

Recommendations of the Committee for Family Justice

on the framework of the family justice system

4 July 2014

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I. THE COMMITTEE FOR FAMILY JUSTICE

1. When her parents decided to divorce, Rachel and her brother Peter would never have known how painful and bitter the experience of divorce would be for their entire family. Rachel and Peter were only eight and seven years old when their parents, John and Theresa, filed for divorce.
2. John and Theresa could not agree on any of the ancillary matters pertaining to their divorce. Both disagreed on the extent of their contributions to the marriage. Most significantly John and Theresa could not agree on the post-divorce arrangements with regard to the children. Theresa sought sole custody, care and control of both children, while John argued that Theresa was not suitable to have care and control of the children. Theresa alleged that John had been physically abusive to both the children and her, while John alleged that Theresa had been obstructing his access to the children and poisoning the children's minds against him. Rachel was referred to the Child Protection Service, which liaised with the police in investigations. The police did not take any action against John because the allegations could not be substantiated. Theresa separately filed a Personal Protection Order application for herself and the children but did not proceed with it. By the time the court decided the case, John had not had contact with his children for nearly two years, the children had settled into a routine which excluded the husband, and care and control of the children was awarded to the wife.
3. The facts above are real – they are taken from an actual case. Only the names have been changed to protect the identities of the family members. Regrettably, this is not the only family in Singapore that has the misfortune of experiencing the difficulties of divorce and family disputes. Every year, our courts hear thousands of cases involving divorce and/or other types of family disputes.
4. It is with the plight of such families firmly in mind that the Committee for Family Justice has embarked on its work which has culminated in the formulation of the set of recommendations on the framework of the family justice system contained in this report. Families involved in such disputes face real problems which require effective and timely solutions. To quote one of the respondents to the Public Consultation exercise:

"I urge the committee to offer more assistance to families and resolve the case more efficiently and effectively."

5. The Committee was formed to deliver recommendations on how families may be better assisted in resolving their disputes. At the Opening of the Legal Year 2013, the Honourable the Chief Justice Sundaresh Menon announced the establishment of an inter-agency committee to study and recommend possible

reforms to the family justice system to better serve the needs of families in distress.

6. The Committee is helmed by the Senior Minister of State for Law & Education Ms Indranee Rajah SC, Justice V K Rajah, former Judge of Appeal, Supreme Court of Singapore (till 24 June 2014) and Justice Andrew Phang, Judge of Appeal, Supreme Court of Singapore (from 25 June 2014). Members of the Committee and its Subcommittees come from a range of backgrounds involved in family justice, including the Ministry of Law, the Ministry of Social and Family Development, the Supreme Court, the State Courts, social service agencies and the legal fraternity.
7. The Committee's objective is to establish a problem-solving family justice system that will:
 - i. Protect and support the family as the basic unit of our society;
 - ii. Ensure that the interests of the child are protected;
 - iii. Effectively and fairly resolve family conflicts;
 - iv. Reduce the emotional burden, time and cost of resolving family disputes; and
 - v. Increase access to family justice for all.
8. In fulfilling its mandate, the Committee and its Subcommittees engaged in wide-ranging and comprehensive discussions, and consulted extensively with stakeholders in the family justice ecosystem. The Committee also undertook study visits to Australia, Germany and the United Kingdom to learn from the family justice systems in these jurisdictions. Comparative studies of jurisdictions in both the civil and common law traditions were also conducted.
9. On 7 May 2014, the Committee released a Public Consultation Paper to seek the public's views and feedback on the Committee's key interim recommendations.
10. The one-month long Public Consultation exercise was concluded on 7 June 2014. The Committee has considered the views and feedback provided by the respondents.
11. The Committee is pleased to submit its recommendations on the framework of the family justice system to the Government.

II. EXECUTIVE SUMMARY OF THE RECOMMENDATIONS

12. The feedback received from the public generally expressed broad approval of the key interim recommendations presented in the Public Consultation Paper. To quote a few of the responses provided:

"The recommendations are stellar and timely. I am sure with this additional support families could be salvaged more [in order to] keep them intact as a family."

"I am heartened to learn that the Committee has put in very positive recommendations and I totally agree with your recommendations."

"We support the need for a family court justice system that upholds the family as the basic building block of our society and protects the needs of children."

"I read with great delight ... the constructive approaches the Family Justice Committee is planning to undertake to enhance the collaboration between the two systems of ... family justice and the community services in order to increase the access [to] family justice and to improve the case outcomes in court."

"[A]s a citizen, I [strongly] support the new reforms."

13. The Committee gratefully adopts the words used by one respondent, which eloquently describes the overarching objective of the Committee's recommendations, taken as a whole:

"... a seamless synergy of substantive law, procedural rules, institutions, agencies and the courts all assisting the expeditious and amicable resolution of family problems."

14. On this note, a summary of the Committee's recommendations is set out below.

(A) Community support and solutions

i. Strengthening community touch points

Community touch points play an important role of directing those in need to the appropriate family support services. These touch points should thus be equipped to identify and understand the issues faced by families. They could be provided with information toolkits and guides on social services and resources available in the community to facilitate their work.

Community touch points should also be empowered to identify and assist youths-at-risk. To this end, a "whistle-blowing" mechanism should be established where the community touch points which come into contact with

cases of child abuse, neglect or delinquency are encouraged to report such cases to the correct authority.

ii. Establishment of Specialist Agencies

Families facing divorce or family violence-related issues face multiple issues and would be best supported by Specialist Agencies which are staffed with social service practitioners equipped with specialist knowledge and skills in handling divorce and family violence issues. Today, there are three Family Violence Specialist Agencies. A new group of Divorce Support Specialist Agencies should be established. These Specialist Agencies can provide services ranging from information and non-legal advice, to case management by social workers, counselling, and family dispute management. They can also run programmes catered to the unique needs of families facing divorce and family violence issues.

iii. Introduction of pre-filing consultation session

Before filing for divorce in the Family Court, it would be beneficial for divorcing couples to undergo a pre-filing consultation session.

The objective of the consultation session is to help parents understand the importance of co-parenting and the practical issues arising in a divorce that may have an impact on children. This will help parties make an informed decision on the divorce and prioritise the welfare of their children before filing for divorce in court. These consultation sessions may be conducted by trained social service practitioners, including those from the Divorce Support Specialist Agencies.

Attendance at this consultation session should be mandated for parents with minor children except for those who are able to agree on the divorce and ancillary matters. The consultation session would also be useful for families with family violence issues. The social service practitioners conducting the consultation session can provide social support to these families and help them address such issues.

(B) *The new Family Justice Courts*

The new Family Justice Courts comprising the High Court (Family Division), the Family Court and the Juvenile Court should be established. The constituent courts within the new Family Justice Courts should hear all family-related cases, including: (i) adoption and guardianship issues; (ii) issues under the Women's Charter (Cap. 353); (iii) applications for deputyship under the Mental Capacity Act (Cap. 177A); (iv) juvenile and care and protection matters under the Children and Young Persons Act (Cap. 38); and (v) probate and succession matters. There should be a central Registry to manage and administer all cases in the Family Justice Courts.

In this regard, the Committee proposes that the Juvenile Court be renamed the “Youth Court” as the term “youth” is more neutral than the term “juvenile”, which some view as carrying negative connotations.

(C) *Enhancing court case management policies and processes*

i. Differentiated case management process

Differentiated case management, a docketing system and case management tools should be introduced. The Family Justice Courts should provide different tracks for each type of case that enters the court system. Depending on the subject matter and the issues that arise, each case should be assigned to a particular track that is most appropriate for the case on hand. For example, urgent cases in which family and child safety issues are involved may be put on the expedited track, while complex cases may require more specialised attention.

ii. Simplification and streamlining of court processes and practices

Court processes and practices should be simplified and streamlined to make the family justice process more efficient and accessible to unrepresented litigants, who form the overwhelming majority of court users.

iii. “Court Friend” scheme to assist unrepresented litigants in navigating the court system

In addition to the simplification of court processes and court forms, unrepresented litigants may be assisted in court by a Court Friend, who will render practical support throughout the court process, including assistance in filling court forms, administrative and procedural matters. However, the Court Friend would not be able to represent unrepresented litigants or have rights of audience before the court.

(D) *Strengthening the court’s powers in resolution and adjudication of family disputes*

i. A Judge-led approach to adjudicating family disputes

Judges should be empowered to adopt a Judge-led approach and take a more proactive role in court proceedings, where appropriate, e.g. identify relevant issues and direct parties to address these issues; determine the manner in which evidence is produced and admitted; draw out relevant evidence from parties; regulate the filing of court documents by parties; and identify options moving ahead.

ii. Empowering the court to direct parties to appropriate family support services

The court should be given the power to order parties to mediate their disputes or seek other forms of family support services (e.g. counselling) at any stage of the proceedings. The court may also conduct mediation in

appropriate cases. The court may also involve professionals such as social workers, psychologists and counsellors during the court process.

(E) *Protecting the best interests of the child*

i. *A dedicated department to provide a voice to the child*

It is proposed that the Counselling and Psychological Services (CAPS) of the State Courts, in collaboration with the Ministry of Social and Family Development (MSF), have an expanded mandate to better represent the voice of the child, with proper resourcing.

For court applications which involve children, court mental health professionals in this department should work with families and provide judges with the information, advice and recommendations they need to make a considered decision about each child's future, taking into account what is in their best interests. This includes working with children to find out their wishes and feelings, and reporting these findings to the court. These court mental health professionals should listen to all parties, including relevant community partners working with the family, and provide an independent voice for the child.

ii. *Appointment of Child Representatives in court proceedings involving children*

In court proceedings where a child is involved, the interests of the child should be safeguarded by the appointment of Child Representatives in appropriate cases who may, among other matters, act as the child's advocate, interview children and their parents, and prepare independent reports on the arrangements and decisions which will serve the child's best interests for the court's consideration.

iii. *Involving social and psychological service professionals in court proceedings*

The court should be empowered to order, where appropriate, expert assistance to be provided, in order to assist the court in its decision-making and ensure that the best interests of the parties and in particular, the children, are promoted. For example, social workers, psychologists and counsellors may assist the court.

(F) *Youth and Juvenile Court issues*

The present legal framework, policies and practices should be reviewed to determine whether measures would need to be introduced to enhance the protection of children and youth. This can take the form of strengthening both upstream intervention measures, as well as processes in the Juvenile Court.

(G) *The Family Law Practitioner (FLP) accreditation*

FLPs are lawyers who have undergone specialist training so that they are equipped to practise family law effectively in a manner that is consistent with and promotes the ethos of the new family justice system. Such specialist training may comprise modular courses in non-court dispute resolution methods, the judge-managed approach and less adversarial techniques in family litigation, as well as non-legal aspects of family cases such as the availability of social support services. It should not be compulsory for all lawyers to be accredited as an FLP, although it is desirable that all who practise family law should do so.

III. THE PUBLIC CONSULTATION EXERCISE

15. The Committee would like to thank all respondents who provided feedback during the Public Consultation exercise.
16. The feedback addressed issues relating to all aspects of the family justice system, including but not limited to the key interim recommendations presented in the Public Consultation Paper.
17. There was broad support for the key interim recommendations presented in the Public Consultation Paper. The feedback gave suggestions to refine the key interim recommendations and addressed issues pertaining to the implementation of these recommendations.
18. This chapter summarises the feedback received and the Committee's responses to the same.

i. Strengthening community touch points

19. The feedback recognised the importance of public education and equipping community touch points with information. The recommendation to have a one-stop website containing the relevant information was strongly supported. One respondent identified the school as an important touch point. The Committee agrees that schools should be included in the proposed efforts to strengthen community touch points.
20. With regard to the proposed "whistle-blowing" mechanism, one respondent suggested that social workers, counsellors and doctors be required to report cases of child abuse, neglect and delinquency. The Committee is of the view that imposing such a mandatory legal requirement imposes too onerous an obligation and is not necessary at this point in time.
21. Another respondent said that the use of the term "whistle-blowing" was inappropriate as it is borrowed from the commercial context and hints of personal gain by the whistle blower. The Committee has adopted the term because it captures the purpose of the proposed mechanism, which is to uncover cases of child abuse, neglect and delinquency which might otherwise have remained undetected.
22. One respondent suggested that protocols beyond whistle-blowing mechanisms should be introduced to ensure the welfare of the child is protected and all actions are in the best interests of the child, such as calling on appropriate professional expertise to address issues of children's trauma caused by experiences of family violence and prioritising the child's interests and well-being, including recovery from trauma.

ii. Establishment of Specialist Agencies

23. The importance of early intervention was stressed in the feedback. For example, one respondent suggested that appropriate early assistance could be provided to couples facing problems in their marriage. Another respondent proposed that the Specialist Agencies may be equipped to provide basic information on the relevant laws and court processes. The Committee agrees with these suggestions and has elaborated on the proposal on Specialist Agencies in Chapter IV(A)(ii).
24. The feedback also highlighted the importance of post-court support. A respondent organisation said that divorcees may face challenges pertaining to the arrangements with regard to the children, particularly issues surrounding access. Another respondent organisation observed that divorced parents may face difficulties in relation to the children and co-parenting. The Committee recognises the importance of providing post-court support to parties, and hence recommends that the Specialist Agencies provide such support to parties.
25. It was also suggested that the professionals working at the Specialist Agencies should be appropriately trained. For example, one respondent suggested that the professionals should be trained in recognising the effects of child abuse. The Committee agrees that appropriate training must be provided to these professionals. The Committee also agrees with another respondent's proposal that Specialist Agencies should be staffed with multi-disciplinary teams so that they can better serve families in need.

iii. Introduction of pre-filing consultation session

26. There was general support for the introduction of the pre-filing consultation session. Respondents made several suggestions pertaining to the implementation of the programme.
27. For instance, it was suggested that counselling be included as a compulsory component of the consultation session because it helps address issues that may lead to divorce and help protect the interests of children. While the Committee recognises the potential benefits of counselling, making counselling mandatory may not be appropriate in all cases.
28. The Committee received mixed views on how refusals to attend the pre-filing consultation session should be addressed. One respondent recommended that a penalty should be imposed on a party who refuses to attend the consultation session in order to "stall" the divorce. Another respondent said that imposing penalties for not attending the pre-filing consultation session may exacerbate the conflict between parties and create the false impression

that the court system is biased against the aggrieved party. The Committee understands the concerns expressed and suggests that this issue be revisited should the idea be implemented and allowed to operate for a period of time so that ground issues may be taken into account.

iv. The new Family Justice Courts

29. The feedback expressed general support for the recommendation to establish the Family Justice Courts.
30. Respondents stressed the importance of providing comprehensive training to all judges who hear cases in the Family Justice Courts. The Committee agrees and suggests that in establishing and operationalising the Family Justice Courts, appropriate judicial training should be conducted to ensure that judges are trained to perform their roles well.
31. The importance of quick and expeditious resolution of cases was also highlighted. Some respondents have cited their own experiences of the court process. The Committee agrees that, while some cases could be more complex and take more time, the new Family Justice Courts should, in general, hear and resolve cases expeditiously.
32. There were many useful suggestions on how the new Family Justice Courts can better manage cases. One respondent proposed that the same judge should hear a case from its inception to its resolution, so that the case may be consistently and efficiently heard and resolved. Another respondent cited her experience of having different judges hearing her case. The Committee agrees that as far as practicable, one dedicated judge should be allocated to manage and adjudicate the case during its life cycle.
33. A respondent recommended that a pool of professionals made up of social workers, psychologists, financial consultants and legal consultations be established to assist spouses in divorce litigation. The Committee is of the view that this may be considered by the Judiciary after the needs of parties in relation to court services are ascertained.
34. Another respondent proposed that cases involving families are private matters that should not be covered by the media. The Committee agrees and hence proposes that the court should generally hear cases in camera, although it will have the discretion to determine whether a particular case should be heard in camera or in open court.
35. A third respondent suggested that there should be provisions in the new Family Justice Act that allow parties to apply for a case to be transferred to the High Court if the case involves matrimonial assets of a very high value or is complex or very acrimonious. The transfer provisions should be applicable

to all proceedings in the Family Court. The Committee agrees with the suggestion and recommends that there should be such transfer provisions in the proposed Act.

v. Differentiated case management

36. The recommendation to introduce differentiated case management received support.
37. Some respondents emphasised the importance of comprehensive case assessment in determining the tracks that each case should be placed on. The Committee agrees that the assessment process must be comprehensive and effective.
38. One respondent recommended that the seniority of judges assigned to hear the cases should be commensurate with the level of complexity and difficulty of the case. The Committee agrees with the recommendation, which should be kept in mind when implementing the differentiated case management scheme.

vi. Simplification and streamlining of court processes and practices

39. The feedback expressed strong support for the recommendation to simplify and streamline court processes and practices.
40. The Committee received numerous suggestions on how court processes and practices may be streamlined. For example, one respondent suggested that court forms could be designed so that evidence is clearly presented, and that the number of pre-trial conferences should be reduced. Another respondent suggested that the Statement of Claim and the Statement of Particulars that are currently required to be filed in divorce proceedings may be merged into one, and electronic court forms may be created and placed on the court's website. A third respondent proposed that some limit may be placed on the length of affidavits.
41. The Committee welcomes the suggestions, which may be considered as possible ways to simplify and streamline court processes and procedures.

vii. "Court Friend" scheme

42. The importance of providing proper training to Court Friends, which the Committee agrees with, was emphasised.
43. One respondent suggested that Court Friends should be allowed to make legal submissions to the court. The Committee is not in favour of this. Legal arguments should be made by legally-trained professionals.

viii. Judge-led approach

- 44. The feedback expressed support for the proposed judge-led approach.
- 45. One respondent identified that in exercising the judge-led powers, care should be taken so that judges avoid giving litigants the impression of pre-judgment. The Committee agrees and proposes that judges should bear this in mind when exercising their powers.
- 46. Another respondent suggested that judges should be empowered to impose “unless” orders such that if parties do not comply with the judge’s orders, the party’s case will be struck out. While such a power may possibly motivate greater compliance with court orders, it may also be potentially draconian. It is a possible option to be considered should the judge-led approach be implemented.

ix. Empowering the court to direct parties to appropriate family support services

- 47. One respondent suggested that the court should be empowered to direct parties to avail themselves of psychiatric assessment and treatment, as mental health issues may contribute to the issues faced in cases. The Committee agrees with this and recommends it accordingly.

x. Dedicated department to provide a voice to the child

- 48. One of the respondents proposed that CAPS should be empowered to enforce attendance of parties at, for example, mediation and counselling sessions. Another respondent suggested that social workers must have some means to enforce attendance at counselling sessions. The Committee is of the view that such powers may be considered for introduction should the enhanced CAPS face issues in its work which may be resolved by the introduction of such powers.

xi. Child Representatives

- 49. There was general support for the Committee’s recommendations on the appointment of Child Representatives.
- 50. A respondent suggested that Child Representatives should be an advocate of the child’s view, and not an advocate of the Child Representative’s views of where the child’s best interests lie. The Committee agrees that the child’s view is important and should be considered by the Child Representative.
- 51. One respondent suggested that lawyers should not be appointed Child Representatives. The Committee is of the view that there should not be a blanket prohibition against lawyers being appointed as such. The key is for

the courts to implement a rigorous selection process so that only the most suitable and qualified persons are appointed Child Representatives.

52. One respondent expressed concerns that the involvement of Child Representatives in court proceedings may cause the child to be more “entangled” in the dispute and feel partly “responsible” for the judge’s decision. The Committee is of the view that the issue of entanglement may be addressed through the appointment process. If the court is of the view that appointing a Child Representative may be detrimental to the child’s interests, then the court would not do so. It is not intended for a Child Representative to be appointed for every case involving children. There are already other means of allowing the child’s voice to be heard as reflected in paragraphs 155 to 161 below. A Child Representative will only be appointed in cases which the court feels is most appropriate, taking into account all the factors, the most important of which is the welfare and best interest of the child.

xii. The Family Law Practitioner Accreditation

53. The Committee’s recommendation to introduce the FLP accreditation was widely supported in the feedback received.
54. A respondent opined that requiring family law practitioners to both advocate and mediate may lead to possible conflict in the roles that they play. The Committee is of the view that empowering lawyers to both advocate and mediate, coupled with providing them with the training to determine when to engage in advocacy and/or mediation, will allow lawyers to tailor their services to meet the needs of the parties in each case.

xiii. The Syariah Court

55. There was support for extending some of the key interim recommendations to the Syariah Court, where appropriate. One of the respondents proposed that litigants in the Syariah Court may be allowed to avail themselves of the services provided at the Child Focused Resolution Centre of the State Courts.
56. Other suggestions for the Syariah Court include increasing the resources of the Syariah Court as necessary and that ancillary matters arising out of a divorce be dealt with separately after the court decrees the divorce.
57. The Committee notes the suggestions made by the respondents and will channel the suggestions to the Ministry of Culture, Community and Youth for its consideration.

xiv. Other areas for consideration

58. The feedback addressed a variety of other issues, in addition to the key interim recommendations presented in the Public Consultation Paper. Some of the feedback received included:
- i. Introducing gender-neutral maintenance;
 - ii. Considering new methods for calculating maintenance (e.g. tables and formulas);
 - iii. Enforcement and variation of maintenance and other court orders
 - iv. Introducing no-fault divorce;
 - v. More accurate determination of the contributions of parties in dividing matrimonial assets in divorce;
 - vi. Measures to prevent abuse of personal protection orders;
 - vii. Extension of video-link facilities to more Family Service Centres;
 - viii. Provision of mediation services and improving mediation standards; and
 - ix. Training and supervision of social service practitioners.
59. The Committee proposes to study these areas in the second phase of its work.

IV. THE RECOMMENDATIONS

A. COMMUNITY SUPPORT AND SOLUTIONS

60. Presently, families can turn to many avenues when they face problems. While there are numerous avenues providing a substantial range of services, the stakeholders that provide these services and the community touch points that encounter families in need do not always work in a synergistic and seamless manner. Stakeholders may not necessarily know what the others are doing to help families. On the other hand, families which face difficulties may not know the right places to go to obtain the appropriate assistance.

61. To quote a mother who underwent the divorce process with her two children:

"The families in distress are usually not capable of finding resources on their own. Very often, they do not even know where to turn to, and which department to turn to."

62. Hence, there are gaps in the family justice system that result in families in need not being matched to the assistance appropriate for their problems. The Committee is of the view that these gaps should be bridged in order to create a seamless and integrated system that effectively provides the appropriate services to families in need.

63. The feedback received by the Committee also identified a lack of specialised services targeted at addressing issues pertaining to divorce and family violence. Given the relatively large number of divorces each year and the increasingly complex issues these families face (e.g. marriages involving one or more non-Singaporean parties, marriages involving complex custody issues and/or substantial matrimonial assets), the Committee is of the view that there will be a rising demand for such services.

64. To address these issues, the Committee makes the following three recommendations that seek to enhance community support and solutions. The Committee is heartened to receive feedback that expressed strong support for the three recommendations. A respondent organisation that works to support families had this to say in its feedback:

"The recommendations listed for community support and solutions are certainly well-thought out. In particular, the recommendations to (i) strengthen community touch points, (ii) establish specialist agencies and (iii) introduce a [pre-filing] consultation session, will be immensely helpful in establishing a more preventive and pre-emptive approach, rather than a remedial one, when dealing with the breakdown of marriage and families."

i. Strengthening community touch points

65. Families may turn to a wide range of community touch points for help when they experience family conflict. The importance of the roles played by our community touch points cannot be overstated. A community touch point is any person or organisation in the community that families are likely to turn to for help when they face family conflict. These touch points include community groups such as self-help groups and religious organisations, social service agencies such as MSF's Social Service Offices and Voluntary Welfare Organisations, lawyers and the Police.

66. Families which approach community touch points for help may not always be able to articulate their difficulties or ask for the right kind of help. They may also not always approach the right touch points that may provide the help appropriate for their problems. As noted by a respondent organisation involved in the promotion of strong families:

"It is critical for families in need to be aware of the support systems in place, so that they know that they are not alone in handling challenges of divorce."

67. Similarly, community touch points may not know all the available avenues for assistance, and may not be equipped to identify family problems and make the appropriate referrals. As noted by the same respondent:

"Community touch points must be well equipped with information, and be highly visible to the community."

68. Solutions to address these issues should leverage upon the normal patterns of behaviour of families in distress. The Committee recommends that all community touch points be equipped with knowledge on how to identify and understand the issues that families which approach them face and the kind of assistance they require, and refer these families to the appropriate agencies for assistance. In particular, the frontline personnel of community support agencies should be properly trained.

69. For example, if a married couple faces a relationship breakdown and wishes to divorce, they may approach their religious leader for help. The religious leader should be aware that there are specialist social agencies (please see the section below on "Establishment of Specialist Agencies" for details) that assist parties considering or who have gone through a divorce and be able to refer the couple to these Specialist Agencies depending on their needs. To take another example, if a patient seeks treatment from a doctor for her bruises and the doctor suspects that family violence is a probable cause of the bruises, the doctor should be able to refer the patient to the police or an agency specialising in family violence. Existing inter-agency practices should be

enhanced to allow for better communication and information sharing among agencies.

70. The importance of community touch points being able to seamlessly work together to help families has been emphasised in the feedback received by the Committee. A respondent said:

"It is important that government agencies, government officers, doctors, lawyers, family service centres and social services centres identify the families in distress and guide them to the resources and assistance available."

71. Another respondent also identified schools as an important community touch point as the early signs of abuse and neglect of children may be easily identified in schools.
72. To this end, the Committee recommends that community touch points be provided with information on available resources and social support services which could be in the form of a handbook or toolkit. These should be informative, yet short and accessible. They should also be regularly upgraded and updated.
73. Experts in the field such as experienced family lawyers, counsellors and social workers with relevant qualifications may provide training to those working at the community touch points. Complementary outreach efforts may also be undertaken.
74. Specific to the area of divorce, information on topics such as the legal process of divorce, available legal clinics and support services for parties undergoing divorce are available on different websites. It will be useful to have one regularly-updated website that pools together the information so that families can more easily access the resources they need. Such a website should have information on self-awareness, sustaining and building relationships, child development and child psychology. This may help alleviate problems in marriages, save marriages and help families to identify and address some of these issues to minimise acrimony.
75. The community touch points also have an important role to play in identifying and assisting youths-at risk. Personnel at these touch points should be trained to identify such cases and know the appropriate avenues to which these cases should be referred, such as the Child Protection and Welfare Service of MSF.¹

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<http://app.msf.gov.sg/Policies/StrongandStableFamilies/NurturingProtectingtheYoung/ChildProtectionWelfare/PolicyonProtectionWelfareofChildren.aspx>

76. The Committee further recommends that “whistle-blowing” mechanisms be established where the community touch points which come into contact with cases of child abuse, neglect or delinquency are encouraged to report such cases to the correct authority. The public may also be educated on the importance of responsibly reporting such cases to the proper authority. Proper safeguards and guidance should also be in place to prevent malicious or frivolous reporting.

ii. Establishment of Specialist Agencies

77. Financially vulnerable or disadvantaged families facing divorce or family violence issues require an integration of legal and social support. A group of specialist social agencies with social workers and counsellors trained in family conflict resolution skills and with a good knowledge of the legal process would be more effective in helping these families resolve their issues and receive the support they require. Feedback received by the Committee also suggested that there should be multi-disciplinary teams equipped with the appropriate skills and knowledge, providing appropriate support to families.
78. Today, there are three Family Violence Specialist Agencies which handle moderate to high risk family violence cases. A new group of agencies specialising in assisting vulnerable families facing divorce-related issues should also be established. These agencies are referred to as “Divorce Support Specialist Agencies” for the purposes of this report. These agencies should attend to the social support needs of divorcing/divorced parties and their children from the pre-court to post-court stages of the divorce. There could be three or four of such agencies established in key community nodes across the island. In total, these six to seven Specialist Agencies could collectively provide the following services:
- a. Information and non-legal advice (e.g. housing, finances, court processes and procedures, children issues);
 - b. Referral services to other social service agencies;
 - c. Case management by social workers;
 - d. Counselling;
 - e. Family dispute management; and
 - f. Various programmes tailored to the unique needs of families facing family violence and divorce.
79. The feedback received by the Committee also identified basic, practical advice on legal procedures and processes as a service that may be useful to families entering the court system. With regard to divorce, a respondent organisation said:

"In many cases, our clients were ill prepared when they received the Writ of Divorce. They did not know what needed to be done, and the implications of not filing a Memorandum of Appearance within eight days of receiving the Writ. Several of our clients did not respond to the Writ, while many others hastily engaged a lawyer. This also proved to be challenging for the clients, as they may not have the resources or the knowledge on how to engage one."

80. The Committee acknowledges the importance of providing such families with at least a basic understanding of the court process, which forms the reason behind the Committee's recommendation that Specialist Agencies should provide basic information on court processes and procedures. To complement the services provided by the Specialist Agencies, the proposed Court Friends at the Family Court, as well as the existing Community Justice Centre at the State Courts, will provide additional support to families in navigating the court system.
81. One respondent also suggested that trained social service practitioners at the Divorce Support Specialist Agencies could assist in providing counselling to divorcing parties when needed. Where possible, they may also help parties resolve their conflict and reach an agreement on some matters arising from divorce, or refer them to professional mediation services. Another respondent suggested that the social service practitioners at the Specialist Agencies should, as far as practicable, be proficient in several languages so as to serve families from different backgrounds. The Committee fully agrees with the suggestions.
82. The wide range of services provided by Specialist Agencies will help ensure that families in distress are not unnecessarily referred to multiple agencies.
83. A respondent observed the importance of the proposed Specialist Agencies working together with all stakeholders, particularly the Family Service Centres, in order to identify cases and provide appropriate assistance:

"Some who are not considering divorce could already be facing a lot of marital or familial challenges even before the decision to divorce is being made. It may be helpful for the Divorce Support Specialist Agencies to provide regular consultation, case-conferences or training to non-specialist agencies such as the [Family Service Centres] who may be working with such families [where] couples are not considering divorce yet. This is for the purpose of capacity building and to enable Divorce Support Specialist Agencies to [identify early] potential high risks or complex cases"

84. The Committee agrees with the views expressed by the respondent. The Committee thus recommends that the Specialist Agencies should work closely together with all stakeholders in the family justice system, so that it can better foster resiliency in families by empowering them to resolve disputes and problems by themselves.

85. The Committee also agrees fully with the suggestion made by a respondent that in serving families, the social service practitioners at the Specialist Agencies should be sensitive to the unique circumstances that each family faces:

"In delivering services, the social service practitioners and programmes must take into account each family's unique circumstances (e.g. blended families, step-relations, incarcerated parents)."

86. Although the Specialist Agencies will serve all families from all walks of life regardless of race, religion and socio-economic background, they should focus on the more vulnerable families which present higher risks or face more complex issues that impact on a family's safety and well-being. For these families, the social workers or counsellors at the Specialist Agencies should be the lead case manager for each case referred to them by the community touch points or the courts.

iii. Introduction of pre-filing consultation session

87. The legal route may not always be the best option to solve the problems that families face. Sometimes, families may go to the court without first understanding the implications. For example, a couple may not be aware of the possibility of attending counselling sessions aimed at addressing marital problems in order to save their marriage before filing for divorce.
88. Counselling² and the provision of appropriate divorce-related information can save some troubled marriages. Even where the marriage has irretrievably broken down, mediation³ can help the divorcing couple resolve their issues amicably and focus their attention on the needs of their children, if any. Information sessions, counselling and mediation are most effective if provided early in the divorce process.
89. However, presently, couples may generally file for divorce without having gone through information sessions or programme, counselling, mediation or any other form of assistance.
90. There are two exceptions. First, the Family Court requires divorcing couples with children aged 14 or younger to attend mandatory counselling and mediation at the Family Court's Child Focused Resolution Centre⁴ after they

² Counselling may be described as a therapeutic process designed to deal with individual and interpersonal difficulties.

³ Mediation is a process in which a neutral third party manages the negotiation between parties involved in a dispute with the aim of helping them reach a consensual outcome by themselves amicably.

⁴ For more information, please visit: <https://app.statecourts.gov.sg/family/page.aspx?pageid=83665>

have filed the writ of divorce, before their divorce may proceed to be heard by the court. The purpose of counselling and mediation at an early stage in a divorce is to help parents undergoing a divorce to better understand the effects of divorce and assist them in reaching amicable solutions that promote the best interests of their children.

91. Secondly, the Syariah Court requires all couples who intend to file for divorce to attend counselling sessions under the court's Marriage Counselling Programme⁵ (MCP), the objectives of which are to save marriages, settle divorces amicably, and facilitate clients' access to social support services. Parties are allowed to commence their divorce applications only after they have attended these counselling sessions.
92. The Committee proposes to build upon these efforts to encourage parties to resolve their disputes constructively and amicably, and protect the welfare of children by introducing a pre-filing consultation session.
93. Before parties with children can file for divorce in the Family Court, they should undergo a pre-filing consultation session. Their spouses should also attend the consultation session but if they do not, the Family Court can order them to and as early in the divorce process as is appropriate.
94. The objective of the consultation session is to help parents understand the importance of co-parenting and the practical issues arising in a divorce (e.g. housing, financial considerations) that impact on children. This will help parties make an informed decision on the divorce and place priority on the welfare of their children. The Committee proposes that the sessions cover the following topics:
 - a. Paramount importance of the welfare of the child;
 - b. Impact of divorce on the child and the importance of positive co-parenting;
 - c. Avenues for social and legal assistance (e.g. Specialist Agencies, Family Service Centres, Legal Aid Bureau);
 - d. Benefits and process of settlement outside of the court, including non-court dispute resolution options (e.g. mediation); and
 - e. The practical considerations of divorce that may have an impact on children (e.g. housing and financial issues).

⁵ The Marriage Counselling Programme was first implemented in October 2004. To date, Syariah Court has 15 counselling agencies participating under the Marriage Counselling Programme. The Syariah Court's Marriage Counselling Partners are experienced and qualified professionals who will work with couples to resolve their issues. These partners are able to provide a more holistic approach in assisting couples in a more conducive environment. Religious inputs will be provided by Asatizah (religious scholars) in the course of these sessions upon request. Religious scholars act as resource persons to attend to enquiries by clients/counsellors on Muslim law pertaining to Muslim divorces/marriages.

95. The feedback received by the Committee expressed strong support for the introduction of the pre-filing consultation session because of the benefits it may bring to spouses and their children. One respondent said:

"In many cases, [consultation sessions] can help spouses to go through the divorce process more quickly and with less acrimony."

96. Another respondent had this to say:

"We applaud the introduction of the [pre-filing consultation session as we agree that many families go to court without first understanding the implications."

97. Yet another respondent made the following observation, which the Committee agrees with:

"Mandating the couple to attend a pre-filing session to address the impact of divorce and parental conflict on children may help these couples establish greater awareness of their action on the children and the need to establish a harmonious co-parental relationship. Such a brief session may not lead to immediate positive outcome for all cases, but it may [pave] the way for some couples and individual parents to receive further support and assistance to improve the family situation for the benefit of the children. The session would serve as a platform for couples to seek professional help. Without such platform, [the] majority of the couples would not voluntarily approach help for their children."

98. The pre-filing consultation session should be conducted by trained social service practitioners including those from the Divorce Support Specialist Agencies. The manner in which pre-filing consultation is provided should be calibrated to cater to the needs of different profiles and types of families. Many respondents agreed that trained social service practitioners should be able to assess the parties' needs and refer them to the appropriate service providers, especially when parties may require specialised help (e.g. legal advice). Counselling, mediation, workshops and other forms of assistance and services may be offered as options to the parties at these sessions. For example, parties who wish to work on their marriage could be referred to marriage counselling services. Parties who require specific housing advice for their specific circumstances may be referred to HDB Branches which are in a better position to advise them directly.

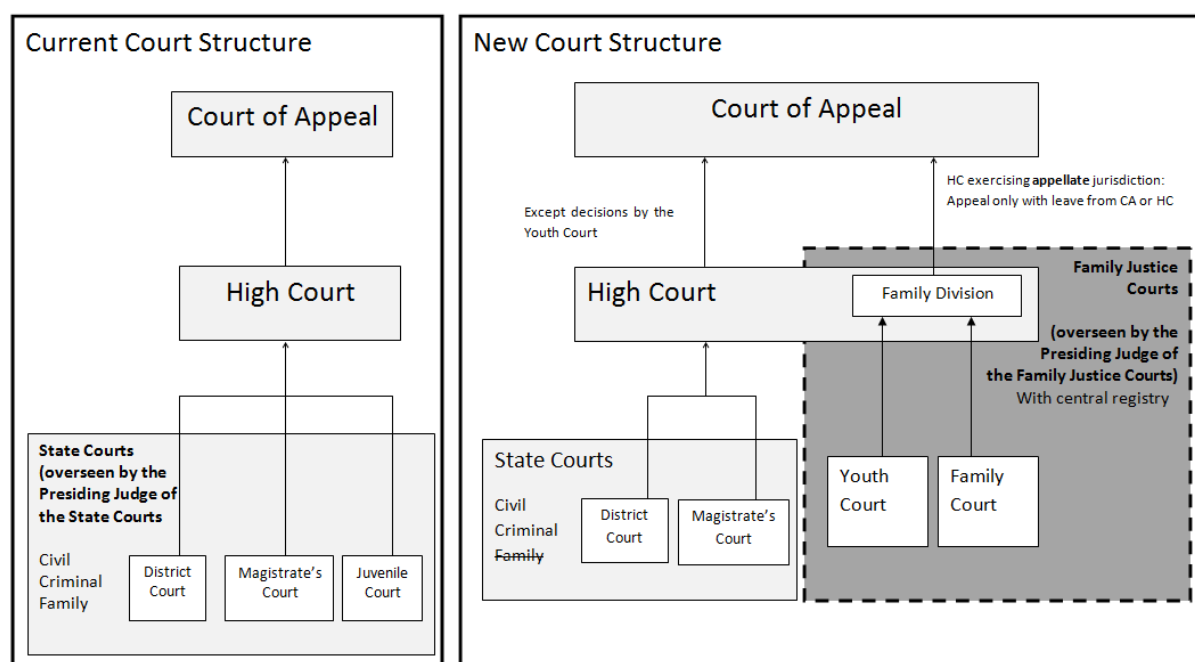
99. Attendance at this consultation session should be mandated for parents with minor children except for those who are able to agree on the divorce and all ancillary matters. The Committee has received feedback that supports this position. The Committee has considered whether those with family violence issues should be required to attend this programme. The Committee is of the view that they should not be automatically exempted as it is still necessary to focus the parties on the children's interests.

B. THE NEW FAMILY JUSTICE COURTS

100. The Family Court of Singapore was established on 1 March 1995 under the auspices of the then Subordinate Courts as a court specialising in the adjudication of family-related disputes. It comprises the District Court and Magistrate's Court.
101. The Family Court hears the following types of cases:
 - i. Adoption proceedings under the Adoption of Children Act (Cap 4);
 - ii. Divorce, nullity and judicial separation proceedings under the Women's Charter;
 - iii. Guardianship, custody, care and control of and access to children under the Guardianship of Infants Act (Cap 122) and the Women's Charter;
 - iv. Division of matrimonial assets under the Women's Charter;
 - v. Personal protection orders under Part VII of the Women's Charter;
 - vi. Spousal and child maintenance under Parts VIII and X of the Women's Charter;
 - vii. Enforcement of maintenance orders made by the Family Court, the Maintenance of Parents Tribunal and the Syariah Court under the Women's Charter, the Maintenance of Parents Act (Cap 167B) and the Administration of Muslim Law Act (Cap 3) respectively;
 - viii. Reciprocal enforcement of maintenance orders made by foreign courts or tribunals under the Maintenance Orders (Facilities for Enforcement) Act (Cap 168) and Maintenance Orders (Reciprocal Enforcement) Act (Cap 169);
 - ix. All civil applications under the Mental Capacity Act ; and
 - x. Proceedings under the International Child Abduction Act (Cap 143C).
102. However, the Family Court does not hear the following types of family-related cases:
 - a. Division of matrimonial assets under the Women's Charter where the net value of the assets is worth \$1.5m or more - these cases are heard in the High Court;
 - b. Proceedings under the Children and Young Person's Act (Cap 38) (e.g. child protection and Beyond Parental Control cases) - these cases are heard by the Juvenile Court of the State Courts; and
 - c. Probate and administration of estate matters - these cases are heard by either the Civil Justice Division of the State Courts or the High Court, depending on the amount of the estate.
103. The Committee recommends that a new body of courts known as the Family Justice Courts comprising the High Court (Family Division), the Family

Court, and the Juvenile Court be established. The constituent courts of the new Family Justice Courts should hear all family-related cases, including: (i) adoption and guardianship issues; (ii) issues under the Women's Charter; (iii) all civil applications under the Mental Capacity Act ; (iv) juvenile and care and protection matters under the Children and Young Persons Act; and (v) probate and succession matters. The Family Court in particular should hear all matrimonial proceedings. There should be a central Registry to manage and administer all cases in the Family Justice Courts.

104. The diagram below depicts the present court structure and the new court structure with the introduction of the Family Justice Courts:



105. Like the State Courts, the Family Justice Courts should be headed by the Presiding Judge of the Family Justice Courts, who is the most senior judge of the Family Justice Courts and is a Judge or Judicial Commissioner of the Supreme Court. The Presiding Judge should be appointed by the Chief Justice.
106. The Family Court should be staffed by District Judges and Magistrates, who should collectively hear all cases filed in the Family Court. The Juvenile Court should come under the Family Justice Courts instead of the State Courts. The Juvenile Court should continue to hear cases under the Children and Young Persons Act. In this regard, the Committee proposes that the Juvenile Court be renamed the "Youth Court" as the term "youth" is more neutral than the term "juvenile", which some view as carrying negative connotations.
107. The High Court (Family Division) should primarily hear appeals against decisions of the Family Court and the Juvenile Court. The exercise of the High Court's original jurisdiction should be reserved to cases in which the

judgment would need to be enforced overseas, those which involve international child abduction, cases involving complex issues of fact or law, and other cases prescribed by the Chief Justice.

108. The High Court's decisions in appeals from the Family Court may be appealed to the Court of Appeal only if the Court of Appeal or a High Court Judge of the High Court (Family Division) grants leave to do so.
109. Decisions of the High Court (Family Division) in exercise of the High Court's original jurisdiction may be appealed to the Court of Appeal as of right.
110. A new Family Justice Act should be enacted to establish the new Family Justice Courts. The Act should set out the jurisdiction and powers of the High Court (Family Division), the Family Court, and the Youth Court as well as allow procedural rules governing proceedings in the High Court (for family-related proceedings), the Family Court, and the Youth Court to be established by subsidiary legislation.
111. A Family Justice Rules Committee should be established under the new Act. The Family Justice Rules Committee should be empowered to make Family Justice Rules that comprehensively prescribe the procedures for all cases heard by the High Court (Family Division), the Family Court, and the Youth Court (e.g. court forms and templates, costs, case management, conduct of hearings, execution of judgments and orders). The feedback received by the Committee suggested that members of the family Bar should be represented on the Rules Committee, as they will be able to provide invaluable contributions in shaping the Rules. The Committee agrees with the suggestion.
112. The feedback received by the Committee expressed support for the Committee's recommendation to establish the Family Justice Courts. One respondent observed how the establishment of the Family Justice Courts creates potential for specialisation and promotes more effective and efficient resolution of family-related cases:

"I am happy to see the new Court Structure ... for two reasons: (i) the judiciary is more specialised [in] dealing with Family Law cases and (ii) Family Law cases, especially when it concerns children, will not be delayed."

113. The introduction of a specialist court structure for family-related cases also creates greater room for the synergistic introduction of administrative and technological innovations. For example, a docket system may be implemented in the Family Justice Courts. A respondent suggested that one judge may be allocated to each family or case, so that the same judge will hear and manage the case from inception to completion.

C. ENHANCING COURT CASE MANAGEMENT POLICIES & PROCESSES

114. Together, the Family Court and the Syariah Court hear the bulk of family-related cases in Singapore.
115. Over the years, our courts have implemented numerous innovative programmes and improvements that serve to make the court process smoother and achieve better outcomes for all litigants. One respondent said:

"The current Family Court provides the necessary and its [staff] are also very professional [in] guiding and assisting someone in need without providing any legal advice."

116. That said, more can always be done to make the court process simpler and faster. The Committee received feedback that legal processes in general can be daunting for families, particularly those who are not legally represented. The resolution of disputes sometimes takes longer than necessary. In addition, the court system is "adversarial"⁶, which may not be the most suited to resolving family disputes. Finally, as disputing couples are the main participants in the process, the child's voice is sometimes not heard as clearly as it should be. The feedback received by the Committee on the Public Consultation Paper expressed similar views.
117. To address these concerns, the Committee's recommendations below aim to enhance existing court processes and programmes in both the Family Court and where relevant, the Syariah Court, to address these issues. In implementing the recommendations, the Family Court and the Syariah Court should continue to work together by sharing resources and tapping into each other's expertise and institutional experience.
118. The responses received from the public to the Committee's recommendations to enhance the existing court processes and programmes have been very positive. To quote one respondent:

"I am writing in to share my support on the new directions that may come for divorce procedures. I have read the recent news reports on Divorce procedures to be more efficient, 'less adversarial' and I can't help agreeing with it."

i. Differentiated case management process

119. Every case that enters the Family Court or the Syariah Court is unique. The issues and subject matter may differ from case to case, and the families

⁶ An "adversarial" approach to litigation is where both opposing parties present their own case, including the legal arguments and evidence to a judge, who decides which side has a better case and hence have an order or judgment of the court granted in his or her favour, on the basis of the presented evidence. Currently, litigation in our court is primarily adversarial in nature.

involved in each case have different needs. Hence, each case should be managed sensitively, efficiently and appropriately to address the needs of parties and the issues which arise.

120. The Committee proposes the introduction of differentiated case management. Differentiated case management is a technique courts can use to tailor the case management process and effectively allocate judicial resources to tackle issues in each case and expedite the resolution of cases. It is characterised by the early differentiation of cases entering the justice system in terms of the nature and extent of court resources the cases will require. The feedback received by the Committee indicated strong support for the introduction of differentiated case management. One respondent opined:

"I strongly support the introduction of the differentiated case management process. Every marriage is different and likewise the divorce process should be differentiated as well. The current one size fits all approach is too simplistic."

121. The Family Court and the Syariah Court may provide different tracks for each type of case that enters the court system. Depending on the subject matter and the issues that arise, each case should be assigned to a different track that is most appropriate for the case on hand. For example, urgent cases where family and child safety issues are involved may be put on the expedited track, while complex cases may require more rigorous and specialised attention.
122. The Committee proposes that the process and timelines applicable to a case should depend on the track that the case is assigned to.
123. Possible tracks include:
- a. Uncontested fast track – for cases that are uncontested;
 - b. Cases involving young children – child-related issues such as custody and access may be identified and addressed early;
 - c. Violence track – for cases involving family violence and abuse, which should be expedited for hearing;
 - d. Unrepresented litigants track – cases involving unrepresented litigants may require more guidance from the court;
 - e. Financial track – for cases where the issues are primarily financial in nature, like division of matrimonial assets and maintenance;
 - f. High conflict track – for cases involving a high level of conflict between parties;
 - g. Complex track – for cases involving complex issues of law and/or facts; and
 - h. International track – for cases involving an international element, e.g. parties with different nationalities, conflict of law issues.

124. The Family Court should be given discretion to implement a rigorous screening process to determine which track each case should be placed on and ensure that each case is given the appropriate attention. The importance of a comprehensive screening process was highlighted in the feedback. As one respondent said:

"I welcome the introduction of differentiated case management ... However, the case assessment process will have to be comprehensive in order to accurately determine which track each case should be on."

125. The Committee is of the view that in implementing the differentiated case management process, the Family Court should adopt measures to ensure that the case screening process will be able to effectively determine the track that each case should be placed on. For example, the court may interview the parties or require the parties to fill in and submit brief questionnaires. One respondent was of the view that this is an excellent recommendation "as it will give [the judge] a direct feel" of cases in order to put the cases on the correct track. Generally, parties should be made aware of the timelines for their cases at an early stage of the proceedings, so they have an indication of when their cases are expected to be completed.

ii. Simplification and streamlining of court processes and practices

126. Parties in the Family Court and the Syariah Court are often unrepresented and hence unfamiliar with the procedural requirements for their cases. They face difficulties completing and filing the relevant court documents, and following the court's processes properly. As a result, proceedings may take a longer time, and the resources and attendant cost required may increase. One respondent related her experience of the present divorce process:

"Time and money were spent on churning long draggy affidavits. I had to force myself to go through each of my ex-spouse's affidavits ... I had to spend a good 8 to 10 hours to draft my reply to the affidavits."

127. To address this issue, the Committee proposes that court forms be simplified and procedures be further streamlined so that cases are heard and resolved expeditiously, and costs are reduced to the minimum for the parties. Ideally court processes should be so simple and user-friendly that an unrepresented litigant will be able to handle the process himself. One respondent highlighted that the court should have access to the full facts of a case in order to decide any given matter. The Committee shares this sentiment and therefore recommends that in streamlining and simplifying processes and procedures, a judicious balance must be struck so that all relevant facts and evidence are placed before the court.

128. The feedback received by the Committee expressed strong support for the general move towards streamlining and simplifying court forms and procedures. One respondent opined:

"[T]rivial issues should not be allowed to unnecessarily drag court time. Paper work should also be greatly simplified especially in uncontested divorce case and it might even result in a DIY system where lawyers are not needed under such scenarios."

129. Another respondent expressed his view that the process to obtain or vary maintenance orders should be streamlined so that the cost of accessing the court process is minimised.

130. Respondents also provided many useful suggestions as to how court forms and procedures may be streamlined and simplified. For example, one respondent suggested the following:

"I would like to propose that the templates be such that it ensures that parties use clear referencing and comply with proper formats when presenting evidence. For example, in presenting evidence for travel expenses ... and clothing allowance ... parties should tabulate clearly and reference the attached receipts/documents ... The submission of a pile of uncollated documents ... with no proper referencing should be disallowed. Another example would be the attachment of lots of emails/documents with no reference to them in the affidavits. This should be disallowed too."

131. Another suggestion provided in the feedback was to reduce, as much as practicable, the time between pre-trial conferences. There was also support for court forms to be accessible electronically *via* the Internet, as well as for affidavits to be limited to a certain number of pages, with irrelevant matters excluded.

132. In addition, the following ways of streamlining court forms and procedures may also be considered:

- i. Simplify the language used in court documents;
- ii. Develop user-friendly standard court forms and templates and providing these forms and templates online in softcopy on a single website. They may be completed and submitted to the court electronically;
- iii. Require parties to file to the court a prescribed list of information on their assets and other relevant matters together with their initial application;
- iv. Reduce the number of court documents to be filed and consolidate the information provided presently into fewer documents. Court documents that serve no real purpose should be removed altogether;
- v. Introduce a strict limit on the number of affidavits and pages thereof that may be filed by parties, particularly in relation to ancillary matters in divorce proceedings;

- vi. Set strict requirements on the type of content in affidavits to ensure that only relevant evidence is adduced through the use of templates;
 - vii. Make such directions to enable ongoing divorce proceedings not to be unduly delayed by, for example, the filing of maintenance applications and applications to vary child care orders;
 - viii. Reduce the number of status and pre-trial conferences and allow parties to write in to make requests;
 - ix. Allow more hearings and/or pre-trial conferences to be held *via* video-link; and Empower the court to make appropriate cost orders should irrelevant or inappropriate court documents be filed.
133. Together, the Family Court and the Syariah Court should lead the initiative to streamline court forms and procedures, in close consultation with stakeholders, including court users and lawyers.

iii. **“Court Friend” scheme to assist unrepresented litigants in navigating the court system**

134. Many litigants in the Family Court are unrepresented. They are usually unfamiliar with court procedures and processes, and often experience frustration and difficulties navigating the court system. Of particular note is the group of unrepresented litigants who do not qualify for legal aid and yet cannot afford to engage lawyers.
135. To address this issue, the Committee proposes the introduction of a “Court Friend” scheme, modelled after the McKenzie Friend system established in the courts in the United Kingdom.⁷ A Court Friend should be assigned to assist the unrepresented litigant by providing administrative and emotional support in the conduct of his case, such as:
- a. Provide information on court procedure and processes, as well as various avenues for assistance outside the court;
 - b. Assist unrepresented litigants in preparing and filing court documents;
 - c. Provide emotional and moral support throughout the court process; and
 - d. Assist in court hearings by helping unrepresented litigants undertake tasks such as taking notes of court proceedings and organising documents for use in court.
136. The Court Friend may attend hearings with the litigant, but should not be allowed to provide legal advice and/or legal representation. The Court Friends scheme can build upon the existing Befriending Service provided by the Community Justice Centre⁸ of the State Courts. The Court Friends scheme

⁷ For more information, please see the McKenzie Friends guidance July 2010 published by the UK courts: <http://www.judiciary.gov.uk/publications-and-reports/guidance/index/mckenzie-friends>.

⁸ <http://cjc.org.sg/>

can also complement other measures to form part of a holistic package to assist unrepresented litigants. The Syariah Court may work together with the Family Court in extending the Court Friend Scheme to unrepresented litigants in the Syariah Court.

137. The feedback received by the Committee expressed overwhelming support for the introduction of the Court Friend scheme.

D. STRENGTHENING THE COURT'S POWERS IN THE RESOLUTION AND ADJUDICATION OF FAMILY DISPUTES

i. A Judge-led approach to adjudicating family disputes

138. Presently, the court hearing process for all cases heard in the Family Court is fundamentally adversarial in nature - parties present their own cases and produce their own evidence before a judge who will decide the case. The adversarial approach is not always appropriate and may, in some cases, exacerbate conflict and prolong the time to adjudicate disputes.

139. The issues arising from an adversarial system has been recognised in the feedback provided during the Public Consultation exercise. One respondent who experienced the divorce process observed:

"Marriage has clearly broken down but the adversarial system which forces 'a winner, not a loser' ... is not helpful ... for civil suits [like] divorce, there should be less impetus in finding a winner or loser. ... Lawyers are meant to represent both parties but the adversarial system forces lawyers to write in a skewed manner that distorts reality in order to accuse the 'other' as the one in [the] wrong ... Time and resources are simply wasted."

140. Another respondent said:

"The adversarial system is far from ideal for divorces involving children."

141. To address these concerns, the Committee proposes the introduction of elements into the court hearing process which (a) empowers the judge to proactively guide and direct proceedings, (b) reduces the acrimony between parties, and (c) minimises the negative impact that court proceedings may have on the parties involved, especially the children.

142. Introducing these elements into the court process of the Family Court will help parties focus on the relevant issues, reduce the cost of litigation and the deployment of judicial resources, and expedite the fair and just resolution of cases. Feedback received from the public also acknowledged that granting judges more power to guide proceedings will lead to efficiency in the resolution of cases.

143. To this end, the Committee recommends that judges should be empowered to take a more proactive role in court proceedings by doing the following:

- a. Identify the relevant issues and direct parties to address these issues;
- b. Discuss with parties the strength of their respective cases;
- c. Direct parties and/or external parties to produce evidence;
- d. Require the attendance of witnesses;

- e. Determine the manner in which evidence is produced and admitted;
 - f. Directly question parties and witnesses;
 - g. Determine the manner and extent of cross-examination by the parties;
 - h. Regulate the filing of court documents by the parties;
 - i. Direct third parties to obtain evidence, investigate the facts of the case, and/or produce reports; and
 - j. Identify options moving ahead (e.g. counselling and mediation).
144. The Committee's recommendation to introduce the judge-led approach received enthusiastic responses from the public in their feedback. For example, a respondent noted that such an approach is likely to be particularly appropriate in cases involving child abuse.
145. The Committee acknowledges the practical issues that the court will have to address in fulfilling its more proactive role. One respondent noted some possible concerns:
- "I am concerned that the parties are not on equal footing in the first place, to present themselves before the Judge for direct questioning. It is often that one party is less educated, and/or much less exposed to such legal matters/proceedings than the others. The fear that one wrong word leads to perjury or contempt of court, gives one tremendous stress ... Furthermore, if this is the aggrieved party, he/she is likely to also have a huge bag of emotions and may not be in full control of himself/herself. All these make it hard for this party to represent himself/herself well. The more experienced party, on the other hand, can rehearse, act the right part and have the upper hand."*
146. The Committee therefore proposes that the court should be sensitive to such issues in exercising the court's powers in its more proactive role.

ii. Empowering the court to direct parties to appropriate family support services

147. The legal process of adjudication in the court may not necessarily be the best solution to the problems a family is faced with. As such, it is beneficial to put in place a mechanism through which the court may direct cases filed in court to different avenues of assistance and resolution, depending on the needs and issues faced by each family. The court will be in a good position to assess the cases before it and determine whether the families involved in the cases need to avail themselves of family support services.
148. The Committee recommends that at any stage of proceedings in all cases, the court should be empowered to, where appropriate, direct parties to avail themselves of mediation, counselling or other family support services. While it has been suggested by one respondent that the court should only be able to encourage or suggest to parties that they should avail themselves of the relevant services, the Committee is of the view that the court is in the best position to determine the type of assistance that is appropriate for the parties

in each case and should be empowered accordingly to ensure that parties avail themselves of the available support services.

149. The Committee also recognises that in exercising the power to direct parties to family support services, a balance must be struck between helping the family and ensuring that the court process is expeditiously completed. As noted by a respondent, while family support services could help families, there should not be unnecessary delays in the court process.

E. PROTECTING THE BEST INTERESTS OF THE CHILD

150. Divorce arguably affects the children of the marriage the most. The Committee aligns itself with the view expressed by one respondent:

"A divorce is a disruption to family life as far as the children of the marriage are concerned. It requires a re-organisation of the life that they are used to. They have to adapt to a new lifestyle as well as adjust emotionally all at the same time."

151. However, presently, children do not have an independent voice before the court. Parents have their children's best interests at heart and aim to work out mutually agreed upon arrangements for the sake of their children. However, there are situations where parents are caught up in their own issues and lose sight of what is best for the child's welfare. In this context, when presenting their cases, parents may not sufficiently bring the children's best interests to the court's attention. As a result, the court may not have the full facts regarding the child's interests when arriving at a decision. The following observations made by a respondent in her feedback are particularly appropriate:

"Whilst there are amicable divorces, more often than not divorces are usually very bitter. Whilst they may not contest the divorce, many couples fight tooth and nail to retain custody of the children, either for purely selfish reasons or merely used to hurt the other parent. This is where the children suffer the brunt of their parents' marital failure. Children are made to take sides, sometimes even lie, so that one parent can 'win' the fight. Is this really for the good of the children?"

152. Of all the Committee's key interim recommendations presented in the Public Consultation Paper, the Committee's emphasis on placing the best interest of the child at the centre of its efforts to reform the family justice system received the strongest support from the public in its feedback. To quote some of the responses:

"I am glad that the Committee is going to place more emphasis on addressing the interest of children in divorces."

"I support the protection of children and their interest before, during and after the [divorce]. Divorcing parents should be discouraged [from involving] their children in their fights."

"It is good that we are recognising the consequence to the children in a divorce. There is no easy way to resolve this but a serious attempt must be made to help the children who are caught in the middle of such a traumatic event."

153. The feedback received from the public reaffirmed the Committee's belief that the children's best interests should be placed squarely at the centre of its

recommendations. In this report, the Committee recommends three measures to ensure that the voice of the child is heard and that his best interests are protected.

i. A dedicated department to provide a voice to the child

154. CAPS at the State Courts has a slew of programmes to help families and individuals manage their emotions and resolve conflicts during the court process, and to aid the court in the decision-making process.

155. The importance of having a dedicated department that will provide an objective, well-informed and professional view on the best interests of the child cannot be understated. As observed by a respondent in her feedback:

"Who should the custody of a child be awarded to? A department should handle this, instead of single-sided affidavits. I have witnessed the wife/mother asking the lawyer to note down 120 records, out of which only less than 10 were true. It would be beneficial to a child if there is a counselling department that could conduct investigations before making suggestions to the court. If the child is mature, please respect the child's wish. Do not insist on awarding the child custody to any party. Only then, can the innocent child find a suitable home."

156. Another respondent emphasised the importance of conducting interviews with children to find out their wishes and concerns:

"Very importantly, in access cases ... the children should be interviewed and re-assessed, without the parents' presence, by the social workers or 'Friends of the Children' to get their true wish."

157. Hence, to ensure that the child's best interests are protected and the voice of the child is heard in court proceedings, the Committee recommends that CAPS, in collaboration with MSF, be given an expanded mandate and provided with proper resourcing to fulfil that mandate.

158. For court applications which involve children, court mental health professionals in CAPS (e.g. qualified psychologists) should work with families and provide judges with the advice, information and recommendations to make a considered decision about each child's future, taking into account what is in their best interests. This includes working with children to find out their wishes and feelings, and reporting these findings back to the court. The court mental health professionals should listen to all parties, including relevant community partners working with the family, and provide an independent voice for the child.

159. The work of CAPS under its expanded mandate can include:

- a. Conducting background checks and records relating to the family, such as family violence, financial problems, social assistance record, offender record, mental health and drug abuse issues;
- b. Carrying out an assessment and determination of the risks the child is exposed to, as well as the wishes and feelings of the child. This can culminate in a child impact report; and
- c. Recommending intervention strategies to ensure that the best interests and welfare of the child are furthered.

160. CAPS should work together with the Syariah Court in sharing resources and tapping into each other's expertise and institutional experience.

ii. **Appointment of Child Representatives in court proceedings involving children**

161. The Committee proposes that the court be empowered to appoint Child Representatives to independently represent the children in appropriate cases. For example, Child Representatives may be particularly helpful in high-conflict proceedings involving disputes over custody of and access to children or in highly acrimonious situations where there is a high possibility that the child would be adversely impacted and conflicted in sharing his/her views.

162. The feedback received by the Committee supports the Committee's proposal for the appointment of Child Representatives. One respondent recognised that the court ultimately decides where the best interests of the child lie and opined that Child Representatives will help improve the entire hearing process in court by making it healthier and more beneficial from the child's perspective:

"... there is no reason why the family proceedings cannot be a healthy learning experience for the child including one who has a Child Representative. The child should be able to learn that his or her view or wish is accorded respectful consideration but the child must also accept that the judge is not bound to decide according to the child's view or wish. The judge decides according to his or her determination of what serves the best interests of the child and within this determination, one consideration is what the child's view or wish is. Hearing the child improves the process while any risk of harm to the child can be turned around into a healthy learning experience."

163. The primary role of the Child Representative is to represent the child's views and best interests in court proceedings, thus helping to ensure that the decisions eventually made by the court are in the child's best interests. In discharging his duty, the Child Representative should work with lawyers, social workers, counsellors, psychologists and other persons who are assisting the family.

164. In helping the child, a Child Representative may carry out the following:
- a. Interview and interact with the child and/or the parents in order to explain the court processes to them and understand them better;
 - b. Give advice and information to the child and/or the parents;
 - c. Facilitate the child's and parent's cooperation with the professionals assisting them (e.g. counsellors, interviewers);
 - d. Prepare written reports for the court's consideration; and
 - e. Give their views during the court hearing
165. The Committee's proposal is drawn from examples in leading jurisdictions such as the commonwealth of Australia where courts are empowered to appoint a person, usually a lawyer, to provide independent representation for the child in proceedings before the court. The role of such persons is to form an independent view, based on the evidence available to him, of what is in the best interests of the child.
166. Legally trained persons such as lawyers, particularly those trained in family law and practice, are the prime candidates to be appointed as Child Representatives. While legal training is useful, the Committee is also aware of the additional dimensions and perspectives that professionals from other disciplines may bring in performing the role of Child Representatives. Thus, it may be possible for professionals such as social workers, psychologists and counsellors to be appointed as Child Representatives in appropriate cases.
167. The Committee also agrees with the suggestion by one respondent that the process for appointing Child Representatives should be as quick and effective as possible, in order to minimise delay to the conclusion of proceedings.

iii. Involving social and psychological service professionals in court proceedings

168. Expert assistance from social and psychological services assists the court in making the right decisions. For example, where divorcing parents disagree over who should be granted care, custody and control of the children, the court may wish to order the social worker who assisted the parents before their case was heard by the court to present his or her views on where the best interests of the children lie.
169. The Committee recommends that the court be empowered to order, where appropriate, expert assistance from social and psychological service professionals to be provided during the decision-making process to ensure that the best interests of the parties and, in particular, the children are promoted. The feedback received by the Committee highlighted the usefulness of having such expert assistance in the context of proceedings involving children, such as family violence cases involving children where issues relating to children's trauma must be addressed.

170. Expert assistance may be provided from different professionals and take different forms as is appropriate for each case. For example, social workers, psychologists and counsellors may assist the court. They may come from a variety of organisations and backgrounds that have previously assisted the families, such as the Specialist Agencies. It was also suggested in the feedback that the court may be assisted by other professionals such as financial consultants and lawyers. Additionally, the court may also order the relevant professionals to produce reports for the court's consideration. The court should be given the discretion to determine who should provide the assistance and the form in which such assistance is to be provided. In doing so, the court should be sensitive to and address potential conflicts and confidentiality issues that may arise.

171. The feedback received by the Committee emphasised the need for the professionals to be objective and thorough in their work, which the Committee fully agrees with. A respondent said in his feedback:

"In order to serve as an evaluator tasked to make recommendations about the best custody arrangements, the professional should ensure that he gathers facts and investigates the situation, and ensure that he has contact with both parents and the children, in order to make a recommendation based on balanced and neutral grounds."

172. The Committee agrees that there should be safeguards and measures put in place to ensure that professionals who assist the court will do so in an impartial and objective manner. The professionals who assist the court should also be granted protection from lawsuits as long as they were acting in good faith.

F. YOUTH AND JUVENILE COURT ISSUES

173. Our youths must be protected from crime, abuse and delinquency. The present juvenile justice system is robust, but more can always be done to protect our youths.
174. The juvenile justice system strives to help (a) juvenile offenders, (b) children beyond parental control and (c) children in need of care and protection. It should be viewed holistically as a combination of various agencies and initiatives that address crime prevention, juvenile delinquency and child abuse. These agencies and stakeholders have important roles to play and work together to collectively protect our youths. Thus, coordination and integration of the work of these various agencies and stakeholders is critical.
175. In this section, the Committee makes some preliminary observations on possible areas that may be the subject of further study. The Committee recommends that the present legal framework, policies and practices be reviewed to determine whether measures would need to be introduced to enhance the protection of children and youth.
176. One possible area for further study is early intervention. Youths-at-risk may be identified and given appropriate assistance and care as early as possible to prevent their situations from deteriorating into crime, delinquency and abuse. The various agencies and stakeholders need to work together towards this goal.
177. For example, emphasis may be placed on preventing abuse and delinquency through the upstream provision of appropriate programmes and assistance to families at risk. The public and community touch points may be empowered to identify and report cases of child abuse, neglect or delinquency to the appropriate channels and authorities. Existing programmes may be evaluated, streamlined and enhanced.
178. Another area for possible study is the Juvenile Court and its powers and processes. The Juvenile Court of the State Courts tries criminal offences committed by children (below 14 years old) or young persons (at or above 14 years old and below 16 years old). The Juvenile Court also deals with children who are beyond parental control and those who need care and protection.

179. The Juvenile Court may be further equipped to fulfil its mandate of rehabilitating our youth and protecting them from harm.
180. For example, the sentencing options available to the court in criminal cases involving juvenile offenders may be expanded to include the range of community sentences under the Criminal Procedure Code (Cap 68) that is made available for adult offenders, such as Mandatory Treatment Orders and Day Reporting Orders.
181. The Juvenile Court may also be further empowered to encourage parents to comply with the court's orders, as well as direct parties to seek appropriate assistance such as psychiatric treatment. The court may also be empowered to, where appropriate, appoint Child Representatives to represent the child.
182. Judges of the Juvenile Court may be provided interdisciplinary training in, for example, child psychology and development, family violence and abuse, and counselling and communication techniques, so that they will be able to compassionately and effectively manage and communicate with the youths that appear before them as well as their parents. The physical configuration and layout of the Juvenile Court may also be further improved to make court hearings more comfortable and productive.
183. The latest best practices and techniques should be considered and adopted where appropriate. For example, a standardised tool such as the Youth Level System/Case Management Inventory which is currently used for juvenile criminal cases may also be used for cases involving children beyond parental control, in order to make objective predictions of future risk in such cases.
184. There could be more interaction between the Juvenile Court and the Central Youth Guidance Office (an inter-ministry setup comprising officers seconded from the Ministry of Education, Ministry of Home Affairs and MSF) in respect of interagency learning and sharing on national policies and practices, as well as research. This can take the form of multi-agency task forces, conferences, or even study trips between agencies.

G. THE FAMILY LAW PRACTITIONER ACCREDITATION

185. Families often approach lawyers to advise them on family conflict and disputes. Presently, lawyers practising family law are not required to have any specialised knowledge of the practical, social service and other relevant non-legal aspects of the family justice system.
186. The Committee proposes the introduction of a new Family Law Practitioner (FLP) accreditation for lawyers. FLPs are lawyers who have undergone specialist training so that they are equipped to practise family law effectively and in a manner that is consistent with and promotes the ethos of the new family justice system. Such specialist training may comprise modular courses in non-court dispute resolution methods, the judge-led approach and less adversarial techniques in family litigation, as well as non-legal aspects such as the availability of social support services.
187. Lawyers who have undergone such training should receive the FLP accreditation. It should not be compulsory for all lawyers to undergo the FLP training, although it is desirable that all who practise family law should do so. Such training should be offered in conjunction with the legal profession's continuing education programme.
188. The proposal to introduce the FLP accreditation was widely supported in the feedback received by the Committee in the Public Consultation exercise. One respondent stressed the importance of all stakeholders collaborating together in drawing up and providing the FLP training. Another respondent emphasised the need to carefully calibrate the FLP curriculum so that it meets the objectives of the FLP accreditation.
189. The FLP curriculum should reflect the general ethos and approach towards managing and adjudicating family conflict and disputes in the new family justice system. The curriculum can include the following:
 - a. Identification of the underlying family problems which lead to legal disputes;
 - b. Knowledge of social support services and referral services – to refer parties to appropriate agencies and pathways;
 - c. Family Financial Advisory Practice (including basic financial and accountancy knowledge, as well as understanding of CPF and HDB policies);
 - d. Case management techniques;
 - e. Family dynamics, psychology and relationships, including the psychology of marriage and how parties of different nationalities and cultures interact;
 - f. Child psychology and development;
 - g. Issues of the elderly;

- h. Family violence and child abuse;
- i. Mental health and addiction;
- j. Basic knowledge of family therapy and counselling;
- k. Skills for working successfully with children and youths;
- l. Syariah Court practice, including Muslim law;
- m. Family law (including adoptions, international cross border family issues and mental capacity matters) and latest updates and developments in the law;
- n. Conduct of judge-led proceedings;
- o. Family mediation;
- p. Collaborative law; and
- q. Family arbitration.

190. It was observed in the feedback that the courses available under the FLP curriculum may also be beneficial for professionals other than lawyers. The Committee therefore proposes that the courses under the FLP curriculum may be offered to appropriate professionals (e.g. social service practitioners) when sufficient capacity and expertise has been developed to do so.

V. CONCLUSION

191. The Committee would like to place on record the Committee's gratitude and appreciation to everyone who has contributed in one way or another to the Committee's work.
192. The Committee is heartened to see that members of the public have been forthcoming and enthusiastic in providing their views in respect of all aspects of the family justice system.
193. In particular, the Committee would like to thank all members of the public who have stepped forward to provide their feedback and comments on the Committee's interim recommendations. Their views have played a significant part in the Committee's deliberation in formulating the set of recommendations
194. The recommendations presented in this report represent the outcome of the first stage of the Committee's work, which is how the overall framework and infrastructure of the present family justice system can be fundamentally recast to better help and support families in distress.
195. In the next stage of its work, the Committee will review other specific aspects of the family justice system, including reviewing the enforcement of maintenance orders, resourcing and training of social service professionals and judges.

Appendix A

MEMBERS OF THE COMMITTEE FOR FAMILY JUSTICE

1. Ms Indranee Rajah SC, Senior Minister of State for Law and Education (Co-Chairman)
2. Justice VK Rajah, Judge of Appeal, Supreme Court (Co-Chairman) (till 24 June 2014)
3. Justice Andrew Phang Boon Leong, Judge of Appeal, Supreme Court (Co-Chairman) (with effect from 25 June 2014)
4. Ms Lai Siu Chiu, Retired Judge, Supreme Court
5. Mr Andrew Ang, Retired Judge, Supreme Court
6. Justice Tan Siong Thye, Supreme Court
7. Judicial Commissioner See Kee Oon, Presiding Judge of the State Courts
8. Ms Juthika Ramanathan, Chief Executive, Judiciary Administration and Operations, Supreme Court
9. Ms Jennifer Marie, Deputy Presiding Judge/Registrar of the State Courts
10. Ms Foo Tuat Yien, Senior District Judge, Family and Juvenile Justice Division, State Courts (till 12 March 2014); Senior District Judge, Civil Justice Division, State Courts (with effect from 13 March 2014)
11. Ms Valerie Thean, Deputy Secretary, Ministry of Law (till 12 March 2014); Senior District Judge, Family and Juvenile Justice Division, State Courts (with effect from 13 March 2014)
12. Ms Ong Toon Hui, Deputy Secretary, Ministry of Social and Family Development
13. Ms Goh Soon Poh, Deputy Secretary, Ministry of Home Affairs
14. Mr Poon Hong Yuen, Deputy Secretary, Ministry of Law (with effect from 13 March 2014)
15. Ms Ang Bee Lian, Chief Executive Officer, National Council of Social Service (till 31 October 2013)
16. Mr Sim Gim Guan, Chief Executive Officer, National Council of Social Service (with effect from 1 November 2013)

17. Mr Mohamad B Haji Rais, Senior President, Syariah Court
18. Ms Lim Hui Min, Director of the Legal Services Unit, Ministry of Social and Family Development
19. Ms Ellen Lee, Consultant, Ramdas & Wong
20. Mr George Lim, Senior Counsel, Partner, Wee Tay & Lim LLP
21. Mr Randolph Khoo, Director, Dispute Resolution Department, Drew & Napier
22. Mr Yap Teong Liang, Founder and Partner, TL Yap & Associates
23. Ms Loh Wai Mooi, Founder and Partner, Bih Li & Lee
24. Dr Sudha Nair, Executive Director, PAVE (Promoting Alternatives to Violence)
25. Assoc Prof Debbie Ong, Faculty of Law, National University of Singapore
26. Ms Renjala Balachandran, Head, Family Service Centre, Singapore Indian Development Association