Family Law SECTION | Law Council OF AUSTRALIA

9 October 2026

Senator Ellie Whiteaker
Chair, Community Affairs Legislation Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

By email: community.affairs.sen@aph.gov.au

Dear Chair

Child Support and Family Assistance Legislation Amendment (Ending Financial Abuse in the Child Support Scheme No. 1) Bill 2026

1. The Family Law Section of the Law Council of Australia (the **Section**) welcomes the opportunity to contribute to the Senate Community Affairs Legislation Committee's inquiry into the Child Support and Family Assistance Legislation Amendment (Ending Financial Abuse in the Child Support Scheme No. 1) Bill 2026 (the **Bill**).

2. The Section supports the objective of the Bill, which is to strengthen protections within the child support scheme and reduce opportunities for systems and financial abuse. The Bill responds to, among other reviews, the Commonwealth Ombudsman's June 2025 report *Weaponising Child Support: when the system fails families*.[1]

3. The Section largely supports Schedules 2 and 3 of the Bill. Its comments are directed mainly to Schedule 1 and concern procedural fairness, access to merits review, and the undefined terms on which the new discretions depend.

4. In this submission, the **Assessment Act** is the *Child Support (Assessment) Act 1989* (Cth), the **Registration and Collection Act** is the *Child Support (Registration and Collection) Act 1988* (Cth), and **EM** is the Explanatory Memorandum to the Bill.

5. For the reasons set out in this submission, the Section recommends as follows:

[1] Commonwealth Ombudsman, *Weaponising Child Support: when the system fails families* (June 2025).

Telephone +61 2 6246 3788 • *Email* mail@lawcouncil.au
PO Box 5350, Braddon ACT 2612 • Level 1, MODE3, 24 Lonsdale Street, Braddon ACT 2612
Law Council of Australia Limited ABN 85 005 260 622
www.lawcouncil.au

Recommendations

- **The Assessment Act should give guidance on the meaning of "harm" in proposed sections 30C and 98FA, through a non-exhaustive description of harm and of the matters the Registrar may take into account. For proposed section 98FA, those matters should include the principal object of the Act: that children receive a proper level of financial support from their parents.**
- **The Registration and Collection Act should give guidance on when an objection has "little or no prospect of being allowed", and on what is a "marginal impact", for the purposes of proposed section 84A.**
- **Where information is given to a party by oral summary, the Registrar should be required to confirm the summary in writing, or to provide it in writing on request.**
- **Where information is summarised, withheld or redacted, the Registrar's decision should identify the material on which the decision is based.**
- **A party should be able to redact, from material the party provides to the Registrar, details that would disclose the party's location.**
- **Consideration should be given to allowing direct applications from payees in all reciprocating jurisdictions or, failing that, to publishing the criteria by which jurisdictions will be specified.**

Schedule 1: Reducing harmful use of the child support scheme

Refusal of applications due to potential harm

6. Proposed section 30C of the Assessment Act allows the Registrar to refuse to accept an application for assessment made by a parent who would be the payer, where the Registrar reasonably believes that the other parent would experience harm if the application were accepted and is satisfied that the other parent does not want it accepted. Proposed section 98FA of the Assessment Act allows the Registrar to refuse to make a change of assessment determination where the Registrar reasonably believes that allowing the application to proceed would cause harm to a party, the child or any other person.

7. The Section supports both powers. It notes that each decision may be the subject of an objection and, after that, review by the Administrative Review Tribunal (**ART**).

8. "Harm" is not defined in the Bill. The EM states that what constitutes harm will depend on the circumstances of each case, and that the discretion in section 98FA is intended to be broad.[2] The Section accepts the need for flexibility. However, these are powers to refuse an application outright, and they will be exercised by delegates

[2] Explanatory Memorandum, [40], [69].

of the Registrar who are not ordinarily legal practitioners. Guidance in the Assessment Act would promote consistent decisions.

9. A suitable model is section 102QAC of the *Family Law Act 1975* (Cth), which deals with harmful proceedings orders. Adapted to child support, the Act could provide that harm may include, but is not limited to:

   (a) psychological harm or oppression;

   (b) major mental distress;

   (c) a detrimental effect on a person's capacity to care for a child; and

   (d) financial harm, other than the effect of child support being assessed or varied in accordance with the Act.

10. The qualification to financial harm is needed because, unlike proceedings under the Family Law Act, the remedy sought in a child support application is itself financial. Without it, a parent could argue that a properly made application to assess or vary child support causes them financial harm.

11. The Assessment Act could also provide, again by analogy with section 102QAC of the Family Law Act, that the Registrar may have regard to the history of applications, objections and reviews between the parents under the child support legislation, whether one parent has frequently made applications concerning the other, and the cumulative effect of any harm.

12. In deciding whether to refuse an application under proposed section 98FA, the Registrar should also be required to have regard to the principal object of the Assessment Act, which is "to ensure that children receive a proper level of financial support from their parents".[3] The power is not confined to applications that seek to reduce child support, and a refusal may leave in place an assessment that does not reflect a parent's capacity to support the child.

Summary dismissal of objections

13. The proposed insertion of section 84A to the Registration and Collection Act allows the Registrar to dismiss an objection, without taking further action, if satisfied that the objection has little or no prospect of being allowed, or that allowing it would have no impact, or only a marginal impact, on the assessment, the annual rate of child support or the substance or effect of the decision.

14. The Bill provides that the Registrar must give the objector written notice of the dismissal, with reasons and a statement of the right to apply to the ART. The other parent is not notified, so that they are not drawn into the process unnecessarily.[4] The Section supports this approach.

---

[3] *Child Support (Assessment) Act 1989* (Cth), subsection 4(1).
[4] Explanatory Memorandum, [92].

15. Neither “little or no prospect” nor “marginal” is defined, although the EM gives examples,[5] however the Section suggests that further guidance is contained in primary legislation. An objection with little or no prospect of being allowed could include one that seeks an outcome the Registrar has no power to give, or one that is not supported by any evidence. A marginal impact could be described by reference to the effect on the annual rate of child support, for example a change of less than 10 per cent.

16. A dismissal under proposed section 84A is reviewable directly by the ART. On review, the ART may set aside the dismissal and order the Registrar to deal with the objection; it does not decide the objection itself.[6] The EM explains that this preserves the other parent’s opportunity to take part.[7] The Section accepts this reasoning. It adds a step for an objector whose objection had merit, and remitted objections should be dealt with promptly.

Information exchange

17. The Bill removes the mandatory exchange of documents in the change of assessment and objection processes. In its place, the Registrar gives the other party the information the Registrar is satisfied is relevant, in any way the Registrar thinks fit, by oral summary, by written summary, or by a copy provided in whole or in part, with or without redaction.[8] The change follows a recommendation of the Commonwealth Ombudsman’s report.[9]

18. The Section supports the inclusion of flexibility to be able to redact sensitive details such as a person’s address, phone number or bank details when sharing information.

19. The Section’s concern is grounded in procedural fairness. Child support decisions rely heavily on financial material such as bank statements. A party cannot properly respond to, or have confidence in, a decision without knowing the substance of the material on which it is based. Under the Bill, the Registrar alone decides what is relevant and in what form it is given. The new model also applies in every case, not only where a safety risk has been identified.

20. The Section suggests three modest changes to address this concern:

    (a) Written record. An oral summary leaves no record, and the two parties may understand it differently, which is likely to increase objections and review applications. An oral summary should be confirmed in writing, or provided in writing on request.

    (b) Material relied on. The Registrar’s decision should identify the material on which it is based, including information the Registrar already holds or obtains under

---

5 Ibid, [190]-[191].
6 Proposed section 95AA(2).
7 Explanatory Memorandum, [95].
8 Proposed sections 98G, 98GA and 98N of the *Child Support (Assessment) Act 1989* (Cth), and proposed sections 85 and 85A of the *Child Support (Registration and Collection) Act 1988* (Cth).
9 Commonwealth Ombudsman, *Weaponising Child Support: when the system fails families* (June 2025), recommendation 7(d).

section 161 of the Assessment Act or section 120 of the Registration and Collection Act.

(c) Redaction by the party. Parties already redact location details in some cases. A party, particularly one protected by a family violence order, should be able to redact details that would disclose their location from material they provide. This protects that person while still giving the other party the relevant financial information.

Schedule 2: Strengthening collection arrangements

21. The Section supports Schedule 2.

Schedule 3: Improving access to child support for overseas payees

22. The Section supports Schedule 3. It allows the Minister to specify, by legislative instrument, the reciprocating jurisdictions from which a payee may apply directly to the Registrar.[10] The EM indicates that the specified jurisdictions may be relatively few.[11] The Section suggests that consideration be given to allowing direct applications from all reciprocating jurisdictions or, failing that, to publishing the criteria by which jurisdictions will be specified.

Further assistance

Should you wish to discuss further, in the first instance please contact the Section's Executive Officer Liz O'Grady [redacted]

Yours sincerely



Jason Walker
Chair, Family Law Section

[10] Proposed section 29B(4) *Child Support (Assessment) Act 1989* (Cth).
[11] Explanatory Memorandum, [514].