

11 December 2019

Joint Select Committee on Australia's Family Law System
PO Box 6100
Parliament House
Canberra ACT 2600

PO Box 4093
Ainslie ACT 2602
T (02) 6230 1775
F (02) 6230 1704
anglicare@anglicare.asn.au
www.anglicare.asn.au

Dear Committee Secretariat

Inquiry on Australia's Family Law System

Thank you for the opportunity to contribute a submission to the Joint Select Committee's inquiry on Australia's Family Law System.

Anglicare Australia agrees that many of the issues outlined in the terms of reference for this inquiry are unresolved and need urgent attention. Indeed, we urge the Committee to follow through on the recommendations in the most recent and comprehensive review of the family law system by Australia's Law Reform Commission (ALRC).ⁱ In particular, we draw the Committee's attention to the recommendations for ensuring children's safety and wellbeing, and we have highlighted these below. These recommendations are in line with the findings of many previous reviews and parliamentary inquiries.

In particular, we emphasise ALRC's recommendation for the Family Law Act 1975 to "be amended so that the factors to be considered when determining parenting arrangements that promote a child's best interests are:

- what arrangements best promote the safety of the child and the child's carers, including safety from family violence, abuse, or other harm;
- any relevant views expressed by the child;
- the developmental, psychological, and emotional needs of the child;
- the benefit to the child of being able to maintain relationships with each parent and other people who are significant to the child, where it is safe to do so;
- the capacity of each proposed carer of the child to provide for the developmental, psychological, and emotional needs of the child, having regard to the carer's ability and willingness to seek support to assist with caring; and
- anything else that is relevant to the particular circumstances of the child.ⁱⁱ"

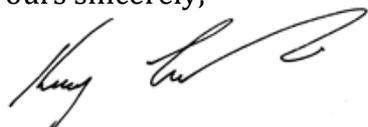
Further, we agree that The Family Law Act 1975 should “be amended to provide that in determining what arrangements promote the best interests of an Aboriginal or Torres Strait Islander child, a court must consider the child’s opportunities to connect with, and maintain the child’s connection to, the child’s family, community, culture, and country.” The Act should also “be amended to provide a definition of member of the family that is inclusive of any Aboriginal or Torres Strait Islander concept of family that is relevant in the particular circumstances of the case.ⁱⁱⁱ”

We support the recommendation that the Act 1975 “be amended to replace the presumption of ‘equal shared parental responsibility’ with a presumption of ‘joint decision making about major long-term issues.’” This would help assess arrangements that best promote the safety of the child and the child’s carers, including safety from family violence, abuse, or other harm.

Children should be the central concern of family law. They are often at the centre of disputes between parents and caregivers about their care arrangements following family separation. The family law system should be child-centric and focus on the needs of children, who have a right to a childhood that is safe and provides a space for optimal growth and development. It is in this context that Anglicare Australia emphasises that families need access to well-qualified staff in properly funded Family Law Services.

For additional information on Anglicare Australia’s recommendations for reforming the family law system, we refer to our submission to the ALRC’s Review of the Family Law System – Discussion Paper (Appendix 1). We again emphasise that any reforms must acknowledge that family breakdown is firstly a relationship issue, not a legal one, and that families need access to a wraparound service system that focuses on their needs and the needs of the child. Children’s voices must be heard and valued in the family law system. They should be at the centre of its decisions, and all children should have access to a Children’s Advocate.

Yours sincerely,



Kasy Chambers
Executive Director

ⁱ Australian Law Reform Commission (2019), [Review of the family law system](#)

ⁱⁱ *ibid*

ⁱⁱⁱ *ibid*