



# **Federal Circuit and Family Court of Australia Bill 2018, Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Bill 2018**

Submission to  
Senate Legal and Constitutional Affairs Committee

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## **Introduction**

National Legal Aid welcomes the opportunity to contribute to the Senate Legal and Constitutional Affairs Committee Inquiry Federal Circuit and Family Court of Australia Bill 2018, Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Bill 2018.

### **About National Legal Aid and Australia's legal aid commissions**

National Legal Aid (NLA) represents the directors of the eight state and territory legal aid commissions (LACs) in Australia.

The LACs are independent, statutory bodies established under respective state or territory legislation. They are funded by state or territory and Commonwealth governments to provide legal assistance services to the public, with a particular focus on the needs of people who are economically and/or socially disadvantaged.

In a family law context:

- LACs have the benefit of the significant expertise and practical experience of thousands of staff and private legal practitioners funded to undertake LAC matters, working in all jurisdictions across the country in a diverse range of family law and related matter types, stages of matter, priority groups and geographical locations.
- LACs play a major role arranging the appointment of and acting as independent children's lawyer.
- LACs provide discrete legal services, for example advice, legal assistance and duty services to clients who may otherwise be self-represented in the family law system. A significant proportion of litigants represent themselves (at least at some point) in family law proceedings in both the Family Court and the Federal Circuit Court and this proportion is even higher for appeal matters. In the Family Court of Australia Annual Report 2016-17, it is reported that 41% of trials in that court had at least one self-represented litigant.<sup>1</sup> There are no figures on self-represented litigants in the Federal Circuit Court Annual report. With significant experience assisting self-represented parties to navigate the system, and experience representing parties and children, LACs are uniquely placed to observe the effects of delays in the family law system, as well as the confusion that can result from two courts and two different sets of rules, forms and procedures.

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<sup>1</sup> Family Court of Australia, Annual Report 2016-2017, 26

[http://www.familycourt.gov.au/wps/wcm/connect/7456589e-fc98-409b-8d1c-7b909bd30dcf/2743-Family\\_Court\\_of\\_Australia\\_AnnualReport\\_2016\\_17\\_WEB.pdf?MOD=AJPERES&CVID](http://www.familycourt.gov.au/wps/wcm/connect/7456589e-fc98-409b-8d1c-7b909bd30dcf/2743-Family_Court_of_Australia_AnnualReport_2016_17_WEB.pdf?MOD=AJPERES&CVID)

## General observations

NLA supports a single entry point and a single, clear set of rules and uniform set of forms and procedures.

When announcing the amalgamation of the Federal Circuit and Family Court of Australia, the Attorney-General said:

*The FCFCA will have one single point of entry for all federal family law matters to provide a consistent pathway for Australian families needing to have their family law disputes dealt with by court proceedings. Families will have one new court with one set of new rules, procedures and practices designed to ensure that their disputes will be dealt with by the FCFCA in the most timely, informed and cost effective manner possible.<sup>2</sup>*

This aim is reflected in the proposed objects of the Federal Circuit and Family Court of Australia Bill 2018 (the Bill):

### 5 Objects of this Act

The objects of this Act are:

- (a) to ensure that justice is delivered by federal courts effectively and efficiently; and
- (b) to provide for just outcomes, in particular, in family law or child support proceedings; and
- (c) to provide a framework to facilitate cooperation between the Federal Circuit and Family Court of Australia (Division 1) and the Federal Circuit and Family Court of Australia (Division 2) with the aim of ensuring:
  - (i) common rules of court and forms; and
  - (ii) common practices and procedures; and
  - (iii) common approaches to case management.

However, it is unclear from the text of the Bill that these important objectives will be achieved by the proposed amalgamation of the Family Court with the Federal Circuit Court. NLA has some concerns that this amalgamation may be premature.

Some of the issues that the Bill aims to address form part of the terms of reference for the Australian Law Reform Commission report into the Australian family law system commissioned by government last year and due to report on 31 March 2019, specifically:

- the paramount importance of protecting the needs of the children of separating families;
- the importance of public understanding and confidence in the family law system;

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<sup>2</sup> The Hon Christian Porter MP, 'Court Reforms to help families save time and costs in family law disputes' (Media Release, 30 May 2018).

- the desirability of encouraging the resolution of family disputes at the earliest opportunity and in a less adversarial and least costly manner; and
- the pressures (including, in particular, financial pressures) on courts exercising family law jurisdiction.

NLA is aware of alternative models for a purpose built two-tiered Family Court (incorporating existing Federal Circuit Court Judges doing family work and existing Family Court Judges) which it is suggested warrant consideration in this broader context.<sup>3</sup>

The Bill seeks to provide “*common leadership, common management and a comprehensive and consistent case management approach*” (Explanatory Memorandum (EM) [3]) for the new court.

NLA supports these aims.

The Bill structure completely separates the provisions that apply to Division 1 of the Court, formerly the Family Court of Australia, and Division 2, formerly the Federal Circuit Court of Australia. This proposed structure would imply that either of the Divisions could be excised from the Bill or in future, the Act, if so desired by Parliament. The EM to the Bill supports this at [10] by stating that “*FCFC (Division 2) would be conferred with much the same family law jurisdiction as that conferred on FCFC (Division 1) such that the jurisdiction of both divisions will largely become the same.*”

When the proposal for the combined courts was first announced, media reports, quoting the Attorney, suggested that Division 1 judges will not be replaced.<sup>4</sup>

NLA has some concerns relating to non-replacement including:

- Some registries may be left with small numbers of Division 1 judges compared to other registries. This could cause issues with case management in relation to workloads, managing illness and dealing with recusal and bias applications, especially where the judge has heard contravention applications in a matter.
- This potential for reduction in the number of judges with the requisite knowledge, skill and expertise in running complex family law matters.

It is not evident from either Bill whether the intention is not to reappoint into Division 1. This is an issue which would also have implications for the structure of the Family Court of Western Australia (Family Court of WA) as the Judges of the Family Court of WA are also Judges of the Family Court of Australia (Division 1).

The EM to the Bill at [57] states:

<sup>3</sup> See “*A Matter of Public Importance: Time for a Family Court of Australia 2.0*”, Discussion Paper, NSW Bar Association, July 2018, and “*Future Governance Options for Federal Family Law Courts in Australia: Striking the Right Balance*”, Des Semple & Associates in conjunction with the Attorney-General’s Department, August 2008.

<sup>4</sup> *Don’t axe Family Law: ex-chief justice Diana Bryant*, Nicola Berkovic, The Australian, 31 May, 2018.

*For constitutional reasons, the FCFC would be established as two courts, brought together in practice under a single, overarching, unified administrative structure. This would nonetheless allow for the continuation of the Family Court and the Federal Circuit Court with the collective personnel (other than Judges) of the existing Courts being brought together under the unified administrative structure of the new Court entity. It in no way would constitute either court absorbing the other, or either court being disbanded.*

To address the issues identified above, NLA would welcome a commitment from government to ensuring the adequacy of judicial resourcing.

As well as the amendments contained in the Bill there are substantial amendments to the *Family Law Act 1975* (FL Act) and the *Federal Court Act 1976* (FC Act) contained in the Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Bill 2018 (Amendment Bill) to effect the reforms to the Federal Circuit and Family Court of Australia (FCFC).

NLA has reviewed the Bills and makes comments in relation to the following issues:

1. Judicial appointments;
2. Jurisdiction;
3. Appeals;
4. Practice and procedure;
5. Orders and judgments;
6. Rules; and
7. Delegations and registrars.

## **1. Judicial appointments**

NLA notes that the complex risk factors in family law litigation can threaten the physical, emotional and psychological safety of children and family members. This complexity provides a compelling case that family law is a specialist area requiring the appointment of highly experienced judicial officers.

NLA is of the view that all judicial officers determining family law matters should have the qualities set out in s 22(2)(b) of the FL Act which requires that a person shall not be appointed as a judge unless by reason of training, experience and personality, the person is a suitable person to deal with matters of family law.

It is the position of NLA that professionals working in the family law system should have competence in a range of areas. The knowledge and skills of judicial officers in these areas of competences should be comprehensive and highly developed given that the families presenting at the family law courts are those with the most complex needs. These competencies should be considered in the selection and appointment of judicial officers.

Clause 11 of the Bill deals with the appointment of judges to Division 1 of the Court and mirrors the provisions of s 22(2)(b) of the FL Act. Clause 79 deals with the appointment of judges to Division 2 but uses different language requiring that a person has appropriate knowledge, skills and experience to deal with the kinds of matters that may become before the FCFC.

It is the view of NLA that the suitability, experience and skills of judges appointed to hear appeals in family law matters should not be different.

## 2. Jurisdiction

NLA agrees that there should be a single point of entry to the family law system.

The proposed model envisages that the first instance jurisdiction of Division 1 and Division 2 will be the same, largely reflecting the current situation with only nullity and validity of marriage in the exclusive jurisdiction of the Family Court. The main change is that the appellate jurisdiction of the FCFC (Divisions 1 and 2) is limited to appeals from courts of summary jurisdiction. The jurisdiction of the FCFC including in appeals is to be exercised by a single judge. Any appeal from Division 1 or Division 2 will go to the newly created Family Law Appeals Division in the Federal Court.

The aim of the proposed model is to free up judicial resources in Division 1 to undertake trials. However, NLA is concerned about the ramifications of adding family court appeals to the workload of Federal Court judges who may not have the family law experience of current Family Court judges.

Shifting appellate jurisdiction to the Federal Court effectively creates three separate institutions which will be responsible for dealing with family law work (namely the FCFC Division 1, FCFC Division 2 and the Federal Court). As the FCFC is being established as two separate courts with a common administration, it is suggested that the involvement of a third court seems unlikely to facilitate a streamlining of service and an associated reduction of required resources. In addition, as identified below, it is likely that judges of the Family Court of WA will be less available to hear trials because of the appeals from decisions of magistrates of summary jurisdiction and family law magistrates associated with the proposed amendments.

Existing legislation (s 94AAA of the FL Act) allows for appeals from the Federal Circuit Court to the Family Court to be determined by a single judge sitting as the Full Court. Wider use of this provision and strong common leadership may satisfy the requirement to free up judicial resources for trial work, without the need to restructure the court.

The proposed Bill retains a separate pathway for certain child support matters. Under the Bill, both Division 1 and Division 2 courts have jurisdiction under the *Child Support (Assessment) Act 1989* and the *Child Support (Registration and Collection) Act 1988*. This is consistent with existing arrangements where the Family Court and Federal Court both have

jurisdiction under these Acts. However, child support decisions are also now made by the Administrative Appeals Tribunal and an appeal lies on a question of law only to the Federal Circuit Court (section 44AAA of the *Administrative Appeals Tribunal Act*) or in some circumstances the Federal Court (section 44 of the *Administrative Appeals Tribunal Act*). The separate pathway for child support appeals has sometimes led to difficulties for clients.

### 3. Appeals

One of the major changes proposed by the passage of this legislation is in the hearing of appeals.

Amendments to the FC Act provide that appeals from Division 1 and Division 2 of the FCFC are to be heard in the Federal Court. To effect this change, there have been consequential major amendments proposed to the FC Act, which includes the creation of a Family Law Appeal Division, situated in the Federal Court.

The EM states that this is appropriate because it is a superior court with experienced judges and that the creation of a specialised Family Law Appeal Decision will allow judges with more experience in dealing with family law matters to be allocated specific family law appeal matters.

This will also result in significantly fewer appeals, and these amendments would realise substantial savings in judicial time and enable judges who now typically hear appeals to focus on hearing first instance family law matters. This would reduce the backlog in first instance family law matters and contribute to reduce median case waiting times. NLA is of the view that the two primary factors contributing to the current delays in the family law courts are the increasing complexity of family law matters (and their length) combined with insufficient judicial, administrative and legal assistance resources. More judicial resources at trial level would be welcomed but NLA would concerned if efforts to achieve this are to be made through the loss of qualified and experienced full court judges to hear family law appeals.

A proposed amendment to the FC Act requires that judges have appropriate knowledge, skills and experience to deal with the kinds of matters that may come before the court (clause 186 of Schedule 1, amending s 6(2)(b) of the FC Act). As previously identified NLA is concerned that this definition may not sufficiently describe the requisite knowledge, skill and experience required of appeal judges in family law matters.

It is difficult to discern from the current proposals whether the current Family Court appeals judges would be appointed to the Family Law Appeals Division of the Federal Court or if the Appeal judges will be drawn from current Federal Court judges. NLA is concerned that existing Family Court appeals judges will only be hearing first instance matters and not be able or available to hear Family Court appeals.

The current structure of the Federal Court does not have an appeals division. Federal Court Judges hearing appeals are drawn from the pool of judges hearing matters at first instance. There are four scheduled full court and appellate listings per calendar year. Given the number of appeals currently in family law, and in particular the urgency of appeal matters when dealing with parenting arrangements for children, the existing Federal Court appeals structure may be challenged by the volume and complexity of family law appeal matters.

The Judges of the Appeals Division of the Family Court have extensive experience in family law matters. In family law matters, appeals often go to discretionary matters involving consideration of the evidence and weight applied to that evidence. Intrinsically, appeals in family law matters are labour-intensive and require judges to read transcripts of evidence and consider large amounts of extrinsic evidence tendered in the trial of the matter.

It is the position of NLA that appropriately qualified judges should form part of the Family Law Appeals Division.

#### Appeals from the Federal Circuit Court or the new Division 2 to a single Judge

NLA is of the view that as the default position appeals be heard by a single Judge of the Full Court in most matters. Currently, the Full Court, consisting of three Judges, hears appeals from decisions of Judges of the Family Court. A single Judge is able to hear appeals from a decision of a Judge of the Federal Circuit Court. The jurisdiction of the Family Court on an appeal from the Federal Circuit Court is currently exercised by the Full Court unless the Chief Justice considered it appropriate for the appeal to be heard by a single Judge (s 94AAA(3)). The Amending Bill provides for Division 2 matters on appeal to be heard by a single judge or if a judge considers it appropriate to be heard by the Full Court (clause 229 of Schedule 1, being amendment to subsection 25(1AA)). An appeal from Division 1 is to be determined by the Full Court of the Federal Court (clause 25(1)).

This would mirror the current position in the FL Act where an appeal from the Federal Circuit Court is to be heard by a single Judge of the Full Court of the Family Court unless the Chief Judge considers it is appropriate for the Full Court to hear the appeal.

#### Residual appeals jurisdiction in the FCFC

NLA is concerned about the potential for confusion arising from the residual appeals jurisdiction of the new FCFC. Appeals from courts of summary jurisdiction are still to be heard in the new FCFC. Whilst this jurisdiction is currently small, it may grow due to the enactment and royal assent of the *Family Law Amendment (Family Violence and Other Measures) Bill 2018* with children's courts being able to exercise family law jurisdiction. A significant change is that now both Divisions have jurisdiction to hear appeals from courts of summary jurisdiction in family law and child support matters. It seems unusual and potentially confusing for both Divisions 1 and 2 to have appellate jurisdiction from courts of summary jurisdiction.

### Less registrar involvement in the running of appeals

The amendments in relation to appeals may disadvantage self-represented litigants. The Rules in relation to appeals in the Federal Court appear to result in the reduced involvement of the Appeals Registrar in lodging and managing appeals in comparison with existing arrangements. Given that many appeals in family law are brought by self-represented litigants, NLA is concerned that the particular needs of self-represented litigants may not have been adequately considered. There also appears to be greater scope for an application to be dealt with without an oral hearing (new FL Rule 22.14) for procedural matters.

While the EM states that this will allow the court to expedite the appeals process, NLA is concerned that having such applications determined in chambers may disadvantage unrepresented litigants.

Currently in Western Australia the appeal path and the type of appeal that is available from a family law decree is different depending on whether the appeal is from a decision made by a Family law Magistrate (Magistrates who are also either the Principal Registrar or a Registrar of the Family Court of WA) and all other Magistrates exercising jurisdiction under the FL Act.

Appeals from decisions made under the FL Act by Family Law Magistrates have the same pathway as appeals from Judges of the Federal Circuit Court. Appeals are made to the Family Court of Australia (s 94AAA(1A) FL Act) to be heard by the Full Court unless the Chief Justice considers it appropriate to be heard by a single Judge (s 94AAA(3) FL Act. Leave to appeal is required from, amongst others, interlocutory decrees other than a decree in relation to a child welfare matter (s 94AA(1) FL Act and reg 15A Family Law Regulations 1984). In contrast Appeals from non-Family Law Magistrates in courts of summary jurisdiction in Western Australia (all Magistrates other than Magistrates of the Family Court of WA) are to the Family Court of WA (ss 96(1) and 41(3) FL Act) and proceed by way of a hearing de novo (s 96(4)(a) FL Act).

As previously identified Appeals are currently provided for in Part X of the FL Act. Section 114 (Schedule 1 Part 1) of the CATP Bill repeals Part X. Sections 25 and 102 of the FCFC Bill, respectively, vest jurisdiction in Divisions 1 and 2 of the FCFCA to determine appeals from courts of summary jurisdiction.

Section 72 (Schedule 1 Part 1) of the Amendment Bill provides for the inclusion of the new s 47A in the FL Act, which deals with the pathway for appeals from courts of summary jurisdiction. Section 47A provides that an appeal lies from a court of summary jurisdiction to the FCFC or the Supreme Court of that State or Territory. By a previous proclamation, references to the Supreme Court of WA are taken to be a reference to the Family Court of WA. The proposed s 47A(5)(a) FL Act states that the court hearing the appeal "must proceed by way of a hearing de novo". Such appeals must be instituted within the time set out in the standard Rules of Court. Leave is not required to appeal a decree from a court of summary jurisdiction except under Child Support legislation (proposed s 47B).

The proposed Regulation 39BB(2) of the Family Law Regulations 1984 provides that the Full Court of the Family Court of Australia cannot sit in Western Australia to hear appeals from courts of summary jurisdiction (proposed sub-regulation 39BB(2)(e)(iii)). This means that such appeals will only be able to be made to the Family Court of WA. This intention is confirmed in the EM to the Amendment Bill at [148].

It seems that it may be intended that all appeals from a decree of a court of summary jurisdiction exercising jurisdiction under the Family Law Act in Western Australia (including a decree of the Magistrates Court of Western Australia constituted by a Family Law Magistrate) will be to the Family Court of WA, and not the FCFC. This is likely to have resource implications for the Family Court of WA. In this context, NLA queries whether it is also intended that appeals from Family Law Magistrates should be by way of a hearing de novo and that the requirement for leave to appeal a decree from an interlocutory decision of a Family Law Magistrate be removed. This is an important issue as it is understood that currently Family Law Magistrates hear and determine more final hearings per annum than Judges of the Family Court of WA.

## 4. Practice and procedure

EM [62-64] of the Bill states that the possibility for dual appointments of the Chief Justice and Deputy Chief Justice underpins the government's intention of enabling a common case management approach and effective allocation of cases between Divisions 1 and 2, facilitating the issuance of common rules of courts, practice notes and directions.

It is difficult to comment on practice and procedure at this stage as there are no regulations under this Bill available.

NLA is of the view that a common case management approach and a single, clear set of rules and uniform set of forms and procedures will be essential to the good workings of the new courts structure.

### Costs

There are new provisions as to awarding costs where parties or their lawyers have not complied with duties to make informed decisions in accordance with the overarching purpose. The Bill introduces an extra step in awarding costs in the event of failure to comply with the overarching purpose, allowing the court to order a party's lawyer to bear costs personally (see Division 1 clause 48-50, Division 2, clause 157-158).

This approach contrasts with the current approach to costs in proceedings under the FL Act. NLA refers to s 117 of the FL Act and the starting point that each party bears their own costs in the family law jurisdiction. The practice of family law is a difficult one and NLA has some concern that the new provisions if implemented strictly might have unintended consequences for practitioners, and might deter some unrepresented litigants from

presenting appropriate material to the court for fear of a costs order being made against them.

#### Transfers between courts

One of the main benefits of the combined court would be a single entry point for parties for filing of documents and to decrease the number of transfers between the two courts.

The need to transfer matters between the courts is not always readily apparent at the time of the initial filing of documents by the initiating party. As cases progress, an increase or decrease in complexity can become apparent.

The Bill provides that discretionary transfers can still be made between the two courts for reasons to be provided in the Rules of Court, if the resources of the other court are sufficient to hear it and if the transfer is in the interests of the administration of justice (see clauses 34 and 117).

Acknowledgment of the need for transfers to continue to be necessary is welcomed, although NLA is also concerned that criteria for exercising the power be appropriately articulated to provide certainty to the parties and their legal representatives.

## 5. Orders and judgments

The Bill replicates or draws from many of the existing provisions in the *Federal Circuit Court Act 1999* and the FL Act and does not significantly alter the substantive powers of the judiciary.

The provisions in relation to reserved judgments and the release of such judgments in clauses 54 and 177 (i.e. can be actioned by another judge who did not hear the matter) is largely replicated as per the current provisions. The EM suggests that this will allow judgments to be released in a timely manner. The delay in releasing judgments is not usually due to the unavailability of judges to deliver orders/reasons but is rather related to judges' workloads.

## 6. Rules

Under the current system, the courts operate under separate sets of rules: the *Family Law Rules 2004* and the *Federal Circuit Court Rules 2001*. The *Family Law Rules* apply to other courts exercising jurisdiction under the FL Act, but specifically **not** the Federal Circuit Court (see existing section 123(1A) of the FL Act). S 43 of the existing FL Act as well as Rule 1.05 of the existing *Federal Circuit Court Rules* state that the *Family Law Rules* can be applied where the *Federal Circuit Court Rules* are inadequate or inappropriate.

The transitional arrangements provide that these sets of rules will continue to apply to Division 1 and Division 2 of the new FCFC, but will be renamed *Federal Circuit and Family*

*Court of Australia (Division 1) Rules 2018* (FCFC (Division 1 Rules) and *Federal Circuit and Family Court of Australia (Division 2) Rules* (FCFC (Division 2 Rules) respectively.<sup>5</sup>

Disputes can and do arise in family law matters because the two sets of rules have quite different provisions, for example:

- expert witnesses;
- pre-action procedures; and
- requirements for discovery and subpoenas.

NLA supports the aim of the Bill to achieve “common approaches” when it comes to rules and procedures.

NLA notes, however, that the clauses that deal with the rule making powers of the respective divisions (clause 56 for Division 1 and clause 184 for Division 2) appear different in their terms and scope. The provisions for rule making in Division 1 are generic in their terms, and far less particularised than those for Divison 2). The provisions in clause 56 are also far less particularised than the currrent rule making power in the FL Act yet by contrast the rule making power in clause 184 particularises the rules in detail, covering such matters as documents, service, evidence, orders and judgements, costs, as well as a number of general and incidental matters.

It is also noted that with the proposed removal of the appeal function of the Family Court, the rules for appeals would necessarily be governed by a third set of Rules, that of the Federal Court of Australia.

There may also be difficulties aligning the rules for the two divisions because the Division 2 Rules would necessarily need to cover general federal law matters including Immigration, Bankruptcy and Fair Work matters.

There do not appear to be any explicit provisions in the Bill that explain which rules are to apply in the case of inconsistency between rules, or if rules are inadequate or inappropriate.

If appeals from both magistrates of summary jurisdiction and Family Law Magistrates are to be heard exclusively by the Family Court of WA that court should retain the power to make its own Rules in respect of the hearing of those appeals.

Both the current versions of the FL Act and the FCC Act provide for the rules to be made by “Judges or a majority of Judges”. By contrast, the current Bill specifies that the rules are to be made by the Chief Justice of Divison 1 and Chief Judge of Division 2 respectively. For the reasons above, NLA supports working towards one set of rules that is tailored to moving

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<sup>5</sup> *Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Bill 2018*, Schedule 7 item 1(1) and Schedule 8 item 1(1).

family matters forward fairly, expeditiously, and in the best interests of children. It is respectfully suggested that this would be best achieved in consultation with relevant stakeholders, and with the benefit of the recommendations of the Australian Law Reform Commission's review into the family law system.

## 7. Delegations and Registrars

The clauses in the Bill that deal with delegations to Registrars in the two Divisions mirror each other, and are not significantly different to existing law. Under the current regime, different practices in the implementation of Registrars' delegations have emerged across registries. It is notable that the Bill still refers separately to Registrars sworn into Division 1 and Division 2 (although presumably in practice Registrars could be sworn in to both Divisions).

It is the view of NLA that the administration of family law matters would be streamlined and enhanced by a pool of Registrars delegated to undertake family law work in both Division 1 and Division 2, including the triaging of urgent listings, ensuring the most urgent and high risk cases continue to be prioritised, and all cases will be allocated at the earliest possible point to the most appropriate Judge in the most appropriate Division. Registrars would also play an important role in transferring matters expeditiously between Divisions.

It is also noted that there are a number of proposals in the Discussion Paper released by the Australian Law Reform Commission about discrete lists for certain types of matters, and the use of judicial officers, such as registrars, in triaging and possibly running those lists.

It is suggested that greater consistency would be achieved by Registrars operating in both Divisions 1 and 2 and applying a uniform set of rules.

Thank you for the opportunity to provide a submission on this Bill.

Should you require any further information from us please be in touch with the NLA Secretariat on 03 6236 3813 or [nla@legalaid.tas.gov.au](mailto:nla@legalaid.tas.gov.au)

Yours sincerely,



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