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Australian Government
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Submitted via email to: FamilyReportWriters@ag.gov.au

Dear Sir/Madam

Australian Psychological Society response to the consultation about improving the competency and accountability of family report writers

Thank you for the opportunity to provide a submission in response to the consultation about improving the competency and accountability of professionals who prepare family reports, including psychologists, social workers and psychiatrists.

The Australian Psychological Society (APS) is responsible for promoting excellence and ethical practice in the science, education and application of psychology as the key discipline for reducing the burden of mental ill-health and increasing the wellbeing and performance of all Australians.

The APS commends the Government's commitment to progress reforms that address concerns raised in the previous Australian Law Reform Commission's (ALRC) 2019 report about the family law system. We note that this consultation relates to recommendation 53 of the ALRC report and the more recent recommendation 9 of the Joint Select Committee (JSC) on Australia's Family Law System. These recommendations call for establishing mandatory standards, quality assurance processes and complaints mechanisms to ensure professionals who provide family reports and recommendations about parenting arrangements are competent and accountable in ensuring the best interests of children are served.

We note that there are different cohorts of family report writers. Family report writers may be assigned by courts (as family consultants) or engaged by the parties to legal proceedings (as single expert witnesses). As described in detail throughout the consultation paper, there is currently inconsistent standards, quality assurance mechanisms and complaints processes that apply to these different cohorts and family report writers with different professional backgrounds (psychology, social work and psychiatry).

Overall, the APS concurs with previous stakeholder feedback reported in the consultation paper that calls for clarity and consistency on the above matters. We strongly support the development of family report writing competency and quality assurance mechanisms that ensure the quality of forensic family assessment and reports, while also being efficient and proportionate so as not to unduly burden and disincentivise psychologists to practice in this area.

This APS submission is structured according to the three broad areas covered in the consultation paper:

- Part I - Family report requirements,
- Part II - Competency and quality of family report writers, and
- Part III - Complaints and accountability for competency and quality.

Part I - Family report requirements

Questions in this part of the consultation paper pertain to the definition of a family report and family report writer, the content of a family report, and also sought data on single expert witnesses.

The APS notes the current situation described in the consultation paper that the terms 'family report' and 'family report writer' are not defined in the Family Law Act 1975. Instead, various legislative, professional and operational approaches inform who can be a family report writer and the content of a family report. Further, the guidelines that aim to facilitate consistent and high-quality family reports are not legally binding, nor are they available to all family report writer cohorts.

The APS strongly supports the provision of a single definition of 'family report' and 'family report writer' which clarifies the purpose and application of the terms. These definitions should apply to all cohorts of family report writers (family consultants and single expert witnesses) and to psychology, social work and psychiatry professionals who are family report writers.

As described in the consultation paper, family report writers are considered social science experts and are usually psychologists, psychiatrists or social workers. Definitions of family report writers should specify which social science professionals have the necessary qualifications to perform the role of a family report writer. Psychologists should be one of the professions identified as qualified to write family reports. Psychologists are experts in human behaviour and social science with training in interpreting and applying research evidence. Psychologists also have advanced skills in report writing and information gathering methodologies such as interviewing, assessment and observation across the lifespan – all core skills that underpin the development of high-quality family reports. The APS acknowledges that professional registration as a psychologist does mean that all psychologists have the required competencies for family report writing and that achieving competency may require additional training.

The APS notes the consultation questions that ask about whether family reports prepared by family consultants should include child impact reports and specific issues reports (in addition to family reports); and whether specialised specific issues reports from single expert witnesses should be differentiated or excluded from the legislation. The APS would like to see these matters clarified to avoid inconsistency and confusion among cohorts of family report writers and those seeking the services of family report writers. Decision-making about which types of reports to include or exclude must be guided by what serves the best interests of the child.

The APS supports the adoption of a single set of mandatory standards that guides the minimum content to be included in family reports by all family report writers, regardless of their profession or cohort (family consultants or single expert witnesses). The process that the report writer undertakes also needs to be more clearly defined to ensure the child is heard, with both parents, on their own, and taking into account any disabilities or filters that may be barriers to the child speaking. For example, parties with disabilities like autism may be treated in a neurotypical fashion and often misheard or misinterpreted.

While the APS has members who work in the family law context and produce family reports, we do not have access to data to respond to the consultation question about the number of family reports prepared annually by psychologists as single expert witnesses. A departmental records review of family reports submitted to the court could likely reveal the number of reports per professional background.

Part II - Competency of family report writers and quality of family reports

Questions in this part of the consultation paper pertain to the registration and screening of family report writers, competencies and training of family report writers, and quality assurance mechanisms.

Given the complexity of family report writing and the weight that these reports typically carry, the APS strongly supports measures that ensure that the family report writer workforce is not only sufficient in number, but must be fit for purpose, appropriately qualified and have the requisite capacities and skills to conduct and report on an independent forensic assessment of a family from a social science perspective.

The APS endorses mechanisms that ensure all professional social science experts who produce family reports have the skills and competencies for family report writing and have access to, and engage in, appropriate CPD to maintain those skills and competencies.

Screening

As noted earlier in the response to Part I of the consultation paper, psychologists are registered health professionals and social science experts and should be one of the professions that is considered suitably qualified to prepare family reports. The APS notes the analysis in the consultation paper that identifies the challenges associated with the inconsistencies in registration status and screening for professionals who currently conduct family reports (psychologists, social workers and psychiatrists) and cohorts of family report writers (family consultants versus single expert witnesses).

Psychologists, however, have well-established and rigorous professional registration requirements regulated by AHPRA, including screening checks for criminal history and required disclosure for changes to criminal history, as summarised in the consultation paper. These screening checks apply to all AHPRA registered psychologists, including psychologists who work as family consultants or single expert witnesses. The APS strongly recommends the acceptance of existing AHPRA registration and screening processes for psychologists who are family report writers. We do not support family report writer screening checks that duplicate AHPRA screening checks for psychologists. This is inefficient and unnecessarily burdensome for psychologists and may disincentivise psychologists to write family reports.

Competency and training

The APS notes that the consultation paper includes a table of competencies identified by stakeholders as essential to forensic family assessment and report writing (Table 1, p. 13, consultation paper) and covers skills within the competency areas of:

- working with children (child development; attachment and the importance of children's relationships with family, kin and grandparents; child inclusive practice; impacts of parental separation and exposure to conflict),
- complex issues (such as family violence, child abuse, impact of substance abuse and mental health on parenting, trauma-informed practice, responding to risks e.g., suicide risk),
- working with diverse groups (Aboriginal and Torres Strait Islander families, disability, cultural competence, LGBTIQ+), and
- courts and report writing (rules of evidence, acting as a witness and cross-examination, understanding bias, and ability to produce family reports).

The APS argues that psychologists have robust assessment skills that underpin the competencies identified in Table 1, but also concurs with the statement in the consultation paper that the "forensic role is different to a health care and therapeutic treatment model of practice, although clearly draws on those [social science professionals] assessment skills" (p. 37). As noted already in this submission, the APS supports training and quality assurance processes that improve and monitor the competence of all family report writers.

The consultation paper enquires about available training courses that address the competencies outlined in Table 1. A sample of relevant APS education courses mapped against the Table 1 competencies is provided in the Appendix. These APS education courses are delivered nationally by leading experts and enable psychologists to meet their compulsory CPD as required by AHPRA.

Although not in the area of family report writing, the APS already offers a number of credentialing courses for psychologists and other health and counselling practitioners. For example, completion of the APS Practice Certificate in Disaster Support is a requirement for practitioner eligibility to join the Disaster Response Network (DRN) and be deployed to disaster-affected areas.

The APS is engaged in ongoing advocacy with the Government to support the development of other state-of-the-art training and credentialing programs for psychologists and other practitioners in areas relevant to the family report writer competencies. The APS is thus well-placed to develop training and credentialing courses for family report writing

Quality assurance mechanisms

The APS response to the list of options for enhancing competency and quality assurance mechanisms outlined in the consultation paper (p. 25-26) is noted in the table below.

Possible options for enhancing competency and quality assurance mechanisms	APS Position
<p>Revised standards: The standards, which are now 6 years old, could be revised in line with stakeholder feedback to ensure they are fit for purpose.</p>	<p>The APS supports the revision of standards where they are not fit for purpose. To avoid inconsistency and confusion, revised standards must apply to all family report writers irrespective of cohort (family consultants or single expert witnesses) and profession (psychologists, social workers and psychiatrists).</p> <p>The APS regularly works with the Government and other agencies to inform the establishment of standards, processes and tools. We would welcome the opportunity to be involved in the revision of these standards for family report writers.</p>
<p>Mandated standards: All professionals engaged in family report writing could be required to meet a minimum standard prescribed by regulations. Standards could include:</p> <ul style="list-style-type: none"> • minimum qualifications, skills and competencies • required training on specific competencies • registration requirements • the need for a vulnerable persons/children check 	<p>The APS endorses mechanisms that ensure all cohorts and professions who produce family reports demonstrate they have the skills and competencies deemed requisite for family report writing and have access to and engage in appropriate training and CPD.</p> <p>The APS acknowledges the need for a consistent approach to working with children/vulnerable persons checks for family report writers given the absence of a consistent national approach to checks for registered and unregistered health professionals working with children/vulnerable people, and current inconsistencies in requirements for different cohorts of family report writers (family consultants and single expert witnesses).</p>
<p>Declaration: All professionals engaged in family report writing could be required to complete a competency declaration prior to being able to be appointed as a family report writer. A pro forma declaration could require information specific to the professional's education, qualifications and work experience relevant to report writing; identify relevant competencies, training and CPD acquired; declare any registrations or memberships; outline relevant screening checks; and confirm any quality assurance requirements that have been met (for example, employer oversight, peer review and mentoring/supervision).</p>	<p>The APS endorses the declaration approach which provides a single mechanism for all family report writers, irrespective of cohort or profession, to demonstrate to the appropriate quality assurance entity that all required registrations, screening, competencies, training/CPD, relevant quality assurance activities have been met.</p> <p>Declaration approaches are familiar to AHPRA registered health professionals and are relatively efficient for professionals and quality assurance entities.</p>
<p>Training and CPD: Key industry bodies could establish or endorse training sufficient to meet relevant family report writing competencies. A specific family report writer training program aimed at achieving or recognising agreed competencies could also be developed.</p>	<p>The APS as an industry body for psychologists has an important role to play in establishing and delivering training and credentials to develop family report writing competencies.</p> <p>As already noted, the APS has advanced capacity to provide quality, evidenced-based education and credentialing across a national footprint for members and non-members, including other health professionals.</p>

<p>Quality assurance documents: Quality assurance checklists could be developed and made available to support all family report writers to produce high quality family reports and assessments.</p>	<p>The APS supports the development of quality assurance guides and checklists that apply to all family report writers irrespective of cohort and profession.</p>
<p>Quality assurance processes: Family report writers could be required to have all or some of their reports reviewed by another professional at specified periods.</p> <p>Similar to CCS and FCCCS processes, new family report writers could be required to work under the supervision of a more experienced report writer for their first few reports.</p>	<p>The APS is supportive, in principle, of mechanisms that support the training and development of family report writers who are new to family report writing.</p> <p>This can increase the number of psychologists and other professionals who are willing to become family report writers while assuring the quality of reports produced by less experienced family report writers.</p> <p>Concerns that would need to be addressed include ensuring supervisors are sufficiently skilled and supported and that funding is provided to cover the costs of supervision.</p>
<p>Auditing of reports: Family report writers could be required to provide their reports to a suitably qualified auditing entity on a prescribed basis for the purposes of quality assurance.</p>	<p>The APS supports, in principle, report audits that check the quality of family reports against standards, guides and checklists that apply to all family report writers.</p> <p>Concerns that would need to be addressed include ensuring auditors are sufficiently skilled and supported, that funding is provided to cover the costs of audits, and there are clearly articulated standards for the timeliness and quality of audit feedback and responses to audit outcomes.</p>
<p>Public register: A public register of family report writers could be developed where professionals outline their relevant qualifications and expertise.</p>	<p>The APS supports a quality assurance register that provides the public with a way to check that a family report writer meets the minimum requirements deemed necessary by the appropriate quality assurance entity. This might be similar to the “Look up a practitioner” search feature on the AHPRA site. Information such as family report writers’ qualifications can be included.</p> <p>Allowing family report writers to self-report areas of expertise on the same platform presents as more challenging to administer from a quality assurance perspective.</p> <p>The APS has Australia’s largest searchable database of psychologists in private practice, the <i>Find a Psychologist</i> platform, which has almost 700,000 searches each year and helps Australians connect with a psychologist. This platform is available to our member psychologists to specify their areas of expertise, including family report writing expertise.</p>
<p>Registration requirements: Family report writers could be required to register with a relevant registration body. Registration could provide recognition that a person engages in CPD, has certain competencies, and meets relevant screening tests.</p>	<p>The APS strongly supports the requirement for all professions to be registered with the relevant registration body. As noted earlier, psychologists have well-established and rigorous professional registration requirements regulated by AHPRA, including screening checks for criminal history and required disclosure for changes to criminal history, as summarised in the consultation paper.</p>

	<p>These screening checks apply to all AHPRA registered psychologists, including psychologists who work as family consultants or single expert witnesses. The APS strongly recommends the acceptance of existing AHPRA registration and screening processes for psychologists who are family report writers.</p>
<p>Accreditation scheme: Accreditation is the act of granting formal recognition that the services provided by that entity or person, are delivered to or exceed a pre-determined set of minimum quality standards covering a range of service delivery aspects. Similar to and an extension of a registration process, this could involve an application and assessment process showing the individual has appropriate qualifications and competencies and has met relevant screening tests. An individual could be required to verify that they have undertaken CPD to maintain accreditation.</p>	<p>The accreditation scheme as described seems overly burdensome and a potential deterrent for psychologists and other professionals to become family report writers. It is also inefficient for the quality assurance entity.</p> <p>Instead, the APS recommends the declaration approach (see above) with the addition of random sample audits requiring evidence of CPD or/and independent checks on criminal history as is the current practice of AHPRA and the National Psychology Board.</p>

Entities for competency development and quality assurance

The APS notes in Table 5 of the consultation report (p. 28) that there are roles proposed for various entities with regard to competency development and quality assurance processes for family report writers.

Quality assurance and audit mechanisms for psychologists (e.g., registration, competency, screening, audits, public register), including those who are family report writers, are the responsibility of AHPRA and the National Psychology Board (referred to as ‘existing regulators of family report writer professions’ in Table 5).

The APS as the peak body for psychologists (referred to as ‘industry associations’ in Table 5) is well placed to contribute to the review and development of family report writing standards, processes and tools; and develop and deliver professional development training and credentialing for psychologists and other health professionals who are family report writers.

Part III – Complaints and accountability

Questions in this part of the consultation paper pertain to complaints mechanisms, access to evidence and public identification of a family report writer.

The APS notes the complexity associated with addressing complaints in the family report writing context as described in detail in the consultation paper. Concerns and complaints relating to a family report or family report writer are expected to be raised within proceedings and tested through cross-examination. This has a number of limitations from the perspective of cross-examining party but also requires the family report writer to defend their competency in an adversarial and often hostile environment. All complaints to the court about family consultants are reviewed by their employer (the court service). In the case of psychologists, the complaint may also be lodged with and investigated by AHPRA/National Boards or the NSW Health Care Complaints Commission or the Queensland Office of the Health Ombudsman. The APS has an Ethics Committee which primarily considers matters where psychologists’ registration has been suspended, and ethical complaints lodged by members against other members.

Thus, a psychologist may potentially be subject to four complaints review processes when a complaint is made about them or a family report they have submitted. Further, as noted in the consultation paper, the nature of family report writing, which assess and critiques parenting capabilities, is also prone to vexatious and malicious complaints. Social media is used frequently by dissatisfied parties to criticise a family report writer. The APS concurs with the statement in the consultation paper that being the subject of multiple, time-consuming and stressful complaints processes may significantly deter psychologists from family report writing.

The APS strongly supports the implementation of mechanisms that improves the investigation and assessment of complaints for family report writers while also ensuring that family report writers are held accountable for practicing at a suitable standard.

As noted in the consultation paper, unnecessary investigations due to vexatious complaints without merit could be avoided through an initial complaints screening process by an entity comprising individuals with family law expertise and an understanding of the standards required for family report writing. Similarly, specialised investigators could be engaged for complaints warranting further investigation and to have oversight to consider cases where family report writers have had many complaints raised against them. Suitably expert psychologists must be included in these screening and special investigator panels. The process for investigating and managing complaints must also be consistent across family report writer cohorts and professionals. These processes must also be timely, procedurally fair, deliver proportionate responses to complaints, and be supported by a suitable training and education program.

The APS does not support a suggestion outlined in the consultation paper that family report writer interviews are recorded and could be made available as evidence to complaints investigators. As noted in the consultation paper, a number of serious risks are associated with recording interviews. The recording may become evidence and be available to all parties and subject to cross examination, increase the risk of abuse and lead to vulnerable parties, including children, being less likely to disclose critical information, and raise concerns about confidentiality.

Thank you again for the opportunity to respond to this consultation. We would welcome an invitation to be involved in next steps to revise and establish standards and the described mechanisms for improving the competency and accountability of family report writers. We would like to discuss further our capacity to leverage our professional education and credentialing expertise to develop training for family report writers.

If any further information is required from the APS I would be happy to be contacted through my office on (03) 8662 3300 or by email at z.burgess@psychology.org.au

Kind regards

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Chief Executive Officer

The APS would like to acknowledge and sincerely thank the members who so kindly contributed their time, knowledge, experience and evidence-based research to this submission.

Appendix

Sample of APS education courses mapped against competencies for family report writing

Family Report Writing Competency *	APS Education Courses
Children	
Child developmental stages and understanding of attachment	Children's mental health Module 1: Foundations Module 2: Child development Module 3: Assessment
Engaging with children and child inclusive practice Importance of children's relationships with their families, kinship families and grandparents	Conducting a child psychological assessment in the context of the family Module 1: Beginning a psychological assessment: When a child is referred where do we start Module 2: Conducting a psychosocial assessment: Thinking about the child in the context of the family Module 3: Conducting formal and informal assessment with the child Module 4: Building a bridge between assessment & treatment
Importance of children's relationships with their families and grandparents	Working collaboratively with parents and carers to support children's and adolescents' mental health
Complex issues	
Identifying and assessing family and domestic violence, including coercive control Understanding the intersection of family violence, child protection and family law	Intimate partner violence Module 1: Recognising and responding Module 2: Working with survivors Module 3: Working with perpetrators, couples and children
Trauma informed practice and impacts of trauma on adults and children	Trauma-informed practice Module 1 Trauma theory: The impact of developmental trauma on individuals Module 2: Applying trauma theory to systems Module 3: Creating healing systems using trauma informed practice
Managing complex risks	Suicide prevention: A practitioner's guide Module 1: Values and beliefs Module 2: Theories and models Module 3: Understanding the experience of the suicidal person Module 4: Different groups at risk of suicide Module 5: Responding to a client who is suicidal Module 6: Crisis intervention Module 7: Professional practice issues Module 8: Self-care
Working with diverse groups	
Understanding disability	Intellectual disability Module 1: Mental health prevention and treatment in children and adolescents with intellectual disability

	<p>Module 2 Treatment for adults with an intellectual disability or cognitive impairment with challenging/offending behaviours</p> <p>Psychological and cognitive vulnerabilities of individuals with intellectual disabilities and the criminal justice system</p>
	<p>Autism Spectrum Disorder</p> <p>Module 1 - Foundations</p> <p>Module 2 - Assessment and diagnosis</p> <p>Module 3 - Identifying common co-morbidities</p> <p>Module 4 - Evidence-based practice</p>
Cultural competency	<p>Cultural competency</p> <p>Module 1: interviewing culturally and linguistically diverse clients</p> <p>Assessing culturally and linguistically diverse youth</p>
LGBTIQ+ identity and family dynamics	<p>Providing affirming care to transgender young people</p> <ul style="list-style-type: none"> • Module 1: An evidence-based approach to affirming care for transgender young people • Module 2: Case formulation for working with transgender young people
Aboriginal and Torres Strait Islander families	Cultural safety in trauma-informed practice
Courts & report writing	
	<p>Psychology within the legal context</p> <p>Module 1: Exploring psychology in the legal context</p> <p>Module 2: Practicing psychology in the legal context</p>
	<p>Psychologists as expert witnesses</p> <p>Module 1: An overview</p> <p>Module 2: The fundamentals</p>

* Competencies identified in *Improving the competency and accountability of family report writers Consultation Paper*, Table 1, p. 13.