



ATTORNEY-GENERAL
HON ROBERT McCLELLAND MP

REMARKS AT THE
FAMILY COURT OF AUSTRALIA
ANNUAL JUDGES' MEETING

COMMONWEALTH LAW COURTS,
MELBOURNE

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First, may I acknowledge the traditional owners of the land we meet on – and pay my respects to their elders, both past and present.

- Chief Justice Diana Bryant [introducing you]
- Members of the judiciary
- Distinguished and international guests

Good morning.

It is a great pleasure to be here today, and thank you, Chief Justice for inviting me to speak at your conference. I am also very pleased to be here today to launch the Court's new family violence best practice principles.

These principles provide a practical checklist of matters for judicial officers to consider when hearing and determining disputes involving allegations of violence. I hope they will assist the Court in ensure that the welfare of children and victims of abuse are at the forefront of all decisions made.

More than 2,000 years ago, Roman statesman, Cicero, produced in a few simple words an inspirational observation: "*the good of the people is the chief law.*"

It's an enlightened statement that should continue as a guide in the 21st century – for those working in the law, and for those using it.

We must always stay focussed on the wellbeing of the people we serve and those affected by the law we administer. That is why the family violence best principles are so important.

I want to recognise the invaluable work of all of you here and your collective commitment to assisting families in crisis.

As Attorney-General, one of my principal responsibilities is to ensure that Australia's family justice system functions and is structured to produce the best possible outcomes for users of the system.

In that context, it is essential that the considerable public resources devoted to family dispute resolution are utilised in a way that maximises the benefits to the people affected by family breakdown.

By that I mean the system of family dispute resolution should be as fair, simple, affordable and accessible as possible, with its focus on the families that use it. Courts cannot afford to be distracted from that focus.

Review of Delivery by Federal Courts of Family Law Services

Everyone would agree that where possible people should be empowered to reach their own decisions about their future. It is common sense that where parties can resolve their own differences the outcome is more likely to be an enduring one.

It's my guiding principle in thinking about how family law services can be delivered and how they can achieve the best outcomes for those involved. We must ensure that all our efforts and public resources are deployed at an early stage to assist parties to resolve their own differences or – if this is not possible – narrow the issues in dispute.

I would make an additional four points here:

- processes for resolving disputes must make sense to litigants;
- they must be accessible and timely;
- they must be integrated with other family law services; and finally
- they must be capable of dealing with the full range of family law disputes which, because they delve into the labyrinth of human behaviours, can vary greatly in their complexity.

As Attorney-General these are my five imperatives, and so I initiated a review of the delivery of family law services by the federal courts.

The Report of the Review was released in November last year, along with a Consultation Paper seeking further public comment on the Report's recommendations.

The consultation period ended a month ago.

What the Review and consultation reveal is consensus among stakeholders that aspects of the federal family law court system are due for reform.

No change is not an option.

In particular, the Report noted that tensions between the Family Court and the Federal Magistrates Court had 'distracted them from their core responsibilities'.

While I am aware that there is now a very good level of cooperation, the inbuilt structural issues remain.

The Review and consultation show broad support for the recommendations of the Report to create a single family court with two divisions. They also show support for developing more efficient and streamlined processes, and for delineating more clearly the responsibilities of the proposed two divisions.

I thank all of you who have contributed to the reform process – it's important to draw upon a wide range of opinions and views.

I especially want to thank the Chief Justice for her perspective and support. I value her input and leadership enormously.

And to all those associated with the Court I thank you for your patience.

A review and consultation of this nature cannot proceed without causing uncertainty, and sometimes anxiety, for judicial officers and staff alike.

But I am confident that the Review and consultation process will enable the Government and Parliament to put in place a better platform for all family law judicial officers to perform their core work.

Once Government has made a decision, I want to assure you I will be moving as quickly as I can to ensure implementation of that decision.

Access to Justice

Reforming family law services delivery by the federal courts is consistent with my desire to improve access to justice across the entire civil justice system.

But improving access to justice is not merely limited to reform of court structures.

Nor can it just be measured in efficiencies or matters of dollars and cents.

The Government is committed to building a functional, overarching framework to increase access to justice. It is imperative that public resources are not only deployed efficiently but also fairly and proportionate to need and the issues in dispute.

In January of this year I established an Access to Justice Taskforce in my Department to examine *what works, what doesn't, and why*.

Most importantly, we want to ensure that the mechanisms and processes which ultimately prevail are the most optimal.

In adopting this approach, I am also determined to identify priorities for reform that will increase individuals' capacity to understand the laws that affect them and to increase early dispute resolution.

Simplification of Court Rules

In the context of striving to guarantee the family law system is one of excellence, I also encourage the courts to explore ways of further simplifying court rules and processes to ensure just and fair outcomes for families.

I know that Chief Justice Bryant is committed to progress on this issue and I want to lend my support to that work.

The trauma of family breakdown and court proceedings should not be compounded by inflexible and overly formal procedures and rules.

Conclusion

Although I am interested in advancing new ideas in family dispute resolution that otherwise don't involve the courts, I am absolutely aware that courts will always be required to resolve those cases that have proved incapable of resolution by the parties themselves or any other dispute resolution mechanism.

The importance of a strong federal system of family law adjudication is unquestionable, and as a pillar of our democracy, it is vital to the long term well-being of the Australian community.

The Government is committed to ensuring that access to justice is maximised across Australia, and to ensure that the resources directed to family law adjudication are delivered as effectively as possible.

I have no doubt that this is one of the focuses of your conference – as it is the Government's.

I said at the start that I want Australia's justice system to produce the best possible outcomes for users.

My hope is that the Review and consultation will lay the foundation for the Government to put in place a system which does just that – where both administrative and judicial resources are effectively deployed.

There is a need for all of us to continually refocus our efforts, not for change sake, but to ensure we are finding new and better ways to improve the experience and outcome for families engaged in the family law system.

I hope also that all those who work in the system do so, confident that their efforts are greatly valued by the Government and the community.

Thank you.