

**LAW SOCIETY'S RESPONSE TO THE PUBLIC CONSULTATION ON RECOMMENDATIONS
SUBMITTED BY THE COMMITTEE TO REVIEW AND ENHANCE REFORMS IN THE FAMILY
JUSTICE SYSTEM ISSUED BY THE MINISTRY OF SOCIAL AND FAMILY DEVELOPMENT
DATED 20 SEPTEMBER 2019**

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**FEEDBACK TO PUBLIC CONSULTATION ON
RECOMMENDATIONS SUBMITTED BY THE COMMITTEE TO
REVIEW AND ENHANCE REFORMS IN THE FAMILY JUSTICE
SYSTEM**

A. Recommendation 1 – Strengthening pre-filing intervention for positive family outcomes

Recommendation 1.1: To enhance the Mandatory Parenting Programme to strengthen the focus on co-parenting, and enhance access to personalised information that indicate impact on the children post-divorce

The Law Society does not support this recommendation.

The use of a “personalised housing and financial calculator” proposed should be limited to the pre-divorce stage. At that stage, the focus should remain on co-parenting which includes the resolution of child issues. A discussion and/or the introduction of financial matters at the pre-filing stage would be premature and contrary to the overall purpose of the Mandatory Parenting Program.

Additionally, the current group of DSSA counsellors may not be equipped with the required skills and expertise to handle detailed and personalised discussions on issues such as housing and financial matters such as calculation of loan mortgages and monthly expenditures.

Recommendation 1.2: To facilitate pre-action counselling for a couple’s emotional needs to be better addressed from the outset, with a view also to marital recovery where possible

The Law Society supports this recommendation however we are concerned that recommendation 1.2 may not be satisfactorily implemented due to the limited pool of adequately trained counsellors in Singapore coupled with the public’s hesitation to pay for counselling fees at non-subsidised rates.

To facilitate the effective implementation of this recommendation, the Law Society suggests that consideration be given to ways in which individuals may be encouraged to pursue counselling as career path.

Recommendation 1.3: To encourage the take up of mediation services at the pre-action stage and facilitate earlier resolution of family disputes

The Law Society supports this the recommendation however we suggest that recommendation 1.3 be limited to selected cases (i.e. where the pre-writ discussions only pertain to child-related issues), especially in situations where the mediator is not legally trained. The Law Society submits that the use of the Mandatory Parenting Program (“MPP”) group discussions should be carefully considered in circumstances involving alleged family violence and that mediation services at the pre-action stage should be limited to resolving child issues, managing the emotional aspects of family disputes and ensuring parties are aware of all alternative dispute resolution options.

There remains a concern that the person administering the MPP may not have the requisite knowledge or experience to adequately identify legal issues and therefore may result in a dilution of the issues if raised at the early stage of the proceedings.

While the Law Society sees the benefit in encouraging parties to mediate early, parties should still be encouraged to seek independent legal advice prior to a mediation. This ensures that both parties are informed of their rights and obligations and the mediator is not placed in a position where their advice is sort from the parties.

To facilitate the encouragement of the use of mediation services, the Law Society suggests further education around what is mediation and the value of mediation as an effective and empowering dispute resolution process would assist the successful implementation of recommendation 1.3. Most importantly, the provision of pro bono or low bono mediation should not be encouraged as it dilutes the quality of services provided as well as reduces the value of their skill. The Law Society administers its own mediation services and has an Alternative Dispute Resolution Committee who would be able to assist the Ministry on this issue if requested.

Recommendation 1.4: To develop a consolidated online platform that offers pre-filing services, including online counselling with relevant information that enable couples to pause and reflect, contemplate the impact of divorce on their children, as well as to be referred to appropriate support services offline

The Law Society does not support this recommendation. While we acknowledge the benefits of an online platform providing general contact information for child protection services and the Institute of Mental Health depression clinics, the Law Society believes that an online platform should not replace a personalised and catered services for individuals and their particular circumstances.

Notwithstanding that we do not support recommendation 1.4, the Law Society would like to note that it does not support the recommendation for the platform to allow users to perform “self-assessments”¹ as it is a risky proposition which might result in inaccurate assessments. The Law Society proposes in the alternative that an objective assessment be used with a focus on resolving the child-related issues in the pre-writ stage to encourage settlements, instead of spreading the limited resources to deal with the mediation and financial discussions “upstream”.

B. Recommendation 2 – Simplifying the Family Justice Rules

Recommendation 2.1: To enhance the accessibility of the Family Justice Rules for users

The Law Society supports that the FJR be redesigned to make the process of family litigation simpler, more timely and more affordable. However, the Law Society encourages the Ministry to consider the impact this restructure may have on probate matters which will be indirectly impacted by any restructure of the Family Justice Rules (“FJR”).

We note that each volume of the FJR represents a stand-alone set of rules and as probate matters can be wide-ranging, there are likely to be instances where probate matters overlap with other family proceedings (for example, court-appointed experts or trust issue) resulting in a user needing to refer to content from both volumes. The current single volume may be beneficial to lay users as a one-stop location to search for information and to avert any confusion where users may be misled into erroneously thinking that certain relevant rules do not apply to their proceedings. The Law Society in the first instance proposes that the Ministry considers amendments to the Practice Directions rather than the FJR. However, if the FJR is to be redesigned that consideration be given to three volumes rather than two – the three volumes being, probate, family and matrimonial proceedings, and overarching rules application to probate and family and matrimonial proceedings. An introduction should be included at the beginning of each volume to clarify that the rules apply to everything and for all content relating to Mental Capacity Act (‘MCA’) matters to be included within the Probate Volume.

The Law Society also encourages the Ministry to consider these particular issues of procedure in its redesign of the FJR:

¹ Ref Paragraph 49(b) of the Report of the Committee to Review and Enhance Reforms in the Family Justice System (13 September 2019) (‘Consultation Paper’).

- a) removing the lifting of provisions from the Rules of Court ("ROC") and have a general rule to state that for certain proceedings, reference could be made to the ROC;
- b) fine-tuning the current discovery and interrogatories process to facilitate a concise and clear manner for parties to conduct and complete this process expeditiously; and
- c) removing unnecessary sections that were relevant in usual civil procedures but were hardly imposed or irrelevant for Family Law cases (eg, the claims for liquidated damages and unliquidated damages).

Furthermore, to complement the accessibility of the FJR, the Law Society recommends consideration be given to the development of resources such as guides and toolkits to assist litigants-in-person.

Recommendation 2.2: To streamline court processes to achieve greater efficiency

The Law Society generally supports recommendation 2.2 however, we acknowledge that the amalgamation and revision of existing court processes may involve a lot of time as the changes suggested are wide ranging.

In relation to specific proposals outlined in paragraphs 55 to 66 of the Consultation Paper, the Law Society makes the following comments.

In relation to Interlocutory Applications ("IA") discussed in paragraph 59 of the Consultation Paper, the Law Society observes that the current process for filing has been simplified. However, it is difficult to simplify probate matters (in comparison to family and matrimonial matters), as each probate case is unique on its facts. We note that even in matters that appear simple they are likely to involve ancillary considerations. Therefore, despite simplification of the filing process, IA are still technical applications based on specialised rules and laypersons struggle to understand the terminology used. As a result, LIPs may request irrelevant information in applications for discovery or misinterpret judges' orders. The Law Society therefore suggests that in order to improve efficiency of interlocutory processes, the judiciary should provide an explanation set out in simple English/layman's terms to confirm that LIPs understand the court orders.

On the proposed Court's discretionary power set out in paragraph 64 of the Consultation paper, we note that the Court's discretion may be too wide in applications for discovery and interrogatories. Further, the Law Society suggests that parties should be made aware of the reasoning behind judges' orders, in particular, when their applications have been rejected.

The Law Society agrees with the proposal to make the Family Justice Courts ('FJC') Practice Directions forms more readable and user-friendly.²

C. Recommendation 3 – Enhancing the judge-led approach

Recommendation 3.1: To disallow the filing of further applications unless leave is first obtained

The Law Society generally supports this recommendation but notes that it should be limited to less complex. The recommendation should not be made the norm or entrenched in the rules but left to the discretion of the Courts. In the event that further applications are rejected, parties should be provided with an avenue for appeal.

² Ref paragraph 66 of the Consultation Paper

Recommendation 3.2: To allow for hearings without physical attendance to facilitate expeditious and economical disposal of applications

The Law Society opposes this recommendation and disagrees with its underlying rationale. Lawyers have a critical role in the community as well as their participation in the effective resolution of legal proceedings. In particular, they facilitate the presentation a clear presentation of a client’s case and assist in the explanation of rights, obligations and options for legal resolution of matters in a clear and concise manner as well as managing expectations of parties.

Recommendation 3.3: To allow the courts to make substantive orders on its own motion

The Law Society opposes this recommendation. We consider that a person’s fundamental parenting rights should not be removed from an individual without the opportunity to be heard.

Recommendation 3.4: To make it clear that judicial interviewing of children is part of the judge-led approach

The Law Society supports this recommendation that judges should have the discretion to use judicial interviewing as a supplementary tool to see and hear the views of the child. However, the Law Society remains concerned on the potential impact of the process of a judicial officer asking questions of a child. Consideration should be given to the manner in which children are asked questions and who may be in the courtroom during the interview. Care should also be given to ensuring the child is not coached or provides answers under duress. The Law Society recommends that consideration be given to appointing a child representative (“CR”) as they would have the views of the parents, teachers and other relevant persons involved. The CR would also be best-placed to explain the decision made by the judge.

Recommendation 3.5: To empower the courts to restrict cross-examination where:

- (a) A party is facing criminal proceedings or has been convicted of any offence involving violence perpetrated against the other party; or
- (b) Where a party has obtained a personal protection order against the other party.

The Law Society supports recommendation 3.5(a). In relation to recommendation 3.5(b) we recommend that this be reworded as follows:

(b) Where a party *had in a prior Personal Protection Order (PPO) proceeding successfully proven* and obtained a PPO against the other party.

We note that circumstances arise where litigants file PPO applications but are unable to prove the matters at hearing so the PPO application is later withdrawn. There are also circumstances where the PPO application is used as a tactical response to restrict the other parent access, care and control of the child.

Currently, applications for PPOs granted on an Expedited Personal Protection Order (“EO”) basis are granted ex-parte. Given the basis of the grant of these orders, they provide an opportunity for one party to put their position forward. Removing the right to cross-examination as suggested by the current recommendation 3.5(b) may provide the applicant with an advantage in proceedings. This risks disadvantaging the respondent who is not allowed to prove his defence.

D. Recommendation 4 – Simplifying enforcement of child access orders

Recommendation 4.1: To provide for a simpler mode of commencing enforcement proceedings where a child access order has been breached

The Law Society supports this recommendation.

Recommendation 4.2: To empower the courts with a slew of measures which will encourage compliance with child access orders

The Law Society supports this recommendation.

Recommendation 4.3: For the courts to be empowered with the discretion to order either imprisonment or a fine for failure to comply with orders

The Law Society generally supports this recommendation but suggests that further consideration be given to exceptional circumstances where for example, the child does not wish to see the other parent due to mistreatment or infidelity. In such scenarios, it may be unfair to impose penalties on the caregiver parent.

E. Recommendation 5 – Facilitating accessibility of legal process through low bono legal assistance

Recommendation 5.1: For the Law Society or Law Society Pro Bono Services to make more affordable legal services available to certain litigants

The Law Society and Law Society Pro Bono Services have identified the Legal Clearing House Mechanism for the Family Justice Support Scheme. This scheme requires ongoing funding to support affordable legal advice and representation services in divorce matters. Access to those services are subject to a means test.

We note that there may be persons who choose to represent themselves even though they may be able to afford legal representation.

F. Recommendation 6 – Enhancing the mental capacity ecosystem

Recommendation 6.1: For more appointed and prospective deputies to undergo training conducted by the Office of the Public Guardian.

The Law Society supports this recommendation and notes that making available more training for prospective and current deputies and donees (collectively known as “personal representatives”) is important.

The Law Society considers that training programs should go beyond replicating information from the Code of Practice. We recommend that the Office of the Public Guardian (‘OPG’) conduct research and seek guidance from other jurisdictions to design a catered program and appropriate resources for personal representatives and practitioners working in the mental capacity area. We note that personal representatives in the United Kingdom are able to seek guidance from Practice Notes published by the Office of the Public Guardian (United Kingdom).³

³ UK Public Guardian Practice Notes: Detailed practice guidance for professional attorneys and deputies (available at: <https://www.gov.uk/government/collections/public-guardian-practice-notes>)

The Law Society agrees with the recommendation to increase online accessibility of training materials⁴ provided that the information is presented in a user-friendly format that succinctly informs personal representatives of their core duties. The provision of webinars would provide an alternative for personal representatives in accessing information particularly for those who have caring responsibilities during business hours.

While online training materials serve a beneficial purposes this needs to be balanced with training on topics that may best involve in-person contact. The Law Society proposes that stakeholders other than OPG (such as the Community Development Council, Silver Generation Ambassadors, Community Centres, and youth volunteers) should be involved in providing face-to-face training in all the main languages of Singapore for applicants, in particular, the elderly. This would reduce the burden of providing training on OPG while also serving as an opportunity to evaluate **P**'s environment.⁵

Overall, any training provided – online or face-to-face – would need to be available in all the main languages of Singapore as well as English.

To encourage effective implementation of this recommendation, the Law Society recommends that consideration be given to subsidising the fees for lawyers from small firms to undertake any training which is offered.

Recommendation 6.2: To facilitate the use of counselling and mediation for dispute resolution and caregiver support.

Regarding the proposed use of counselling, the Law Society supports this recommendation and suggests that counselling should be given a higher priority than currently proposed such that personal representatives are provided with counselling pre-appointment as well as post-appointment. This will provide personal representatives with a better understanding of their duties as well as support in their roles. The Law Society recommends that counsellors be provided with the ability to visit personal representatives at their homes to reduce the burden of having to arrange alternative care for **P**. This capability would also allow for opportunities to assess **P**'s environment and how they are being cared for.

In relation to the mediation as referred to in recommendation 6.2, the Law Society supports this recommendation but suggests that mediation be appropriately adapted to cater for specific circumstances which may not be suitable to traditional mediation. For example, mediation in the healthcare context or on *Mental Capacity Act* matters where the mediation is regarding a third party who may not have the capacity to enter into a mediation agreement. In such matters, we propose that mediators have expertise and/or experience in handling these matters, in particular to ensure that best interests test in section 6 of the *Mental Capacity Act* is correctly applied.

Furthermore, there are circumstances where mediation as a dispute resolution process is not appropriate such as in matters concerning personal autonomy, disputes regarding capacity and where personal welfare and/or financial abuse. It may be more appropriate for these matters to be referred to a Court for consideration.

We recommend a qualifying criteria and who may be a mediator and what matters they are able to mediate should be developed. The Law Society would be pleased to work with the Ministry of Social and Family Development as well as the Family Justice Courts on developing a set of standards.

⁴ Paragraph 145 of the Consultation Paper.

⁵ Please note that the term 'P' in this document has the same meaning as set out in paragraph 138(b) of the Recommendations submitted by the Committee to Review and Enhance Reforms in the Family Justice System, i.e. 'P' refers to an individual who loses mental capacity without making a Lasting Power of Attorney and is thereafter appointed a deputy by the FJC as a result of a deputyship application.

Notwithstanding the above, the Law Society notes that the wording of the FJR mediation rules may have to be amended to include “relevant persons” so as to capture interested parties who wish to be included in the mediation process before deputies have been appointed.

Recommendation 6.3: To build a more robust process for supervision of deputies.

The Law Society supports this agreement but requests further details of the ‘robust process’ it refers to in the above recommendation.

It is unclear from the Consultation Paper what the OPG new integrated system would involve and therefore, the Law Society requests further detail in relation to this proposal so that we may adequately respond. We note that it is unclear how a new integrated system would be used to supervise and support deputies in circumstances such as non-financial support. Other examples of non-financial situations include providing a substitute caregiver to allow the main caregiver to have some relief from day-to-day caregiving. While a robust process for supervision would be welcome, the Law Society recommends that better resources and information should be provided to deputies at the training stage so that support can be accessed early and is ongoing. Furthermore, we recommend that more subsidised services should be offered to caregivers who fall above the financial assistance threshold to help them cope with their duties.

The Law Society suggests that the susceptibility to abuse of vulnerable persons be taken into account. This may assist in the development of more effective and targeted supervision and intervention to assist deputies in Singapore. We also note that the supervision of deputies should not rest solely on OPGs and the capability of community protection groups be strengthened to assist with this.

Recommendation 6.4: To simplify the court application process.

The Law Society generally supports the recommendation for the simplification of the court application process. We refer the Ministry to the simplified order track established in the UK which may assist identifying issues in the development and roll out of iFAMS.

Nonetheless, the Law Society would like to note the following potential pitfalls of iFams to assist the Ministry in its implementation of recommendation 6.4.

First, there are technological security concerns which may arise due to elderly vulnerable adults relying on their caregiver to access use SingPass and iFams. We recommend that that iFAMS should allow for quicker revocation requests (i.e., Lasting Power of Attorney application) to serve as a safeguard against inappropriate applications made through the iFAMS simplified track. We also propose that users would be assisted in knowing the range of orders that may be sort through iFAMS and in circumstances it may be appropriate for lawyers to assist in bridging the gap between lay applicants and the courts.

The Law Society strongly opposes the proposed expansion of iFAMS (specific orders) referred to in paragraph 151 of the Consultation Report. The Law Society considers that the phrase ‘family expenses’ referred to in paragraph 151 is too vague and that provision should be made to distinguish between family expenses generally and expenses which are intended to support P until the end of life. Access should be limited in this regard.

The Law Society agrees with the rationale set out in paragraph 152 of the Consultation Paper, but notes that it does not address the issue that obtaining a medical report remains cost prohibitive for most applicants. The Law Society suggests that MSF engage with the Ministry of Health or government hospitals to provide subsidised rates for such medical reports and/or place a cap on the fees chargeable for them. The Ministry may also wish to consider expanding the group of mental capacity assessors to other inter-connected disciplines such as mental health nurses, clinical psychologists and occupational

therapists. This may improve applicant's access to quality mental capacity assessors and would aid in lowering costs.

Notwithstanding the utility of iFAMS in simplifying the case application system, there will always be circumstances that give rise to complex high needs cases. In such circumstances, the Law Society suggests that the Court consider establishing a complementary face to face counter so that assistance may sort for complex matters.

G. Recommendation 7 – Building social sector capabilities

Recommendation 7.1: To expand and build up capabilities in divorce support and mental capacity matters

The Law Society generally supports this recommendation.

We agree that financial counselling could be beneficial for parties at the post-writ stage of proceedings.⁶ However, we submit that further consideration should be given as to whether mediation is the appropriate forum for resolution of matters involving care and financial management for persons who lack mental capacity as referred to in paragraph 173.

H. Recommendation 8 – Accreditation of family law practitioners

Recommendation 8.1: For a Family Lawyer Certification and Accreditation Scheme to be conceptualised and implemented

Accreditation

While we appreciate the intention of establishing a Family Lawyer Accreditation Scheme with an aim to raise the standard of the Family Bar, quality of the family judicial process and the services provided to clients, we have a number of reservations as to whether it would be appropriate to adopt such a scheme in Singapore.

We acknowledge that while other jurisdictions such as Australia provide an accreditation scheme for specific practice areas, obtaining specialist accreditation from the regulatory authority, does not confer special rights or privileges on the accredited practitioner, nor is it mandatory, or prohibits a practitioner from practice if accreditation is not secured.

We encourage the Ministry to consider the adequacy of existing educational requirements imposed on legal practitioners in Singapore. Lawyers must complete a requisite number of Continuing Professional Development (“CPD”) courses that are relevant to their area of practice. Additionally, specialist conferences are held each year with extensive programs covering a wide range of topics regarding a specific jurisdiction. Conferences, CPD courses and the Part B course, if appropriately crafted could be tapped on to ensure the imposition and maintenance of a “minimum standard” for lawyers. Consideration should also be given to the regulatory powers conferred by the *Legal Profession (Professional Conduct) Rules* and the standards generally that it imposes on the appropriate conduct and practice of legal practitioners in Singapore. Further legal education is an area that the Law Society is continuing to grow and develop to enhance the standard of practice at the Bar.

Should an accreditation scheme be established, accessibility to the scheme should be considered in order to be able to provide the opportunity to all practitioners – from big and small law firms – which would encourage diversity and competition in the legal profession. We oppose any form of accreditation which

⁶ Ref Paragraph 166 of the Consultation Paper.

acts as a barrier to entry on being called to the Bar. There is a lack of data which suggests that accreditation provides a benefit to community or to the legal profession.

We note that further consideration must be given to this issue to appropriately consider its impact on the provision of legal services, the profession and the community as it is likely to result in increased costs for the litigant and may have adverse impact on access to justice. Any perceived benefit of the practitioner being able to charge more as a specialist should be carefully contrasted against the willingness of the client to pay for the specialist services provided. The Law Society would welcome the opportunity to be consulted on this issue further should our assistance be required.

Certification

The Law Society opposes the implementation of a Family Lawyer Certification Scheme as it is contrary to the concept of allowing small law firm lawyers to act as the first port of call or a “general legal practitioner”. It is common for matrimonial cases to include other practice areas such as land law, company law, trusts, and probate and cross-border issues. Imposing certification as a compulsory precondition to practice and appearance in court would provide parties with a smaller set of lawyers to choose from and is likely to result in increased costs for the litigant and may have adverse impacts on access to justice. We oppose any form of certification which acts as a barrier to entry on being called to the Bar as it would be contrary to the conditions to obtaining a Practising Certificate and the ability to practice before the Courts (stipulated in the Legal Profession Act (Chap 161)). There is a lack of data which suggests that certification provides a benefit to community or to the legal profession.

General Observations

We are concerned that any imposition of an accreditation/certification scheme may inadvertently exclude a substantial number of practitioners who do not or cannot afford to specialise in that area. In turn, this may result in clients being forced to retain more than one practitioner if their legal matter includes multiple practice areas. This concern is further exacerbated if the certification requirement results in the practitioner having to invest in a disproportionate amount of time.

Furthermore, the Law Society of Singapore, established under the *Legal Profession Act (Chap 161)* carries out various statutory functions, including maintaining and improving the standards of conduct and learning of the legal profession in Singapore, as well as protecting and assisting members of the public in all matters ancillary or incidental to the law. We note that our responses below in relation to recommendation 8.2 and 8.3 are relevant to this issue and should be considered within this context.

Recommendation 8.2: For a Working Committee to be established to develop the details of the Family Lawyer Certification Scheme

First and foremost, the Law Society strongly opposes the establishment of a Family Lawyer Certification Scheme and therefore does not support recommendation 8.2.

However, should the Ministry proceed and establish a Working Committee on this issue, we respectfully request that the Law Society be involved in framing details of a Family Lawyer Certification Scheme. The Law Society is the relevant representative and membership body for lawyers in Singapore as well as being the relevant regulatory body which sets standards for professional conduct, practice standards and compliance.

While we remain opposed to the establishment of a Family Lawyer Certification Scheme, should one be developed, we encourage the Ministry to consider offering an exemption to senior and experienced lawyers who are well practiced in the jurisdiction. The sudden imposition of a certification scheme would be costly for practitioners and also imports a risk that they may not be able to obtain certification and therefore, would impact on their livelihood and practice. We suggest that consideration be given to offering exemptions by application to any Family Lawyer Certification Scheme. The Working

Committee, should one be established, can determine the criteria for exemption which can include providing a portfolio of past cases handled to be reviewed by an Assessment Committee rather than be required to take an examination.

The Law Society would welcome to opportunity to assist the Ministry or Working Committee on the development of a certification scheme should recommendation 8.2 be adopted.

Recommendation 8.3: For the Singapore Academy of Law (Specialist Accreditation Board) to develop the details of and implement the Family Specialist Accreditation Scheme

Notwithstanding our comments in relation to recommendations 8.1 and 8.2, the Law Society submits that the Singapore Academy of Law (Specialist Accreditation Board) alone would not be the appropriate body to develop and implement a Family Specialist Accreditation Scheme.

We submit that the Law Society is the appropriate regulatory and professional services membership body to develop and administer the Family Specialist Accreditation Scheme, should one be established. As noted in recommendation 8.2 the Law Society regulates and sets standards for professional conduct, practice standards and compliance. This includes legal education relevant to Singapore lawyers.

The Law Society submits that consideration should be given to including it in any development of an accreditation scheme whether in partnership with the Singapore Academy of Law (Specialist Accreditation Board) or have sole responsibility for development and implementation of a Family Specialist Accreditation Scheme.

I. Recommendation 9 – Training of judges

Recommendation 9.1: For the Family Justice Courts to develop a targeted and specialised curriculum for its Family Judges and ensure that there are sufficient resources available for training

The Law Society supports this recommendation and proposes that protocols be developed to ensure consistency of decision making by judges regarding requests by parties on similar matters such as applications for adjournment, reconciliation or mediation. Judges who have experience in practising family law as practitioners in the private sector or in the Legal Aid Bureau is preferred.

In view of the proposed judge-led approach, the Law Society suggests that the following key topics form part of the specialised curriculum:

1. Judicial interview;
2. Judicial temperament;
3. Cultural sensitivity training;
4. Dealing with LIPs in proceedings; and
5. Sensitivities on party dynamics.

J. Recommendation 10 – Systematic collection of data

Recommendation 10.1: For courts and government agencies to collect data to track the effectiveness of initiatives and programmes implemented

The Law Society supports this recommendation and propose that data collection extend to collecting data on gender and for the information to be made available to practitioners.

With respect to recommendation 6.2, if the Government intends on introducing mediation, it will be important to have a framework by which its effectiveness is appropriately evaluated particularly in cases involve mental capacity. We suggest the following questions to facilitate an evaluation process:

1. What is mediation's effect on P's participation in the decision-making process as compared to a judicial hearing?
2. What is mediation's effect on costs, including parties' legal costs, costs to government agencies, and law enforcement agencies?
3. What is mediation's effect on the working relationship amongst the parties as compared with legal proceedings?
4. What is mediation's effect on other resources of those involved in mental capacity disputes? (for example, social work agencies, hospitals, nursing homes etc.)

K. Additional Feedback on Issues Not Included in the RERF Recommendations:

While comments were not specifically sort for the matters raised below, the Law Society wishes to make the following additional remarks for the Ministry's consideration:

1. Enforcement of Maintenance Orders

Instead of parties having to go through long court hearings, we propose a government agency or process be established to assist in the review of enforcement of maintenance orders.

2. Simplification of the current nomenclature to reduce acrimony

The Law Society proposes the removal of the term "access" from the phrase "care, control and access" and we submit that consideration may be given to the usage of similar alternative terms such as "shared parenting time" and "contact time". Similarly, for family matters, consider replacing the terms "plaintiff" and "defendant" with "husband", "wife" and "primary resident".