

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
FAMILY COURT OF AUSTRALIA/FEDERAL CIRCUIT COURT

Question No. AE16/068

Senator Waters asked the following question at the hearing on 9 February 2016:

1. Does the court have any plans to implement video recording for all family report writers' interviews with children?
2. If not, what is the justification for this?

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

The Courts do not have plans to record family report writers' interviews with children because:

- The children themselves are not witnesses (nor parties) to civil family law proceedings as they might be in a criminal, or child protection case where allegations of violence and/or child abuse are at issue and evidence accordingly called.
- If interviews with children were recorded, the children may be constrained in what they say and what they report to the Family Consultant. This would compromise the integrity of the family assessment and reduce the clinical opportunity to assess: the children's views; the child's developmental stage; and the child's interactions with each parent.
- Alternatively, the present capacity for the Family Consultant to report on children's expressed views in a way that will not be harmful to the parent/child relationship when the report is read by the parents would be compromised.
- The present practice is consistent with almost all international jurisdictions in the private family law litigation process (for the reasons outlined) and there has been no compelling reason to change it. In addition, in Australia, there is frequently an Independent Children's Lawyer, part of whose role is to place before the Court the child's view.
- This approach provides a safe and clinically sound way of conveying the children's views and interests to the Court without causing the children additional stress, pressure, risk and trauma.