



Office of the Attorney-General

MC15-001796

Mr Andrew McCormack
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- 5 AUG 2015

Dear Mr McCormack

Thank you for your letter of 13 July 2015 to the Attorney-General, Senator the Hon George Brandis QC, about increases to family law court fees. The Attorney-General has asked me to reply on his behalf.

I acknowledge your concerns about the fee changes that commenced on 13 July 2015, following the disallowance by the Senate of the previous amendments intended to commence on 1 July 2015.

The Government announced a package of court reform measures as part of the 2015-16 Budget, including changes to court fees, an injection into the courts of \$22.5 million over the forward estimates, funding of \$30 million over the forward estimates for critical maintenance work for court buildings and streamlining the courts' back office functions. The aim of these measures as a whole is to promote the efficiency and effectiveness of the courts, and thereby enhance their capacity to provide services to litigants, including in key areas such as family law.

The court fee reforms are essential to ensuring that the Family Court, Federal Circuit Court and Federal Court of Australia are financially sustainable into the future. The changes to family law and general federal law fees are being used as a necessary initiative to avoid reducing essential front line services and address ongoing structural deficits in the family courts. For this reason, the Government introduced the revised family law fee changes.

I note that you are concerned about the effects of the fee changes on family law litigants, particularly the increased full divorce fee in the Federal Circuit Court and the new amended application fee. When the then Federal Magistrates Court of Australia was established in 2000, the divorce application fee was \$250 but this has been subject to indexation over fifteen years and other increases by former governments. The recent increase to the full divorce fee to achieve parity between the Family Court and Federal Circuit Court recognises that the Federal Circuit Court is now well established as the main court dealing with divorce applications.

Court fees, including the new amended application fee, are a fee for service. They reflect in part the costs of running the courts, while still falling a long way short of full cost recovery. Court fee inquiries have shown that high legal costs are much more likely to prevent individuals from accessing the courts than filing or other fees associated with bringing litigation before the courts. The 2014 Productivity Commission report into access to justice arrangements noted court fees in Australia are relatively low and it is appropriate to seek from court users a greater contribution towards the cost of running the courts.

Careful consideration has been given to minimise the impacts of the fee changes on those most vulnerable, including those experiencing family violence and low income earners. Fee exemptions, deferrals and waivers will still apply to vulnerable litigants where appropriate, and no changes have been made to the reduced divorce fee in both the Family Court and the Federal Circuit Court. This should mean that those facing financial hardship or other difficult circumstances should not be affected by the fee changes.

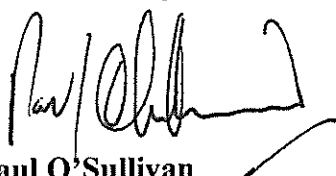
All arms of government are operating in a tight fiscal environment, and the public expects that resources are used efficiently and effectively. The Government is still strongly focused on the ability of the federal courts and the broader civil justice system to provide the Australian community with easily accessible services for the resolution of family and other disputes.

The new National Partnership Agreement on Legal Assistance Services commenced operation on 1 July 2015 and provides \$1.3 billion over five years for legal aid commissions and community legal centres. The National Partnership Agreement supports a more sustainable legal assistance sector by distributing funding in accordance with objective, evidence based criteria, and ensuring services are directed where they are most needed and are delivered in a coordinated and streamlined way.

The Government is also committed to providing family dispute resolution and other support services to assist separating families, and will provide \$870 million over five years for services to be delivered in over 300 locations in Australia.

Thank you for raising your concerns with the Attorney-General. I hope this response is of assistance to you.

Yours sincerely



Paul O'Sullivan
Chief of Staff