

## *Complaints relating to Social Workers and the Family Court of Australia & Federal Circuit Court of Australia*

### **What is the Australian Association of Social Workers (AASW)?**

The Australian Association of Social Workers Ltd (AASW) is the professional association for qualified social workers. One of the AASW's key activities is to ensure ethical conduct by its members. In order to be a member of the AASW, social workers need to have completed an accredited Australian social work program or an equivalent program from another country.

Not all social workers are members of the AASW. Membership is voluntary, however many social workers join the Association because it provides them with a strong connection to their profession, immediate recognition as a tertiary qualified social worker from an AASW Accredited university program, professional indemnity and public liability insurance and opportunities for recognition of continuing professional development.

### **What happens when a social worker behaves unethically?**

The Ethics Complaints Management Process (ECMP) is the AASW's formal system for receiving and responding to complaints about alleged serious ethical misconduct of its members.

Information about the AASW Ethics Complaints Management Process (ECMP) can be found at the following link: <https://www.aasw.asn.au/information-for-the-community/making-a-complaint>

### **What if a social worker undertakes work for the Family Court of Australia or Federal Circuit Court?**

The Family Court of Australia and Federal Circuit Court employ social workers directly and also contract self-employed social workers to act as Family Consultants. Family Consultants are social workers and/or psychologists who specialise in child and family issues after separation.

Family Consultants work with families and children to provide preliminary advice to court about children's experiences of separation and provide options for the management of the matter. They also undertake family assessments, report to the court and provide expert evidence about the best arrangements for children after separation.

The AASW is generally prohibited by virtue of [section 121](#) of the *Family Law Act 1975* from receiving and responding to complaints about social workers (whether a Family Consultant or not) that relate to **proceedings** of the Family Court of Australia and Federal Circuit Court including anything relating to the **content** of a report prepared for the purposes of the court proceedings. This includes complaints relating to a court-ordered activity.

## **In what circumstances might the AASW or the Family Court of Australia or Federal Circuit Court be able to investigate a complaint about a social worker undertaking work in relation to a Family Court process?**

If a social worker working in the above capacity, engaged in professional ethical misconduct *incidental* to the contents of a report, but not directly related to the **content** of a report (e.g. report writer requesting a sexual act in exchange for a favourable report), this is something that may be addressed, either by the Family Court of Australia or the Federal Circuit Court during or at the conclusion of the matter before the court. The AASW may have potential to investigate such matters following the conclusion of the matter before the court.

On the other hand, an allegation for example, of bias on the part of the report writer, should be addressed through the court process and the AASW would be unable to respond to a complaint relating to an allegation such as this, as it would require the AASW to consider prohibited material, such as the content of a report.

## **What is the AASW's position on complaints about Family Consultants?**

It would be the AASW's preference that its ECMP could apply equally to all its members, including member social workers who undertake work for the Family Court of Australia and Federal Circuit Court. However, the AASW is legally required to work within the bounds of the *Family Law Act 1975*.

The AASW has obtained independent legal advice regarding the AASW receiving and responding to complaints against members who undertake work for the Family Court of Australia and Federal Circuit Court. The AASW's legal advice is that the publication or dissemination to the AASW of any part of Family Court proceedings which might identify parties and witnesses, or persons related to the proceedings would be an offence.

Irrespective of that position, section 121 of the *Family Law Act* also prohibits the AASW from disseminating the same information to members of the public or to a section of the public. This means that the AASW is unable to disseminate the information (e.g. to witnesses or investigators) for the purpose of investigating and determining the complaint.

Further, section 121(9) sets out the exemptions to section 121. The AASW's legal advice is that the exemption in section 121(9)(f) would not apply to a professional body, such as the AASW.

In addition to the prohibition under section 121, a complaint against a Family Consultant (or the complaints process) has the potential to be in contempt of the Family Court of Australia or Federal Circuit Court.

## **What if I want to make a complaint about a Family Consultant in relation to work undertaken for a Family Court of Australia or Federal Circuit Court process?**

Complaints about social workers who are Family Consultants are proper matters for the attention of the Family Court of Australia or Federal Circuit Court. There is accord between the professional standards to which the AASW holds its members accountable, and the standards to which the Family Court of Australia and Federal Circuit Court holds its Family Consultants accountable.

Issues arising in a Court through the judicial process ought first and foremost to be resolved through that process. Neither the administration of the Court nor the AASW can interfere with the conduct of proceedings by a Judge.

## Family Court of Australia National Enquiry Centre

The National Enquiry Centre (NEC) is the entry point for all telephone and email enquiries on Family Law Court matters (Family Court of Australia and Federal Circuit Court).

National Enquiry Centre

Opening Hours: 8.30am–5.00pm, Mon–Fri (AEST)

Phone: 1300 352 000 (except WA)

### [Family Court of Western Australia](#)

Opening Hours: 8.00am – 5.00pm (AWST)

Phone: 08 9224 8222

Country Areas Free Call: 1800 199 228

If you wish to make a formal complaint to the Family Court of Australia or Federal Circuit Court, you can write to the Client Feedback Coordinator at:

Client Feedback Coordinator

Family Court of Australia

PO Box 9991

CANBERRA ACT 2601

Or email: [clientfeedback@familycourt.gov.au](mailto:clientfeedback@familycourt.gov.au)

Additional information about making a complaint to the Family Court of Australia can be found at: [fccoa.gov.au/policies-and-procedures/complaints-policy](http://fccoa.gov.au/policies-and-procedures/complaints-policy)