



Family Relationship Services
A U S T R A L I A

12 December 2007

Mr David Syme
Assistant Secretary
Family Pathways Branch
Attorney- General's Department

Transmission via email: David.Syme@ag.gov.au

Re: Recommendations of the Inquiry into Older People and the Law

Dear David,

I am writing in response to your request for FRSA input into the Government's response to the recent report released by the House of Representatives Standing Committee on Legal and Constitutional Affairs following its Inquiry into Older People and the Law.

Of the recommendations made by the Committee three will have a direct impact on FRSA members and their services. These are:

Recommendation 2: The Committee recommends that the Australian Government, in consultation with its state and territory counterparts, provide additional funding for mediation and dispute resolution services to assist older people to resolve financial disputes within the family situation.

Recommendation 30: The Committee recommends that that Australian Government propose that the Standing Committee of Attorneys – General undertake an investigation of legislation to regulate family agreements.

Areas to be investigated should include, but not be limited to:

- Whether the legislation should be implemented at the Commonwealth level or at the state/territory level, or as a cooperative scheme between the Commonwealth and the states and territories;
- Requiring or providing for the formalisation of family agreements in writing;
- Requiring or providing for the registration of family agreements;
- The provision of a mechanism to enable the courts to dissolve family agreements in cases of dispute and grant appropriate relief to the parties involved; and
- The impact on any related Commonwealth or state/territory legislation.

The Committee also recommends that, as part of this investigative process the Standing Committee of Attorneys – General should commission and release a discussion paper on the regulation of family agreements.

Recommendation 31: The Committee recommends that the Australian Government provide Family Dispute Resolution Services for those in dispute over family agreements.

Due to the demands on family relationship services at this time of the year, FRSA has not conducted a broad scale consultation with members on this matter. We have, however, consulted with some individual member organisations to develop a preliminary position that could be further tested with the sector in 2008.

FRSA would welcome additional funding becoming available for family dispute resolution for older Australians (Recommendation 2). We believe that this funding could be readily disbursed through organisations already funded through the Family Relationship Services Program (FRSP). These are the most appropriate organisations to provide family dispute resolution services to older Australians and their families. Indeed, these services already engage with older Australians in the course of their work. We have anecdotal reports of significant numbers of grandparents accessing Family Relationship Centres. We are also aware of some specifically tailored programs developed for grandparents by FRSA member organisations (see for example the submission to the Inquiry by Family Services Australia). The Australia Government has the opportunity to build on the existing infrastructure within the FRSP sector with the confidence that providers are already meeting stringent quality assurance and accountability requirements.

Rather than fund new Family Dispute Resolution (FDR) services, FRSA believes that the most cost-effective use of additional funding would to expand the capacity of existing services both in relation to the quantity of services provided and the knowledge base within services. For example, funding might be provided to FDR agencies to:

- Increase their overall service capacity with some dedicated targets relating to engaging with older Australians;
- Provide skills development for FDR practitioners in working with older Australians particularly in relation to resolving disputes over family agreements; and
- Evaluate or research the models of practice that best meet the needs of grandparents.

This might also be complemented by some national projects involving the Family Relationship Clearinghouse and one or more training provider.

Subject to any unforeseen developments, FRSA is prepared to undertake broader consultation with the sector in 2008 and further develop our response to the Committee's recommendations in collaboration with the Attorney-General's Department. In the meantime, please don't hesitate to contact me if you would like to discuss our preliminary response.

Yours sincerely



Samantha Page
Executive Director