



SENATOR THE HON GEORGE BRANDIS QC

ATTORNEY-GENERAL
LEADER OF THE GOVERNMENT IN THE SENATE

MEDIA RELEASE

FIRST COMPREHENSIVE REVIEW OF THE FAMILY LAW ACT

I have today commissioned the Australian Law Reform Commission (ALRC) to undertake the first comprehensive review of the family law system since the commencement of the Family Law in 1976.

This review is necessary and long overdue. Australian families and their needs have significantly evolved since the 1970s.

The review of the family law system will be broad and far reaching, focusing on key areas of importance to Australian families. These include ensuring the family law system prioritises the best interests of children, best addresses family violence and child abuse, and supports families, including those with complex needs to resolve their family law disputes quickly and safely while minimising the financial burden.

I have appointed Professor Helen Rhoades to lead this historic and important work. Professor Rhoades has extensive experience and a deep knowledge of family law.

She has been a professor at the Melbourne Law School since 2012, the Co Convenor of the Melbourne Law School's Family and Children's Law Research Group, the Chair of the Family Law Council from 2010 to 2016, and a member of the National Advisory Board of the Family Law Section of the Law Council of Australia.

Professor Rhoades has written and edited numerous publications focused on the family law system, and on issues related to family violence, children's needs and alternative dispute resolution.

The ALRC will consult widely with the community, practitioners and experts in family law and family dispute resolution, the legal, services and health sectors, as well as interested members of the public.

The review will commence on 1 October 2017 and will report by 31 March 2019.

The terms of reference for the review are attached.

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Terms of Reference

Review of the family law system

I, Senator the Hon George Brandis QC, Attorney-General of Australia, having regard to:

- the fact that, despite profound social changes and changes to the needs of families in Australia over the past 40 years, there has not been a comprehensive review of the *Family Law Act 1975* (Cth) (the Act) since its commencement in 1976;
- the greater diversity of family structures in contemporary Australia;
- the importance of ensuring the Act meets the contemporary needs of families and individuals who need to have resort to the family law system;
- the importance of affording dignity and privacy to separating families;
- the importance of public understanding and confidence in the family law system;
- the desirability of encouraging the resolution of family disputes at the earliest opportunity and in the least costly and harmful manner;
- the paramount importance of protecting the needs of the children of separating families;
- the pressures (including, in particular, financial pressures) on courts exercising family law jurisdiction;
- the jurisdictional intersection of the federal family law system and the state and territory child protection systems, and the desirability of ensuring that, so far as is possible, children's matters arising from family separation be dealt with in the same proceedings;
- the desirability of finality in the resolution of family disputes and the need to ensure compliance with family law orders and outcomes;
- the benefits of the engagement of appropriately skilled professionals in the family law system

REFER to the Australian Law Reform Commission (ALRC) for inquiry and report, pursuant to ss 20(1) of the *Australian Law Reform Commission Act 1996* (Cth), a consideration of whether, and if so what, reforms to the family law system are necessary or desirable, in particular in relation to the following matters:

- the appropriate, early and cost-effective resolution of all family law disputes;
- the protection of the best interests of children and their safety;
- family law services, including (but not limited to) dispute resolution services;
- family violence and child abuse, including protection for vulnerable witnesses;
- the best ways to inform decision-makers about the best interests of children, and the views held by children in family disputes
- collaboration, coordination, and integration between the family law system and other Commonwealth, state and territory systems, including family support services and the family violence and child protection systems;
- whether the adversarial court system offers the best way to support the safety of families and resolve matters in the best interests of children, and the opportunities for less adversarial resolution of parenting and property disputes;

- rules of procedure, and rules of evidence, that would best support high quality decision-making in family disputes
- mechanisms for reviewing and appealing decisions
- families with complex needs, including where there is family violence, drug or alcohol addiction or serious mental illness;
- the underlying substantive rules and general legal principles in relation to parenting and property;
- the skills, including but not limited to legal, required of professionals in the family law system;
- restriction on publication of court proceedings;
- improving the clarity and accessibility of the law; and
- any other matters related to these Terms of Reference.

I further request that the ALRC consider what changes, if any, should be made to the family law system; in particular, by amendments to the *Family Law Act* and other related legislation.

Scope of the reference

The ALRC should have regard to existing reports relevant to:

- the family law system, including on surrogacy, family violence, access to justice, child protection and child support; and
- interactions between the Commonwealth family law system and other fields, including family law services, the state and territory domestic and family violence, child protection, and child support systems, including the ALRC Family Violence Report 114.

Consultation

The ALRC should consult widely with family law, family relationship and social support services, health and other stakeholders with expertise and experience in the family law and family dispute resolution sector. The ALRC should produce consultation documents to ensure experts, stakeholders and the community have the opportunity to contribute to the review.

Timeframe for reporting

The ALRC should provide its report to the Attorney-General by 31 March 2019.