

Letter to the editor from the Law Society Journal, June 2015

Not all fair in family law

It is with dismay I read that the Attorney-General proposes to increase filing fees for Family Law matters, projecting to collect some \$87 million of which only \$22.5 million will be applied towards “streamlining the Federal Court, the Federal Circuit Court and the Family Court of Australia”.

As the Family Court and Federal Circuit Court are the two courts which deal with Family Law matters (“the Family Law Courts”), it would appear if the \$22.5 million is apportioned pro rata, the two Family Law Courts will each receive approximately \$7.5 million. At present, the Family Law Courts are overburdened with the volume of cases coming before the Courts which, due to their number and shortage of judicial officers and supporting staff, results in increased costs to litigants waiting for procedural and interlocutory matters and final hearings to be dealt with and in many cases considerable delay in the handing down of judgments.

Given the volume of litigants through the Family Law Courts and the shortage of judicial officers to do justice to all of the litigants, it is not surprising for the inordinate delays. But of course it is not just the financial costs to litigants, it is also the stress, anxiety and uncertainty of putting their lives on hold waiting for their matters to be dealt with. The additional increase in fees has been described as a “mean spirited tax on family breakdowns”.

It is difficult to argue with that description, particularly when during the election Mr Abbott heralded there would be no new taxes! In the interest of delivering “a fair go” to all litigants in the Family Law jurisdiction, and should the Government proceed with “this shameful mean spirited tax on family breakdowns”, at least compensate the litigants by providing additional funding from the filing fees collected so as to fund the appointment of more judicial officers and support staff to deliver justice for all in a reasonably timely manner.

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