

17 November 2020

Our ref: [ND – FL/DFV]

Michael Tidball  
Chief Executive Officer  
Law Council of Australia

By email: [REDACTED]

Dear Mr Tidball

**National Framework for Information Sharing between the Family Law and Family Violence and Child Protection Systems**

Thank you for the opportunity to provide feedback on the National Framework for Information Sharing between the Family Law and Family Violence and Child Protection Systems (**National Framework**). The Queensland Law Society (QLS) appreciates being consulted on this important work.

This response has been compiled by the QLS Family Law Committee and the QLS Domestic and Family Violence Committee, whose members have substantial expertise in this area.

**National Framework**

QLS has consistently advocated for improved interaction and information sharing between the family law courts and other agencies as a means of enhancing the capacity of the family law courts to properly assess the risk of family violence.

We strongly support the rationale behind developing the National Framework. The prompt and comprehensive exchange of information between relevant courts and authorities is likely to contribute to better outcomes for children and reduce risks to safety.

Critically, the National Framework will require appropriate, sustained resourcing. People experiencing violence who engage with the family law system rely on programs and services which are designed to improve safety. Inadequate resourcing of these services renders them ineffective, thereby increasing risk for some people.

Expanding the scope of section 69ZW of the *Family Law Act 1975* (Cth) to include agencies such as corrections, youth justice and state courts, in addition to child safety authorities and police, will ensure the court has more comprehensive information earlier and at less expense



## **National Framework for Information Sharing between the Family Law and Family Violence and Child Protection Systems**

to parties. This will also assist self-represented parties who may have difficulty navigating the various systems and are least likely to request this information via subpoena.

### **Co-location of services**

QLS supports the recently implemented initiative whereby child safety authorities and police are co-located at family law court registries. The co-location model assists in promptly providing information which is critical to the courts' capacity to understand context and assess risk.

The pilot has commenced in several Queensland registries, including Brisbane, Rockhampton, Townsville and Cairns. QLS members have reported some uptake of the service, however, this has been impacted by the COVID-19 pandemic, which has seen significant changes to court processes. As a result, practitioners often now appear virtually and are less frequently physically present in court. The co-location service has operated remotely since its commencement in May 2020 and is due to be physically co-located from 16 November 2020. This has created some disconnect between the co-location service and the ability for practitioners to engage with it. QLS will be in a better position to provide comprehensive feedback after a period of physical co-location.

At present, clear information about the co-location pilot, including guidance on who can access the service and how, is not easily accessible in the experience of our members. Unfortunately, this has resulted in inconsistency and confusion for practitioners and parties. It is unclear, for example, whether a party's representative can request information from the service, or whether this is restricted to judicial officers and Independent Children's Lawyers, where one has been appointed. These processes should be clear and consistent across registries. QLS encourages the courts to develop and publish this information as a matter of priority.

As part of the service, police or child safety authorities are able to provide summaries of information on a matter. We acknowledge that these summaries may be less detailed than material produced under subpoena, however, the advantage of receiving the information in a timely manner, particularly in urgent matters, is significant. In assessing the information provided, judicial officers must be equipped with the skill and expertise necessary to properly understand the nuances of a particular matter, including dynamics of relationships involving domestic and family violence and presentation of victims in these circumstances. Ongoing education on domestic and family violence is absolutely essential in this regard.

In Queensland, QLS understands that both the Department of Child Safety and Queensland Police have indicated they will not provide information which might be prejudicial to an ongoing investigation. Although this means the court may not have access to recent issues relevant to the safety of a party or their children, this may be necessary to protect the integrity of such investigations.

QLS acknowledges the considerable work invested in setting up the co-location project to ensure the system operates effectively. To continue to operate effectively, the co-location service requires appropriate staffing and infrastructure. We emphasise the importance of providing ongoing resourcing to support this. In Queensland, the four allocated child safety positions have been distributed across the registries on the basis of demand and are staffed with highly experienced practitioners who have a good understanding of both child safety



## National Framework for Information Sharing between the Family Law and Family Violence and Child Protection Systems

processes and family law processes. We also note that, in Brisbane, Queensland Police have staffed the service with a former Associate, which is ideal in the view of our members in terms of dual expertise.

Each state and territory have implemented the pilot somewhat differently. State and territory-based agencies each have different processes and procedures, which creates challenges for uniformity. However, we support attempts to create national consistency where possible and the development of nationally consistent guidelines.

In addition, it is important to ensure the co-location service operates in a culturally safe manner. This may include delivering ongoing cultural awareness training for staff, employment of First Nations staff and co-ordination with appropriate First Nations services, such as Aboriginal and Torres Strait Islander Services. QLS also recommends appropriate consultation is undertaken with First Nations organisations and communities in implementing and evaluating the service.

Finally, the co-location service plays an important educative role for both the family law courts and other agencies. QLS understands the service has assisted in providing valuable insight into how other jurisdictions operate and in setting realistic expectations.

### Lighthouse Project

QLS strongly supports the aims and rationale of the Lighthouse Project. QLS have engaged with the family law courts in relation to the Lighthouse Project and welcome this initiative aimed at improving outcomes for people experiencing family violence. Comprehensive, early risk assessment and tailored support throughout the litigation process is critical in supporting families impacted by family violence.

Again, appropriate ongoing resourcing for the Lighthouse Project will be critical to its success. For some QLS members, the majority of their matters would fall into the 'Orange' or 'Red' categories. Consistent with this, there is some concern that the project may suffer 'volume creep' and without any extra judicial resources to support it, the timeframes and other goals may not be able to be maintained.

We note that recent amendments to the *Family Law Act 1975* (Cth) will make risk screening information confidential and inadmissible. QLS welcomes this amendment, which is likely to encourage honest disclosure and is consistent with the focus on public health rather than evidence gathering.

QLS is unable to offer further feedback on the operation of the Lighthouse Project at this stage. We look forward to providing further comment when this project, which is in its infancy, is evaluated at a later date.

### Technology

QLS supports the proposed scoping of a technological solution to facilitate information sharing between the federal family courts and state and territory criminal justice and child protection systems. We anticipate this will be a significant undertaking which will require cooperation across jurisdictions and stakeholder groups. It is of course essential the protocols governing



## National Framework for Information Sharing between the Family Law and Family Violence and Child Protection Systems

the accessing and releasing of information from the database would need to be harmonised across jurisdictions.

The ability to obtain up to date information from other agencies across jurisdictions, readily and quickly, would increase the capacity of the courts to make informed decisions about safety at an earlier stage.

### Superannuation

The 2018 Women's Economic Security Statement included a government commitment to developing an electronic information sharing mechanism between the Australian Taxation Office (ATO) and the family law courts to allow superannuation assets to be identified quickly and more accurately.

At present, information gathering processes in relation to superannuation assets are often difficult and time-consuming. A mechanism which allows the ATO to provide this information directly to the courts will reduce difficulty and expense for parties and assist in producing just and equitable superannuation splitting outcomes. An information sharing mechanism of this nature is particularly important for women escaping violent relationships given superannuation commonly represents a significant asset for parties. The current lack of quick and affordable ways to resolve property disputes prolongs proceedings and creates additional burden for women who have experienced violence.

QLS understands the implementation of this scheme has been delayed and strongly recommends the scheme be funded and implemented as a priority.

### Other measures

On 31 October 2020, the family law courts implemented a consistent, amended *Notice of Child Abuse, Family Violence or Risk*, to be filed with any Initiating Application or Response to Initiating Application seeking parenting orders. QLS supports the harmonisation of forms across the Family Court and Federal Circuit Court and acknowledge the broad consultation undertaken in developing the new form.

The new form is intended to capture more comprehensive detail about various types of abuse and violence including abduction, threats of harm and safety at court. We welcome these amendments. QLS also supports ongoing education on domestic and family violence to court staff to enable appropriate decision making in relation to the new forms.

QLS members have expressed support for the new Notice of Risk. However, the new form is considerably more complex than the previous Notice of Risk. To this end, QLS will be looking at various education and guidance which can be provided to the profession to support family law practitioners in using the form.

Again, ongoing education of judicial officers and professionals engaging in family law work around domestic and family violence is crucial to the capacity of the courts to properly assess any risk of violence or child abuse identified in material provided by child safety authorities. We recommend this be considered as a critical component in the development of the National Framework.

## **National Framework for Information Sharing between the Family Law and Family Violence and Child Protection Systems**

QLS would welcome the opportunity to provide additional feedback as the National Framework develops and detailed proposals have progressed.

If you have any queries regarding the contents of this letter, please do not hesitate to contact Senior Policy Solicitor, Natalie De Campo via [REDACTED]  
[REDACTED]

Yours faithfully

[REDACTED]  
Luke Murphy  
President