cth) the Court is able to make a request that the Attorney-General nominate a person to be appointed as a case guardian. The Chief Justice has been informed that requests to nominate a case guardian are not always responded to expeditiously, and in any event there is still the issue of funding being available.

The *Family Law Rules 2004* (Cth) were altered at the request of the Attorney-General's Department to remove the obligation on the Attorney-General to appoint a case guardian, and replace it with the ability to request the Attorney-General to nominate a person to be appointed. This was done on the understanding that consideration would be given to inter-governmental arrangements being put in place such that there would be a fund available to enable public trustees and public advocates to be appointed case guardians where no one else such as a close relative was available. However, nothing has happened in this regard.

In the FMC, the *Federal Magistrates Court Rules 2001* (Cth) provide that if a person is authorised to conduct legal proceedings for a person who needs a litigation guardian, that person is entitled to be the litigation guardian. Pursuant to rule 11.12(2), the Attorney-General may appoint a person to be an 'authorised person'.

Delays in the finalisation of litigation, particularly contested parenting cases, put enormous strain on the parties and their children. Research has established that parental conflict is frequently exacerbated by protracted litigation and damage to parental capacity occurs as a result. It is also important that parties who may be suffering from a physical or mental illness or intellectual disability and who are unable to manage the conduct of their case as a result are afforded natural justice. There is a concern that in cases involving impecunious litigants with a disability that this may not be occurring.

c) The cost of delivering justice

Since its establishment more than 30 years ago, the Family Court has been at the forefront of ensuring that its processes are designed to minimise costs to litigants. The most significant of these are discussed under term of reference d) 'Measures to reduce the length and complexity of litigation and improve efficiency'.

The Committee may wish to note that the Family Court has Rules in place regarding the disclosure of costs between parties. The *Family Law Rules 2004* (Cth) impose duties on lawyers to give information about costs to their clients and to the Court.[7]

Under section 117(1) *Family Law Act 1975* (Cth), subject to certain exceptions, parties to proceedings are assumed to bear their own costs. The object of the sub-section is to ensure that parties are not deterred from bringing or maintaining legitimate applications for fear of incurring an intolerable financial burden if they lose. However, if there are circumstances that justify making a costs order against a party or parties the Court may make such order as to costs that the Court considers just (section 117(2)).

Whether to award costs and in what quantum is a discretionary decision of the Judge or Federal Magistrate.

There has been some criticism from some members of the legal profession that the Family Law Courts are reluctant to make costs orders even in circumstances where it would appear a costs order would be appropriate. The costs jurisdiction is highly discretionary and a Judge or Federal Magistrate is entitled to take whatever matters he or she considers to be relevant into account. In particular, in parenting cases, where costs orders are less common, the potential impact of a costs order on the financial circumstances of a parent who has a responsibility to provide for his or her children, and the ultimate impact a costs order may have on a child's well-being, is a material consideration.

In considering a costs regime, Federal Magistrates considered that an event-based scale (for party-party costs) offered a useful model and was particularly appropriate for a court with high volume matters. Unless otherwise ordered, the amount is determined by reference to the event-based cost regime set out in Schedule 1 of the Rules. However,

[7] Pursuant to rule 19.04(1), immediately before each Court event, the lawyer for the party must give the party written notice of the party's actual costs, both paid and owing, up to and including the Court event and the estimated future costs of Court events. Rule 19.04(3) requires a party's lawyer to give to the Court and each other party a copy of the notice given to the party under rule19.04(1) at each Court event.

a Federal Magistrate has a discretion to depart from this regime and may order that costs be calculated using the scale of fees set out in the Family Law Rules or fix an amount. The event-based model provides a degree of transparency for clients. The Court does not seek to take responsibility for regulating solicitor-client costs which are commercial transactions and more appropriately the subject of professional conduct rules and/or legislation. There is provision in the rules for an order to be made by a Federal Magistrate, ordering a lawyer to repay client costs. The court may make a costs order against a lawyer if the lawyer has caused costs to be incurred or lost by the party (see rule 21.07).

d) Measures to reduce the length and complexity of litigation and improve efficiency

Family Court of Australia

The Family Court has undertaken a broad range of initiatives to reduce the length and complexity of family law litigation. The most significant of these initiatives are contained in the Rules of Court that were introduced in 2004 and they are summarised below.

Pre-action procedures

The Family Court imposed obligations on parties to attempt to settle their dispute outside the court system. These are known as the pre-action procedures.

The *Family Law Rules 2004* (Cth) provide that each prospective party to a case in the Family Court is required to make a genuine effort to resolve the dispute by:[8]

- Participating in dispute resolution, such as negotiation, conciliation, arbitration and counselling;
- Exchanging a notice of intention to claim and exploring options for settlement by correspondence;
- Complying, as far as practicable, with the duty of disclosure.

[8] *Family Law Rules 2004* (Cth) Rule 1.05.

The Rules provide that there may be serious consequences, including costs penalties, for non-compliance with the pre-action procedures.

Section 60I of the *Family Law Act 1975* (Cth) came into full effect on 1 July 2008. Phase One of the s 60I regime relied on compliance with the Family Court's pre-action procedures. Section 60I now requires parties in parenting disputes to undertake compulsory family dispute resolution or to obtain a court-ordered exemption from that requirement before issuing legal proceedings. It has thus overtaken the pre-action procedures in children's cases. The pre-action procedures continue to apply to financial disputes, including de facto property disputes.

Single expert rules

The Family Court substantially reformed its rules governing the use of expert evidence as part of the 2004 revision. This represented the culmination of many years' work and built upon evidentiary reforms in other jurisdictions, including the United Kingdom. Despite initial opposition, the reforms have been highly successful and are widely considered to have overcome some significant issues that historically have arisen in the consideration of expert evidence, in particular:

- potential partisanship and lack of objectivity;
- experts exceeding their areas of expertise;
- lack of clarity in expert evidence;
- cost and delay.[9]

The Less Adversarial Trial

The Family Court has moved from conducting children's cases as common law adversarial trials to what is now known as the Less Adversarial Trial. The approach was developed by the Family Court in response to a long-held recognition of the need to provide better ways to decide disputes between separating parents when the best interests

[9] See further discussion in Freckelton, Professor Ian, 'Expert Evidence in the Family Court: the new regime', (2005) 12 *Psychiatry, Psychology and Law* 234, p. 248.

of children is the paramount concern. It is a significant change in approach to trial procedures in Australia, the benefits of which were recognised with the passage of Division 12A of Part VII of the *Family Law Act 1975* (Cth) in May 2006.

The National Alternative Dispute Resolution Advisory Council recently released an Issues Paper as part of its *Inquiry into Alternative Dispute Resolution in the Civil Justice System*. It states:

> *8.10 Changes to the Family Law Act in 2006 supported a new, less adversarial approach to hearing cases involving children. The key features of the less adversarial approach are that:*
>
> - *the judge, not the lawyers, controls the trial process and its inquiry*
> - *a family consultant works with the parties before the trial and is in court from the first day as an expert adviser to the judge and the parties*
> - *the parties can speak directly to the judge to tell in their own words what the case is about and what they want to achieve, and*
> - *the judge will consider the evidence and may discuss it with the parties or the witnesses before making a decision.*
>
> *8.11 A formal two-part evaluation was undertaken of the pilot program that led to the Less Adversarial Trial. Those evaluations were supportive of the initiative. The final evaluation found that it resulted in a faster court process, that the parties were generally more satisfied with the process than parties whose dispute were determined using a traditional adversarial approach and that it has the potential to encourage a more cooperative approach between the parties (in this case usually separated or divorced parents).*

The background to, development and evaluation of the Children's Cases Program and its national implementation through the Less Adversarial Trial is comprehensively documented in the publication *Finding a Better Way: a bold departure from the*

traditional common law approach to the conduct of legal proceedings. A copy is enclosed for the Committee's information.

Case management pathway and Judicial docket

The Family Court has recently developed new case management pathways and cases are now allocated to judges and managed through a judicial docket. Dockets are designed to dispose of cases in the most efficient manner by ensuring early judicial intervention and active judicial case management.

Federal Magistrates Court

The Federal Magistrates Court was established to provide a simple and accessible alternative to litigation in the Federal Court of Australia and the Family Court of Australia and to relieve the workload of both Courts.

The Federal Magistrates Court uses a docket system to manage its cases, which means one federal magistrate manages each case from commencement to disposition. Federal magistrates dealing with family law matters manage about 400 matters at any given time.

The docket system allows for:

- Matters upon allocation, to stay with and be managed by the same Federal Magistrate from commencement to disposition other than in exceptional circumstances.
- Federal Magistrates to place an emphasis on earlier and more effective identification of matters suitable for primary dispute resolution.
- Federal Magistrates better positioned to make a decision in respect of a matter within their docket at any point in time.
- Federal Magistrates to employ active case management processes including monitoring of compliance with directions orders and maintaining regular contact with the parties regarding progress of the matter.

Benefits of the docket system include:

- Parties not having to explain their case at each court event.
- Consistency throughout and improved management of the case.
- Fewer formal directions and fewer appearances in court.
- Increased ability to identify cases suitable for primary dispute resolution.
- Earlier identification of issues and settlement of matters.

e) Alternative means of delivering justice

The use of arbitration in property and financial proceedings has long been of interest to the Family Law Courts. Representatives from both Courts have regularly engaged in discussions with the Government and the legal profession as to whether and how arbitration could be utilised to assist in the timely and cost-effective resolution of disputes (other than those involving children). Arbitration, when conducted in optimum circumstances, has a number of advantages when compared with traditional adversarial litigation. These include flexibility of forum and process, early determination of disputes or discrete issues in dispute and associated cost savings, and control over the selection of the decision maker. For these reasons, the Family Court was supportive of amendments to the *Family Law Act 1975* (Cth) that enabled arbitration to be undertaken outside the court system and, where proceedings had been issued, for parties in property and financial disputes to be referred to arbitration with their consent.

In 2007, the Family Court made a submission as part of the Family Law Council's discussion paper *The Answer from an Oracle: arbitrating family law property and financial matters*, in which the Family Court identified issues associated with the possible introduction of a court-ordered discretionary arbitration scheme, either in substitution for or in addition to the current consent-based scheme. It is understood that the Family Law Council has not yet published its final report.

f) The adequacy of funding and resource arrangements for community legal centres

The national network of community legal centres is a vital adjunct to the services provided by legal aid commissions and private legal practitioners. They are a critical source of professional and impartial legal information and advice, particularly for people who are not eligible for legal aid. Community legal centres also play an important role in undertaking community development, community legal education and law reform activities.

Lawyers from particular community legal centres are funded by legal aid to provide duty lawyer services at the Family Court and the FMC. Representatives from the Federation of Community Legal Centres are members of the Chief Justice's Family Law Forum, an inter-agency representative body that meets every three months to discuss shared issues of interest arising in the family law system. Community legal centres are often consulted by the Family Law Courts in the development of new programs and initiatives and in the review of current services. A recent example of this is the extensive comments that were provided by Women's Legal Services Australia on the Family Court's draft family violence best practice principles.

It is imperative that community legal centres are adequately funded to enable them to provide case work services and community legal education to the most vulnerable members of Australian society, many of whom require legal assistance to resolve family law disputes.

g) The ability of Indigenous people to access justice

It has long been noted that Indigenous people's access to justice has been an issue for the broader community, as well as courts and government agencies. There is clear evidence, for example, to support the view that Indigenous families are disadvantaged in gaining access to the family law system. In its 2001 report *Out of the Maze* the Family Law Pathways Advisory Group reported that "Indigenous families encounter particular barriers" that impede their ability "to access and benefit from the family law system."

Key recommendations contained in the report included the need to expand the Family Court's existing programs for Indigenous people, as well as reform of the *Family Law Act 1975* (Cth) to ensure that the courts were more able to respond to the needs of Indigenous families.

On the advice of the Family Law Council the Commonwealth Government responded to these recommendations by amending the *Family Law Act 1975* (Cth) to place a much stronger emphasis on the rights of Indigenous children to be aware of and participate in their culture and heritage. The Government's response also included the establishment of a national network of Family Relationship Centres, with many of those centres specifically funded to provide outreach services to Indigenous communities through the employment of Indigenous Advisors. These initiatives effectively provide "a front door" through which Indigenous families enter the family law system and eventually find their way to the Family Law Courts.

In light of these initiatives the Family Court decided to review the status of its Indigenous programs. Principal amongst these was the Indigenous Family Liaison Officers program. The Family Court had been proactive in employing Indigenous Family Liaison Officers since 1996 to work with court-based family consultants to ensure Indigenous families had access to, and used, the range of services provided by the Family Law Courts. However several retirements of long-standing officers required a reconsideration of the role.

With the establishment of Family Relationship Centres and their role in providing primary dispute resolution services to local communities, it was felt it was no longer appropriate for the Family Court to employ Indigenous Family Liaison Officers.

The Family Law Courts, however, remain committed to the needs of Indigenous clients. For example, the Family Court has built Indigenous courtrooms in Adelaide, Darwin and Townsville which were designed in consultation with local Indigenous communities.

In early 2009, the Family Law Courts Board, of which the Chief Justice and the CFM and the Chief Executive Officers of the Family Law Courts are members, agreed to the establishment of a joint committee to examine the needs of Indigenous people and how best to meet them in the absence of the Indigenous Family Liaison Officers.

Under the Terms of Reference the joint committee is to consider:

- the impact of the shift in the provision of services to Indigenous clients, previously provided by Indigenous Family Liaison Officers, to Family Relationship Centres.
- how to manage applications for parenting orders concerning residence, contact and specific issues as a result of traditional and customary adoption practices by Torres Strait Islanders.
- how to meet the needs of Indigenous clients of both Courts.
- the development of a joint Reconciliation Action Plan, as required by Government, which identifies the steps the two Courts will take to build relationships and enhance respect for Indigenous Australians in undertaking both Court's work.

CONCLUSION

Once again, thank you for the opportunity to make a submission to the Committee's inquiry. The Family Court and Federal Magistrates Court await the release of the Committee's final report with interest.

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