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Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

legcon.sen@aph.gov.au

Dear Mr Watling,

Family Law Amendment (Parenting Management Hearings) Bill 2017

Introduction

[National Legal Aid](#) (NLA) welcomes the opportunity to comment on the Family Law Amendment (Parenting Management Hearings) Bill 2017 (the Bill).

NLA thanks the committee for the invitation to give evidence to the inquiry. NLA representatives look forward to attending upon the committee to expand on the comments below if considered appropriate and/or to provide any further requested information.

Our comments are informed by the extensive practical legal experience legal aid commissions (LACs) have in the area of family law, family violence, child protection, and related civil laws.

About NLA and legal aid commissions

NLA represents the directors of the eight state and territory LACs in Australia. The LACs are independent statutory authorities established under respective state or territory enabling legislation. They are funded by Commonwealth and respective state/territory governments to provide legal assistance to disadvantaged people.

NLA aims to ensure that the protection or assertion of the legal rights and interests of people are not prejudiced by reason of their inability to:

- obtain access to independent legal advice;
- afford the appropriate cost of legal representation;
- obtain access to the federal and state and territory legal systems; or
- obtain adequate information about access to the law and the legal system.

LAC services

LACs are the main providers of legal assistance services in Australia, providing in excess of 2.2 million services annually to people across the country including in relation to family law, family violence, child protection, and associated civil law matters.

Attachment A to this submission provides a description of the different service types provided by LACs.

General comments

Prior to addressing specific sections of the Bill, NLA makes the following comments regarding the Bill in the context of the family law system more generally.

Principles of the Parenting Management Hearings

NLA acknowledges and supports the objects/principles of the Parenting Management Hearings (PMHs).

On the basis of the profile of the families currently appearing in the family law courts, the PMHs will need to ensure that safeguards including appropriate intake and triage processes are in place to protect the people involved and to identify the less complex disputes to be heard by the panel.

Profile of the families appearing in the family law courts and the need for triage

The introduction in 2006 of the pre-filing requirement for family dispute resolution (FDR) in children's matters has had the positive effect of diverting a large number of matters away from litigation.

All LACs operate programs which provide legally assisted models of FDR, both before and after the commencement of court proceedings. These legally assisted models of FDR have been extremely successful in resolving family law disputes.

Attachment A to this submission contains Information about LAC legally assisted models of FDR and its important role in triaging matters.

A high proportion of the remaining matters which are not resolved by, or not suitable for, FDR are complex, involving significant risk issues such as family violence, child abuse, child sexual abuse, mental illness and substance abuse, and as such may not meet the criteria for the PMHs.

Complexity

If the PMHs are introduced, consideration will need to be given as to how best to help the parties to understand and navigate the different options and structures in the system, including in relation to jurisdiction, legal representation, and appeals.

Support for vulnerable parties including victims of family violence

In the above contexts, an important issue for the PMHs will be the supports provided to vulnerable parties and witnesses, and their children. NLA stresses the importance of

appropriate safeguards as referred to in the Explanatory Memorandum and the body of this submission. NLA suggests that consideration be given to how these safeguards are to be enshrined.

Contributors to delay in the current system

It appears to us that main contributors to delays in the current system include a combination of the complex case cohort and legal aid funding constraints which limit legal representation even where it would otherwise be appropriate. Legal representation contributes to the efficient operation of the courts.

The report of the Australian Government Productivity Commission on its Inquiry into Access to Justice Arrangements reflects issues that continue to be relevant, e.g. there are more people living in poverty (14%) than are eligible for legal aid (8%),¹ and that \$57 million per annum was needed to relax the LACs' means tests.² This would expand the availability of LAC FDR and provide representation for parties with more complex needs.

Although LACs have limited involvement with property matters it is possible that significant time is consumed by disputes about significant/complex property matters in some locations. In this regard we note that property matters, both big and small, are not currently subject to pre-filing FDR requirements.

Australian Law Reform Commission Review of the Family Law System

The Australian Law Reform Commission (ALRC) is currently conducting a broad review of the family law system, focussing on "key areas of importance to Australian families", and is due to report on its findings in March 2019.

The ALRC review of the family law system (the Review) has the potential to clarify the source/s of the main pressures on the system and to recommend significant structural and procedural changes to the family law system. Consideration could be given to deferring the pilot of PMHs in light of the potential benefits of the Review recommendations being available. On the other hand, if the Bill is passed and implementation can be achieved quickly perhaps the Review will have the opportunity to be informed by the experience of the PMHs.

Resourcing issues

The PMHs at the 2 pilot sites may place additional pressure on the organisations involved including family consultants, duty lawyers and independent children's lawyers (ICLs).

The services participating in the Parramatta PMHs pilot may be impacted less as the PMHs will be co-located at the existing family law court registry. Site location will have some impact on the resourcing for the second site.

¹ Productivity Commission, *Access to Justice Arrangements*, (Inquiry Report No 72, 2014) App H 1021-1022.

² *Ibid* vol 2 738.

Specific provisions in the Bill

Our comments on the specific provisions in the Bill follow:

Jurisdictional boundaries

S11K(b): Who may bring a parenting application

The Bill suggests that a child can bring an application but the Bill does not provide guidance as to how the child might do this.

S11KB: Requirement in relation to applications for parenting determinations (60I Certificates)

As a result of ss(2)(b) and (e), matters that were not considered appropriate for mediation can still proceed to a PMH. Often the determination is made by a mediator that the matter is not appropriate for mediation because there is a history of or allegations of family violence or child abuse. Certificates issued on these grounds are generally a “red flag” for risk issues. It is suggested that these certificates could be used to assist with screening for matters which should not meet the jurisdictional requirements for PMHs and that matters with s60I Certificates issued under (b) and (e) should be only filed in the Federal Circuit Court of Australia.

S11KB(3) prescribes circumstances where a certificate from a family dispute resolution practitioner (FDRP) is not required to be included in an application for a parenting determination, including where there has been family violence, there is a risk of family violence, when one parent is unable to participate effectively in family dispute resolution due to an incapacity of some kind or where there has been abuse of a child or a risk of abuse.

NLA suggests that parenting disputes which meet the criteria for an exemption from an FDRP certificate should be dealt with by the court. A matter exempted from the FDRP certificate requirement on the basis of an incapacity will also indicate in most circumstances that the person would benefit from legal assistance.

In the submission of NLA, it may be preferable for the pilot to focus on PMHs for those parties who have filed a “genuine effort” certificate (pursuant to s11KB(2)). NLA also suggests that matters subject to a FDRP certificate indicating refusal or failure to attend (ss11KC(2)(a) and (b)) should be subjected to a preliminary assessment by the Panel to determine whether cases are or remain eligible for a PMH.

NLA supports the current legislative requirement for all appropriate matters to attempt FDR. NLA is concerned that the legislation not allow parties to avoid FDR and seek a determination through a PMH, potentially increasing the number of matters in the court/PMH system and leading to matters which could be resolved through FDR taking up court resources. NLA suggests consideration be given to inserting a provision to ensure this does not occur.

S11KC: Consent of relevant persons required in relation to applications for parenting determinations

It will be important to ensure that parties have had the opportunity to develop a proper understanding of the potential advantages and disadvantages of the PMH process.

NLA suggests a requirement that prescribed information be provided to each person seeking to go through a PMH process, so that they understand firstly that the program is voluntary and so that they also understand under what circumstances they are able to terminate the process. NLA further suggests that this information encourages parties to obtain legal advice to ensure their consent to the process is both informed and not the consequence of pressure applied by the other party.

Some thought could also be given to amending the *Family Law (Family Dispute Resolution Practitioners) Regulations 2008*, which outlines the matters that should be raised with participants during mediation, including parenting plans, and include a provision for FDRPs to explain PMHs.

NLA remains concerned that family violence survivors might face pressure from the perpetrator of that violence to give their consent. A history of family violence may impact on a person's capacity to be assertive and present themselves in a manner which best promotes their right to security and safety. A party may intentionally fabricate the other party's consent in order to utilise a PMH process. The Panel has a discretionary power to dismiss an application under s11NC if it is satisfied consent of a party was obtained by fraud, threat, duress or coercion. We suggest that consideration be given to an amendment which would enable either party to withdraw their consent to the process where there is a dispute about whether the consent was appropriately obtained.

Decision-making processes and framework

S11LG: Obligation to inform the Panel of certain matters

It is unclear how a non-party will inform the panel regarding a family violence order (FVO).

S11LJ: Legal representation and assistance in relation to hearings

S11J provides that parties may only be legally represented with leave of the Panel. There is no right of legal representation for a victim of family violence, although it does provide that the Panel must consider family violence as a factor when determining to grant a person leave to be represented. Consideration should be given to providing a right for a victim of family violence to legal representation before a PMH.

While a tribunal type forum would not require or necessarily encourage legal representation, given the PMH framework is identical to that of a court and the enquiry equally as broad, the requirement imposed by s11LJ to obtain leave before having legal representation may cause delays by adding an extra process and possibly a hearing about whether leave should be granted.

In situations where parties do not have legal representation, consideration should be given as to what alternative mechanisms will ensure that parties understand decisions that are made by the PMHs.

S11LK: Direction for independent representation of child's interests

ICLs are currently ordered by the family law courts in only the most serious of matters and on the basis of the *Re K* (1994) FLC 92-461 factors. Once an Order is made the court provides it to the LAC with a request that the local LAC appoint an ICL. LACs administer the appointments of ICLs.

Attachment B is a list of the "Re K factors".

LACs support the extension of the ICL role to the PMHs in principle but there are concerns about the impact of this development in the context of current funding and resources. In some locations ICL appointments are limited to certain Re K factors by reason of funding constraints, and generally, the family law courts are aware of the need for careful application of resources by the LACs and make orders accordingly. NLA would be concerned if ICL resources were to be diverted from those matters where they are most needed at the family law courts to matters being heard by the PMHs.

The Bill does not make clear the circumstances in which an ICL would be appointed, the scope of the role or the process of appointment. For example, it is not clear whether s11LK(2) foreshadows a limited form of ICL appointment, or whether it is a mechanism to facilitate an ICL meeting with a child. If a decision is made to include matters involving ICLs in the PMHs jurisdiction, we welcome consultation with NLA on the anticipated role in this aspect of the scheme and its resource implications. We also note our concern that the ability of ICLs to make independent assessments of the best interests of children may be compromised in the absence of a power to issue subpoenas to third party agencies.

S11LN: Admissibility of communications during hearings

It is unclear what the Panel is obliged to do to inform participants about the admissibility of their communications during the PMH. In the view of NLA, the Panel should be required to provide certain information to the parties at the commencement of the PMH, in light of the fact that there is no legal representation in the process unless leave is given. Also, the Panel should be given guidelines about when to refer parties to seek legal advice about this section. For example, if it appears that a party may give self-incriminating oral evidence in a hearing, the party would need advice about whether to proceed with that evidence in the PMH in light of s11LD(1)(b) which provides that the Panel would not be bound by the formal rules of evidence in conducting a hearing, as set out in the *Evidence Act* 1995 (the Evidence Act) and the common law and parties may or may not be able to avail themselves of s128 of the Evidence Act or receive a caution from the Panel.

NLA notes that s11ME(6) provides some protection to persons providing information and documents to the Panel in limited situations, by way of restricting use in any civil and criminal proceedings. However, these provisions do not appear to apply to parties and witnesses where no notice to produce information or documents has been issued.

S11MD consequences of failure to comply with direction under 11MC

Further clarification is sought in relation to the report to be provided by FDRPs as the only reports currently provided are in the form of s60I Certificates.

S11NA: When Panel must dismiss an application for parenting determination

The draft does not provide that applications involving allegations of child abuse or risk of child abuse must be dismissed by the Panel – only where there are allegations of child sexual abuse. It is the view of NLA that it would be appropriate to exclude the Panel's jurisdiction to deal with matters involving allegations of child abuse.

It would also appear that a PMH could easily be circumvented by the commencement of proceedings elsewhere, notwithstanding that there must have been initial consent to the PMH. It is the view of NLA that this could lead to an unfortunate diversion of resources resulting from the commencement of proceedings in two forums.

S11NA(12) relates to parenting plans. As with the provisions relating to children where final parenting determinations and final parenting orders have been made, consideration should be given to allowing the Panel to hear matters where registered parenting plans are in place and they are satisfied that there has been a significant change in circumstances relating to the child. As both parties must consent to the matter being heard, it seems appropriate to allow these types of matters to be dealt with through a PMH.

S11NB: Application for parenting determination may be dismissed if Panel considered it is appropriate

The effectiveness of the capacity of the Panel to exercise this discretion will depend on the level of knowledge of the Panel and associated staff of the dynamics and impact of issues such as family violence, mental health, substance abuse and other relevant matters. It will be important for all professionals involved in the PMH process to undertake regular training to properly understand the dynamics of family violence and these other issues which may impact on the appropriateness of the matter for PMH.

There should be some prescribed circumstances in which the Panel must dismiss applications involving allegations of serious family violence. Whilst noting the broad power to dismiss contained in s11NB we also consider that s11NA could specifically enable the Panel to dismiss matters where there are reasonable grounds to believe that a party would be disadvantaged in the hearing because of a history of family violence. S11NA might specifically enable the Panel to dismiss matters where:

- a family violence order (FVO) has been in place within the last 5 years and has been breached during that period;
- a conviction for an offence involving family violence or an act of violence has been recorded;
- there is a final FVO which prevents the defendant from contacting the person in need of protection except through a legal representative or a FDR/court process;
- the children are named as the protected persons.

In all other cases involving family violence allegations, the Panel should have a wide discretion to determine whether cases are or remain eligible for a PMH based on a comprehensive risk assessment. This discretion should be exercised early in proceedings, with the safety of any victim of family violence being of paramount importance. Early indications that a matter is not suitable for determination by the Panel would include a referral of parents to a family violence support service, or where a notice alleging family violence has been issued under ss11MG(2) or 11MJ(2). The Panel must also take into account the risk of re-traumatisation of a victim of family violence through involvement in a process where the perpetrator is self-represented. Additional safeguards should be implemented to ensure that victims of family violence are not disadvantaged, including:

- The Panel staff undertaking screening and preparing case assessment documentation should possess relevant expertise, skills and training in screening and risk assessment for family violence.
- Without a legal representative providing independent advice to a party there is a risk that parenting determinations may be made which are unsafe or inappropriate and have far-reaching consequences in light of the proposed s11PX. It will be very difficult for a party to undo inappropriate or unsafe parenting determinations as they can only be overturned through judicial review and on very limited grounds. For these reasons, NLA considers that there should be a right of legal representation for a party in a matter involving a history of family violence.

NLA further considers that the assessment of the appropriateness of a matter for a PMH should be ongoing. NLA is concerned that there does not appear to be the capacity for a streamlined referral process between the two systems. Vulnerable families may be left with more uncertainty and face greater delays if an application for a PMH is dismissed and they are required to commence proceedings in family law courts. Consideration should be given to having stream-lined mechanisms and 'warm' referral processes to link matters assessed as inappropriate for PMH for vulnerability, complexity or safety reasons to other appropriate supports and family law processes.

Additional safeguards should be implemented including the measures described in the Explanatory Memorandum.

S11NF: Application may be dismissed on request by a party to the hearing if Panel is satisfied it is appropriate

The consent provided by parties is irrevocable, with the draft legislation providing that the Panel may dismiss the application on a party's written request if it is satisfied that it is appropriate to do so.

Given the effect of the consent and the discretion of the Panel, coupled with the limited grounds for appeal, NLA reiterates the need for parties who are considering having their matters determined by PMH to be referred for independent legal advice.

S11PB: How parenting determinations are made

S11PB has the objective of making the PMH process speedier and gives the Panel the ability to not provide reasons in writing, unless a party requests for this to occur.

Given the broad enquiry that is required for a parenting determination, not requiring written reasons may mean that Panel members may not be thorough in providing their determinations. It is important for self-represented litigants to have the opportunity to read written reasons so as to properly understand decisions affecting their children and obtain legal advice about their options. NLA suggests that at least a short form of written reasons should be made available.

S11PE: Parenting determination subject to later parenting plans

NLA queries whether the long-term effectiveness of a parenting determination will be undermined by the option for the parents (or holders of parental responsibility) to enter into a subsequent parenting plan which will nullify the parenting determination in the absence of a specific provision that this cannot occur?

If s11PE is intended to replicate parenting orders in a similar manner to s64D of the *Family Law Act 1975* (Cth), then it is suggested the draft also include a similar provision as ss(3) which will clarify what is intended by “exceptional circumstances”.

S64D provides:

- (1) *Subject to subs (2), a parenting order in relation to a child is taken to include a provision that the order is subject to a parenting plan that is:*
 - (a) *entered into subsequently by the child's parents; and*
 - (b) *agreed to, in writing, by any other person (other than the child) to whom the parenting order applies.*
- (2) *The court may, in exceptional circumstances, include in a parenting order a provision that the parenting order, or a specified provision of the parenting order, may only be varied by a subsequent order of the court (and not by a parenting plan).*
- (3) *Without limiting subs (2), exceptional circumstances for the purposes of that subs include the following:*
 - (a) *circumstances that give rise to a need to protect the child from physical or psychological harm from being subjected to, or exposed to, abuse, neglect or family violence;*
 - (b) *the existence of substantial evidence that one of the child's parents is likely to seek to use coercion or duress to gain the agreement of the other parent to a parenting plan.*

S11PP-T: Obligation if certain parenting determination have been made (PP); Obligations if application for parenting determination has been made etc (PQ); Obligations of owners etc. of aircraft and vessels if certain parenting determinations made (PR); Obligations of owners etc. of aircraft and vessels if application for parenting determination has been made etc. (PS); and General provisions applicable to ss11PR and 11PS.

These seem to be cumbersome provisions which are otherwise dealt with by the Family Law Watch List Orders in the Federal Circuit Court or Family Court. There does not appear to be anything which actively prevents a parent from removing a child and the penalty would only be a deterrent if the parent intended to return with the child.

S11PY: Subsequent family violence order invalid to extent of inconsistency with parenting determination

The Bill provides that a FVO does not override a previous parenting determination. NLA is concerned that giving paramountcy to a determination by a Panel over a later FVO will undermine the protections available to victims of family violence, particularly in circumstances where the PMH does not have power to make personal protection injunctions pursuant to s68B.

In our experience, with some exceptions, it is very uncommon for most state/territory courts to exercise the power available in s68R. The *Crimes (Personal and Domestic Violence) Act 2007* (NSW) was amended in 2016 to improve the interaction between FVOs and family law orders, reflecting recommendations of a Statutory Review of that legislation and recommendations of the Family Violence report. In NSW, applicants for FVOs are now required to indicate when they apply for a FVO whether family law proceedings are on foot, whether parenting or property orders have been made, and to provide the terms of any order to the court. We suggest that similar supports should be provided in relation to parenting determinations, so that state courts are encouraged to exercise their jurisdiction under s68R of the *Family Law Act 1975* (Cth), including through:

- further training and resources provided to state/territory courts to ensure that there is greater awareness of the provisions of s68R;
- changes to systems and processes to ensure that state/territory courts have access to information about family law orders and determinations.

Appeals and costs

S11Q: Appeals to the Federal Circuit Court

The proposed s11Q(2)(a) provides that a party would have 28 days to appeal to the Federal Circuit Court on a question of law. As the Panel will not necessarily provide written reasons, a practical difficulty will arise if a party wants to appeal as it may well take more than 28 days for the written reasons to be provided for the purposes of such an appeal. The written reasons, even in a short form, should be available if only so that a party can get legal advice about the merits of such an appeal.

S11QC Constitution of Panel is matter remitted etc.

This section states that the Panel need not be constituted for PMH by the person or persons who made the decision or determination which the appeal relates. As the Panel will have members from varying backgrounds, it may be appropriate to consider a provision that at least one member of the Panel should be a new member to view the matter with a different set of skills and knowledge. This may also be important in the event that the pilot was extended to a regional area.

S11SA: Costs

The costs of ICLs are not addressed. There is no provision for the PMH to make an order as to costs or security for costs, to the effect that each party to the proceedings bears, in such proportion as the PHM considers just, the costs of the ICL. The inability of the Panel to

make an order for the costs of the ICL will have implications for legal aid funding and the public purse.

S84: After s7ONBA insert - s7ONBAB: Setting aside parenting determinations

S7ONBAB provides that a court may set aside a parenting determination where a contravention has been alleged whether this is proven or not.

The type of evidence that would normally be called in a contravention proceeding is relatively narrow and confined to the discrete matter of what particular contravention(s) are alleged. If such a fundamental decision were to be made it would seem the appropriate path would be to re-open the parenting case, rather than to set aside orders in the context of contravention proceedings.

Composition of panel

S11UA: Appointment of Panel members

Under s11UA(2)(a), eligibility for appointment as a Principal Member requires a person to be enrolled as a legal practitioner for at least 5 years and, under s11UA(2)(b), for their experience to be *extensive*.

The requirements for Panel member are outlined under s11UA(3)(a) and (b) and require the same 5 year enrolment as a legal practitioner although their knowledge is not required to be *extensive*.

The Principal Member has a significant responsibility, based on the draft legislation, and consideration should be given to further requirements for the skills and experience of this person, including a longer period of experience post enrolment than 5 years.

Conclusion

Thank you for the opportunity to make this submission.

We would be pleased to provide any further information requested and/or to attend upon any Committee hearings if considered appropriate.

Yours sincerely,



Graham Hill
Chair

Legal aid commission services - background

Legal aid commission (LAC) services are provided consistently with the priorities specified by the inter-governmental National Partnership Agreement on Legal Assistance Services 2015-2020 (NPA), and with the state and territory enabling legislation of the respective LAC.

Litigation is a response of last resort for LACs and the NPA specifies that “Family or civil law disputes should be resolved through alternative dispute resolution processes rather than through litigation, where appropriate.”¹

Legal representation services

Legal representation services include legal representation in fully contested matters including the provision of Independent Children’s Lawyers and Child Representatives as requested by the family law courts and child protection courts respectively, as well as full legal representation services for parties with matters predominantly in the family law, family violence, child protection, and criminal law courts.

Duty lawyer services and Family Advocacy Support Services

Duty lawyer services are provided in civil law courts and tribunals including the family law courts, the Administrative Appeals Tribunal, and as many local courts as possible including State/Territory family violence courts. “The presence of duty lawyer services on the day at court has been proven to contribute to the effectiveness and efficiency of the court process for both the client and the court or tribunal”.²

Family Advocacy and Support Services are provided at some registries of the family law courts³ to assist families experiencing domestic violence as they move through the family law system. The service integrates duty lawyers with specialist family violence workers to help families navigate between the federal and state court systems and connect people with trauma-informed help such as risk assessments and safety planning.⁴

Dispute resolution services

Dispute resolution services are provided as a necessary first step in all matters which are appropriate for such service delivery. All LACs operate programs which provide legally assisted models of dispute resolution conferences, and which achieve very high settlement rates, e.g. in 2016-2017 the national average settlement rate was 78%. The LACs organise

¹ [National Partnership Agreement on Legal Assistance Services 2015-2020, Clause B9.](#)

² *An evaluation of Legal Aid NSW’s Early Intervention Unit Duty Service at Parramatta Family Law Courts*, Law and Justice Foundation, 2012 www.legalaid.nsw.gov.au/_data/assets/pdf_file/0003/15969/Evaluation-of-Family-Law-Early-Intervention-Duty-Service.pdf found that the duty service contributed to the efficiency and effectiveness of the court process by: diverting matters that should not have been in court and advising and assisting clients to take the most appropriate course of action; and contributing to the resolution of matters on the day through the drafting of documents, including providing a 'reality check' with clients – while explaining the processes and implications and negotiating with other parties for clients.

³ The services in the Northern Territory are primarily delivered from the Darwin Local Court and the Katherine Local Court due to demand for services at these locations.

⁴ Senator George Brandis (then Attorney-General) *‘Improving family violence support in family law courts’* (media release, 17 May 2017).

conferences, including providing the Chairperson for these conferences, and ensure parties who qualify for a grant of legal aid are legally represented.

All LACs utilise thorough screening processes and staff with specialist training enabling the ready identification of family violence and other issues, which may impact on the capacity of parties to participate and/or the appropriateness of matters for dispute resolution. Whilst matters inappropriate for FDR are referred to other LAC services, legally assisted models of FDR and the skilled use of processes such as 'shuttle conferences', help redress imbalances of power and enable a much broader and more complex range of matters to be dealt than might otherwise be the case.

Whenever settlement is achieved these services avoid the cost of resources associated with court proceedings, including the cost of court administration and hearing time.

Legal advice, information and referral services

The legal advice, information and referral services, and community legal education, are non-means tested services designed as prevention and early intervention strategies. These services are provided on-line, by phone, and face to face.

LACs produce information and self-help resources and provide community legal education services to further support self-representing parties with various problem types.

End.

Re K Factors

- (i) Cases involving allegations of child abuse, physical, sexual, psychological;
- (ii) Cases where there is apparently intractable conflict between parents;
- (iii) Cases where the child is apparently alienated from one/both parents;
- (iv) Where there are real issues of cultural/religious difference affecting the child;
- (v) Where the sexual preferences of either or both of the parents or some other person having significant contact with the child are likely to impinge upon the child's welfare;
- (vi) Where the conduct of either or both of the parents or some other person having significant contact with the child is alleged to be anti-social to the extent that it seriously impinges on the child's welfare;
- (vii) Where there are issues of significant medical, psychiatric, or psychological illness or personality disorder in relation to either party or a child or other person having significant contact with the child;
- (viii) Any case in which, on the material filed by the parents, neither seems a suitable custodian;
- (ix) Any case in which a child of mature years is expressing strong views, the giving of effect to which would involve changing a long standing custodial arrangement or a complete denial of access to one parent;
- (x) Where one of the parties proposes that the child will either be permanently removed from the jurisdiction or permanently removed to such a place within the jurisdiction as to greatly restrict or for all practicable purposes exclude the other party from the possibility of access to the child;
- (xi) Cases where it is proposed to separate siblings;
- (xii) Custody cases where none of the parties is legally represented;
- (xiii) Applications in the Court's welfare jurisdiction relating to the medical treatment of children where the child's are not adequately represented by one of the parties.

End.