

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S PORTFOLIO

Program: Family Court of Australia

Question No. SBE16/044

Senator Waters asked the following question at the hearing on 18 October 2016:

Senator WATERS: Have you in that capacity, or has anyone else as part of the Family Court, engaged with Women's Legal Services Australia about their plan 'Safety First in Family Law'?

Mr FitzGibbon: We have. There are a number of agencies we have links with and consult with, as does the Federal Circuit Court, I think—I cannot talk definitively about that. The acting principal registrar, Sia Lagos, and Dr Fenwick can no doubt talk about that. They are amongst the various agencies with whom we work, across a range of protocols, principles and guidelines that are applied, with professional staff, counter staff, guidelines and benchmarks for judges.

I am conscious of that recent report. In fact, the Chief Justice may have been provided with a copy some little time ago. They are things about which we take onboard, always, and listen to and see what we can do to achieve. We have a process going at the moment—which I initiated for the registrars who deal at the lower level with these cases—about looking at our process, our models, the best-practice guidelines and benchmarks. Nothing is ever immutable, in either court, in so far as how we think they are dynamic. And they have to be considered and reviewed and revisited regularly to make sure that whatever we have in place is working appropriately and we consult widely.

Senator WATERS: That sounds very positive. Are you able to provide me with a little more specifics on the particular recommendations in that five-point plan?

Mr FitzGibbon: I just received it today, at 12.30 pm.

Senator WATERS: I see. I thought you said you were engaging with them on the plan.

Mr FitzGibbon: I would be happy to, if there were something to take on notice for you; I apologise, but I received it just this afternoon—at 12.36 pm, I recollect.

Senator WATERS: So your engagement with Women's Legal Service has been on general matters not on this plan, specifically.

Mr FitzGibbon: Not in my role, at least at this point in time, no.

Senator WATERS: Are you aware whether anybody else in the court has engaged with this plan and with Women's Legal Service on the details of this plan?

Mr FitzGibbon: I would have to check, if I may take it on notice, and come back to you on that.

Senator WATERS: Thank you very much.

The answer to the honourable senator's question is as follows:

1. Following the Release of the Women's Legal Services Australia plan 'Safety first in Family Law', which was attended by the Chief Justice of the Family Court of Australia, the Hon Diana Bryant AO, the Chief Justice of the Family Court asked the Family Violence Committee (a joint committee of the Family Court of Australia and the Federal Circuit Court of Australia) to consider how the courts could respond to the matters raised in the plan.
2. As a result of the Committee considering the plan, the Chief Justice responded in a media release which follows:

Family law system needs more resources to deal with an increasing number of cases involving family violence

20 June 2016

The Family Violence Committee of the Family Court of Australia and Federal Circuit Court of Australia has reviewed the recommendations outlined in the Safety First in Family Law proposals and gives in principal support to some of the ideas identified in the 5-step plan recently developed and promoted by the Women's Legal Services Australia and Rosie Batty.

In particular, the committee supports the following initiatives identified in the 5-step plan:

- Ongoing training of the judiciary and court employees,
- Additional screening initiatives for family violence,
- Establish on the ground family violence specialists in federal court buildings, helping people to navigate the legal complexities involving family violence, especially between Federal and State laws, and
- Early access to information, hearing dates and decisions.

To introduce these initiatives, however, the family law system is in urgent and desperate need of additional funding. The committee has called for an immediate injection of \$6 million which will allow for additional training and to introduce further initiatives that will greatly assist the courts to quickly identify and assess issues of family violence.

Chief Justice of the Family Court of Australia, Diana Bryant has previously called for \$17 million to fund the Courts for family violence initiatives and has added, "There has been considerable focus on family violence by governments recently, and pleasingly, announcements have been made providing additional funding. However, there is a glaring omission as to where funding should be allocated and that is to the courts dealing with family law. The Family Court and the Federal Circuit Court are at the coal face in dealing with families impacted by family violence, and yet there has not been one extra dollar provided to the Courts."

Chief Judge of the Federal Circuit Court of Australia, John Pascoe supports the Chief Justice's call for funding and has said, "The Courts have worked tirelessly over the years to provide judges and staff with ongoing professional development to ensure that cases with family violence allegations or risk indicators are appropriately supported, screened, assessed and adjudicated.

As we reflected in the published judgments, family violence is a constantly evolving area of law and social science.

Notwithstanding those efforts, the Courts have noted community concern in the last year or more, indicating that the work of the federal courts can be enhanced in this area and the Chief Justice and I agree."

The Courts' Family Violence Committee has identified the following Five Step Plan initiatives which, with the injection of \$6 million, could be implemented promptly:

Implementation of the new screening approach for family violence cases – a pilot program has been conducted and implementation is planned for a pre-interview screening approach in all

locations during the interim hearing stage. If additional funding is provided, this family violence screening process could be expanded to all cases.

Establish family violence specialists – integrate into the Courts’ existing Child Dispute Service, providing early triage for every case in all locations and identifying cases requiring accelerated pathways and to assist victims to navigate the interactions between federal and state laws and services.

Broad ranging review of the role of family report writers – a methodologically sound and broad review is recommended to inquire into the family report process.

Develop best practice family violence forensic assessment and reporting - Family report writers employed by the Courts are well trained in issues relating to family violence and bring considerable expertise in the interview and assessment of parents and children. With the aim of introducing a standardised approach nationally, including by external report providers, research and assessment of current practices should be undertaken.

Ongoing training of the judiciary and court employees – Further enhance the training undertaken by court employees and members of the judiciary through the development of a tailored training package, including dealing with vulnerable witnesses.