**Family Law, Winter 2022**

**Terms of Reference for the Family Law 20212**

**Simulated Law Reform Inquiry**

The past decade has seen a number of inquiries into Family Law responding to public pressure that the system is broken and needs fixing. The most noticeable concrete change that has occurred in light of these inquiries has been the merger of the Family Court and the Federal Circuit Court, now called the Federal Circuit and Family Court. Concerning the merger, the government has stated that

‘The overlapping family law jurisdiction between the previous Family Court and Federal Circuit Court of Australia (FCC) led to significant inefficiencies, confusion, delays, additional costs and unequal experiences for many families. This resulted in poor outcomes for some children and families, including those affected by family violence. The new court structure will help Australian families resolve their disputes faster by improving the efficiency of the family law system, reducing the backlog of matters before the family law courts, and driving faster, cheaper and more consistent dispute resolution.’[[1]](#footnote-1)

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**(Simulated) Terms of Reference**

With the recent change of federal government, the Australian Law Reform Commission is (hypothetically) interested in the extent to which the merger goes far enough, and to what extent it has addressed the identified problems of inefficiency, confusion, delay, costs and inconsistencies. Further, the ALRC wishes to hear from the community concerning their views on recommendations from previous inquiries which might address those problems.

Whilst submissions addressing any issues of efficiency, accessibility, timeliness and consistency in dispute resolution arising from the *Family Law Act 1975* (Cth) or its application are welcomed, the ALRC specifically welcomes submissions on the following matters:

1. To what extent has the merger addressed the identified problems of inefficiency, confusion, delay, costs and inconsistencies? Are further improvements needed?
2. If the family law courts were initially set up to be specialist ‘helping courts’, how might this vision continue, or be impeded, by the merger? Assuming that the current government will not roll back the merger, what else might be done?
3. What further reforms to family law or the family law system might lead to a reduction in the time taken for family law matters to be resolved, so that families who need the assistance of the court might have their matters addressed in a more timely way?
4. Are there further innovations in the areas of ADR which might further enhance the appropriate, quick and cheap resolution to family law disputes?
5. In what areas of family law has decision making been the most inconsistent? How has this impacted on justice, and how might this issue be addressed through further reforms?
6. In what ways have the diverse nature of families and family law disputes created challenges for Australian family law? How might family law be reformed so that outcomes are more appropriate to the needs of all Australian families?
7. What challenges has the recognition of the impact of family violence in the community had on the Australian family court, and, how might family law and the family law system be reformed to lead to better outcomes for those affected by family violence?

*Instructions:*

*Your learning in this course will enable you to be able to address many of the terms of reference in this (hypothetical) inquiry in an informed way. The research assignment for this course requires you to* ***write an individual submission to only ONE of the terms of reference set out above.***

*Choose ONE term of reference. If you find that you the scope of your one chosen term of reference is still too large, you are encouraged to* ***further*** *narrow down the question still further to focus on one specific issue arising under that term of reference. In this task, depth of research and understanding is rewarded.*

1. https://www.ag.gov.au/legal-system/courts/structural-reform-federal-courts [↑](#footnote-ref-1)