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23 August 2016

Family Development Group
Ministry of Social and Family Development
20 Lengkok Bahru
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Singapore 159053

BY EMAIL & POST

(consultations@msf.gov.sg)

Dear Sirs

Public Consultation on the Draft Vulnerable Adults Bill 2016

1 We refer to the Public Consultation on the draft Vulnerable Adults Bill 2016 that was referred to the Law Society on 27 July 2016.

2 The draft Bill was referred to our practice committees for views and the views of the Family Law Practice Committee is set out in Annex A. We would be grateful if these views are taken into consideration.

3 Thank you.

Yours faithfully,

Delphine Loo Tan
Director, Representation & Law Reform Department

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**ANNEX A – FAMILY LAW PRACTICE COMMITTEE’S FEEDBACK ON
THE PUBLIC CONSULTATION OF THE DRAFT VULNERABLE ADULTS BILL 2016**

PUBLIC CONSULTATION ON THE DRAFT VULNERABLE ADULTS BILL 2016

S/N	Provision	Comments
Part 1 - Preliminary		
1.	Section 2	<p>Definitions</p> <ul style="list-style-type: none"> • Definition of “coerce”: it is suggested to include after “individual’s consent” in (b): <u>“or knowing that the individual’s consent cannot be obtained due to infirmity, disability or incapacity”</u>. • Definition of “child” should be expanded to include “niece, nephew or grandchild”, “god or foster child” (or similar). • Definition of “parent”, should similarly be expanded to include “god or foster parent” (or similar). • Definition of “brother or sister” should be expanded to include “step-brother or step-sister, god or foster brother or sister” (or similar). • Definition of “Physical abuse” to include in (c) after “the individual” the words: <u>“or the individual’s family member”</u>.
2.	Sections 3 and 4	<ul style="list-style-type: none"> • Under these sections of the Act, which makes reference to the administration of this Act and principles, also read with Section 23 of the Act (Part 4 – confidential information), the Family Law Practice Committee (“FLPC”) would like to suggest that there should be greater accountability on the part of the MSF in the discharge of its obligations and duties under this Act. <ul style="list-style-type: none"> a. For instance, insofar as the whistle-blower (or anyone who has reported a case of a vulnerable adult experiencing abuse, neglect or self-neglect) are concerned, particularly if they are interested parties such as family or close friends, there should be some protocol for MSF to update these interested parties as to the progress and well-being of the said vulnerable adult, whether or not there are ongoing investigations or court proceedings.

S/N	Provision	Comments
		<p>b. This is particularly given that MSF has quite extensive and wide powers under Part 2 of the Act, including power to assess needs, enter premises and require information, as well as power of removal and arranging temporary care for the said vulnerable adult.</p>
3.	Section 4(1)(b)	<ul style="list-style-type: none"> • There is a suggestion to include “medical attention or treatment” to the vulnerable adult in addition to the vulnerable adults’ living arrangements. • The FLPC raised concern on this section which reads: “A vulnerable adult who does not lack mental capacity is best placed to decide how her wishes to live, and whether or not to accept any assistance”. a. It is suggested that this adult with mental capacity to so decide should not be called “vulnerable adult” but that he/she should be called/referred to as “an adult without any apparent vulnerability” and hence does not justify the State’s intervention. b. It is also suggested that an “in between” or “borderline” category may be created. c. For instances where the wishes may have to be overridden: <u>“Where it is apparent to the Director that an adult without any apparent vulnerability who does not lack mental capacity to decide how he wishes to live, and whether or not to accept any assistance nevertheless does require intervention in order to prevent or cause any injury, neglect, pain or harm from being caused to him if his wishes were to be respected.”</u>
Part 2 – Protection of Vulnerable Adults		
4.	Divisions 1 and 2	<ul style="list-style-type: none"> • These divisions set out the wide powers that may be exercised by MSF in protecting these vulnerable adults. The Act only provides that the powers may be exercised if MSF has “reason to believe that the individual is a vulnerable adult and the individual has experienced or is experiencing or at risk of abuse, neglect or self-neglect”.

S/N	Provision	Comments
		<p>a. The FLPC would like to suggest that there ought to be certain specified parameters within which MSF is able to exercise these powers. Perhaps a certain protocol for a prior assessment of the initial information that has been provided to MSF (such as those by way of a whistle-blower or a family member or any other individual who has reported the matter to MSF) before any of these wide powers are exercised.</p> <p>b. It is also suggested that consent should be obtained before obtaining confidential information or medical records (read with there is no requirement for consent insofar as MSF's power to enter the vulnerable adult's premise). This is so that it is in line with the requirement to seek consent for medical examination and consent for MSF to assess his/her needs (including medical assessment), for MSF to remove that vulnerable adult from the place of residence.</p>
5.	Division 2, Section 10	<ul style="list-style-type: none"> • For clarity purpose, the FLPC would like to suggest that an express provision on the power to 'search and remove' the vulnerable adult be included.
6.	Division 3	<ul style="list-style-type: none"> • It is suggested that consideration be given to any other interested party (such as the vulnerable adult in question, a family member, caregiver, close friend or neighbour wishes to make an application under the Act), for them to be allowed to apply for all orders that MSF may apply for including those included in Division 1 and 2 (such as the power to enter the premises, to remove the vulnerable adult and to provide temporary care and protection for the vulnerable adult). a. Currently MSF has the locus standi to apply for all the orders set out in section 14(1) and section 15 of the Act. However, if any other interested party, such as the vulnerable adult in question, a family member, caregiver, close friend or neighbour wishes to make an application under the Act, they are prohibited in that the Act (under section 12) only allows them to apply for these orders: <ul style="list-style-type: none"> i. Restraining order to restrain the abuser from abusing or further abuse;

S/N	Provision	Comments
		<ul style="list-style-type: none"> ii. Order for right of exclusive occupation; iii. Order prohibiting a person from entering and remaining in the vulnerable adult's place of residence; iv. Order prohibiting a person from visiting or communicating with the vulnerable adult; and v. An expedited order in relation to the above (a) to (d).
7.	Section 14	<ul style="list-style-type: none"> • In respect of the orders that a court may make under section 14 of the Act, the Court may order the vulnerable adult to be committed to a place of temporary care or protection or the care of a fit person, for a period not exceeding 6 months or for a specified period. <ul style="list-style-type: none"> a. The FLPC would like to suggest that following this 6-month period or any specified period, it should be specified that the Court should have the powers to also make any further follow up orders, such as any follow up intervention by MSF where necessary, included continued observation or monitoring of the welfare of this vulnerable adult beyond the specified time-frame. b. In addition, there should be provision which allows MSF or any applicant in the matter to apply for a discharge or rescission of the orders made by the Court in the event that compliance with such orders is no longer relevant or necessary, especially if certified by a medical professional or any other independent expert.