21 August 2019

Mr Arthur Moses SC
President
Law Council of Australia
GPO Box 1989
CANBERRA ACT 2601

By email: natasha.molt@lawcouncil.asn.au

Dear Mr Moses


The Society notes the Family Law Section (FLS) has undertaken an analysis of the 60 Recommendations contained in the Report. It is proposed that the FLS comments will form the basis of the Law Council response to the Report.

The Society’s Family Law Committee has expressed its support of the FLS response and has nothing further to add at this time.

However, the Society notes the position taken by the FLS in relation to the ALRC’s Recommendation 52 is for all legal practitioners to be mandated to undertake family violence CPD irrespective of whether they practise in the area of family law. The Society notes the Council of Attorneys-General (COAG) Family Violence Working Group Consultation Paper on Options for improving the family violence competency of legal practitioners, also considers the option of mandatory CPD unit on family violence. The Society has concerns with Recommendation 52 and the FLS response to this recommendation, for the following reasons.

The recommendation has been considered by the Ethics and Practice Unit of the Society who take the view that such a recommendation is problematic. It also considers that it would be difficult to enforce on a mandatory basis for all lawyers practising in family law. Instead, it is suggested that family violence training could be incorporated as part of the Family Law Unit in the Graduate Diploma of Legal Practice for entry level lawyers. It could also be incorporated as part of the Accredited Family Law Specialist program for family law practitioners seeking specialist accreditation. These options are also considered/suggested in the COAG Family Violence Working Group Consultation Paper.

An additional concern for mandating a family violence CPD for all practitioners, is that it may result in practitioners who do not practice in the area, having to reduce their CPD focus on areas relevant to their
own practice. As such, the recommendation is unlikely to be supported by the wider membership of the Society.

Yours sincerely

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