

NATIONAL FAMILY VIOLENCE PREVENTION LEGAL SERVICES

WORKING TO ACHIEVE IMPROVED JUSTICE OUTCOMES FOR ABORIGINAL AND TORRES STRAIT ISLANDER
VICTIMS/SURVIVORS OF FAMILY VIOLENCE AND SEXUAL ASSAULT

Dear Committee Members,

RE: Submission to the Legal and Constitutional Affairs Legislation Committee – *Family Law Amendment (Parenting Management Hearings) Bill 2017*

The National Family Violence Prevention and Legal Service (**'NFVPLS'**) welcomes the opportunity to make a brief submission in regard to the *Family Law Amendment (Parenting Management Hearings) Bill 2017* (**'the Bill'**).

As a general comment, we raise concern about the inappropriateness of Parent Management Hearings (**'PMHs'**) being used in cases of family violence, especially cases involving Aboriginal and Torres Strait Islander victims/survivors of family violence who face complex barriers to safely disclosing violence, obtaining support and utilising the family law system.

We understand that PMHs are primarily intended to be a forum for self-represented litigants, with legal representation only allowed during hearings with the leave of the Panel. We strongly advocate for the central importance of adequately resourced, culturally safe, Aboriginal community controlled, specialist legal services (such as FVPLSs) to assist all Aboriginal and Torres Strait Islander women engaged with the family law system. As such, we do not endorse the proposed arrangements for PMHs in which there is a strong possibility that Aboriginal and Torres Strait Islander parties will go unrepresented – to the detriment of their safety and capacity to access justice.

For further detail on our position, we kindly refer you to our previous [submission](#) to the Parliamentary Inquiry into "A Better Family Law System for Those Affected by Family Violence", attached. As per recommendation 6, we recommend a requirement for all Aboriginal and Torres Strait Islander people, predominantly women, who have experienced family violence to be legally represented in family law proceedings. We also strongly advocate for specialist Aboriginal Community Controlled legal services – such as FVPLSs – as the preferred providers for culturally safe and holistic advice and representation prior to, during and following participation in all family law proceedings, including PMHs.

Further, we have read the submission by Women's Legal Service Australia (**'WLSA'**) to this inquiry and we endorse the comments and recommendations made therein. In particular, we support the following recommendations from WLSA:

Recommendation 3

Parties are referred and able to access legal assistance before entering a PMH process or consenting to a PMH process.

Recommendation 4

When seeking leave for legal representation where any of the mandatory considerations in such an application are met, leave is granted.

Recommendation 5

Legal assistance and representation is funded, particularly in matters involving family violence and child abuse. This should include additional funding for family law and family violence duty services; specialist women's legal services and programs; and specialist

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Aboriginal and Torres Strait Islander controlled legal service providers (including both Family Violence Prevention Legal Services and Aboriginal and Torres Strait Islander Legal Services) (No funding has been allocated for legal representation of parties).

We strongly encourage the Committee to consider WLSA's submission and the importance of adequately resourced, culturally safe, Aboriginal community controlled, specialist legal services for all Aboriginal and Torres Strait Islander women engaged with the family law system, including PMHs.

Should you have any questions about this letter, please do not hesitate to contact me or Renee Cumming, Executive Officer, NFVPLS Secretariat via _____ or _____

Yours faithfully,

Antoinette Braybrook
Convenor, National Family Violence Prevention Legal Services Forum