



SUBMISSION TO THE STANDING COMMITTEE ON SOCIAL POLICY AND LEGAL AFFAIRS INQUIRY INTO FAMILY, DOMESTIC AND SEXUAL VIOLENCE 2020

Submitted by:	Victorian Women Lawyers Association Inc (VWL) and Australian Women Lawyers Limited ACN 080 044 800 (AWL)
Sent by email to:	Committee Secretary House of Representatives Standing Committee on Social Policy and Legal Affairs PO Box 6021 Parliament House Canberra ACT 2600
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About us

Victorian Women Lawyers

Victorian Women Lawyers (**VWL**) is a voluntary association that promotes and protects the interests of women in the legal profession. Formed in 1996, VWL currently has approximately 600 members. VWL provides a network for information exchange, social interaction and continuing education and reform within the legal profession and broader community.

Since 1996, VWL has advocated for the equal representation of women and promoted the understanding and support of women's legal and human rights by identifying, highlighting and eradicating discrimination against women in the law and in the legal system, to achieve justice and equality for all women.

Details of our publications and submissions are available at www.vwl.asn.au under the 'Publications' section of the website.

Australian Women Lawyers

Australian Women Lawyers (**AWL**) is a justice and equity champion advancing women in the legal profession and beyond.

AWL is incorporated under the *Corporations Act 2001* (Cth) as a company limited by guarantee and is governed by a board of directors comprising representatives from each State and Territory women lawyers' association. AWL is the peak representative body for women lawyers' associations throughout



Australia. AWL's current Patron is the Chief Justice of the High Court of Australia, the Honourable Susan Kiefel AC.

The objects of AWL are to:

1. achieve justice and equality for all women;
2. further understanding and support for the legal rights of all women;
3. identify, highlight and eradicate discrimination against women inherent in the legal system and in the community generally;
4. advance equality for women in the legal profession;
5. create and enhance awareness of women's contribution to the practice and development of law; and
6. provide a professional and social network for women lawyers.

Overview of submission

VWL and AWL welcome the opportunity to make a submission to the House Standing Committee on Social Policy and Legal Affairs Inquiry into Family, Domestic and Sexual Violence and supports a holistic approach to addressing the primary prevention, and response to family violence that is safe, supportive and non-discriminatory to the needs of women and children in accessing justice.

In 2019, the United Nations reported that 'home' is the most dangerous place for women and children.¹ With more people staying at home to reduce the spread of COVID-19, there is a greater risk of violence against women and children. As a result, VWL and AWL urgently call on all family violence state-wide courts across Australia to introduce urgent COVID-19 lists and provide virtual court hearings. VWL and AWL submit that funding priorities should continue to focus on housing and technology support for family violence services during pandemic restrictions.

Long-term, VWL and AWL support both legislative and policy reform to better support victim-survivors and the prevention or recurring violence, however emphasises a whole-of-population broader social and cultural shift that addresses the primary drivers of violence. This must occur for true long-term change, including a shift in attitudes regarding the understanding of the gendered nature of family violence, and the socio-economic and coercive control that underpins violence against women.

¹ See generally: United Nations Office on Drugs and Crime, 'Home, the most dangerous place for women, with majority of female homicide victims worldwide killed by partners or family, UNODC study says' (Press Release, 25 November 2018) <<https://www.unodc.org/unodc/en/press/releases/2018/November/home--the-most-dangerous-place-for-women--with-majority-of-female-homicide-victims-worldwide-killed-by-partners-or-family--unodc-study-says.html>>.

Including for example, gender norms which contribute to inequality such as women being more likely to find themselves in low paying, insecure jobs, affecting their ability to support themselves and their children.²

VWL and AWL hope that any law reform in relation to this issue is inclusive and sensitive to the needs of all female identifying people, including women from culturally and linguistically diverse communities (CALD), Indigenous and Torres Strait Islander women, LGBTQIA+ people, as well as those living in rural areas or with a disability. VWL and AWL hope that legislative change will be part of a broader policy approach targeted at primary prevention and safe response, including providing funding to appropriate programs, specialist family violence organisations and encouraging community education to address gender violence and victim blaming.

VWL and AWL endorse the recommendations to this Inquiry submitted by Women's Legal Service Victoria (WLSV), a not-for-profit organisation that provides free legal services to women experiencing disadvantage to address legal issues arising from relationship breakdown or family violence. WLSV's recommendations for reform are based upon the lived experiences of the women they represent, and the experiences of their lawyers. These recommendations include:

1. Shared definition and response to family violence as coercive control;
2. Integrated socio-legal models to address the complex needs of victim-survivors;
3. Early judicial determination of family violence;
4. Removal of presumptions in the family law system;
5. Expand existing models of Legally Assisted Family Dispute Resolution (LAFDR) in family violence matters; and
6. Improve the financial security of women after relationship breakdown.

Summary of recommendations

In summary, VWL and AWL make the following recommendations:

- 1.1 Urgent technology and housing support and the establishment of an urgent COVID-19 family violence list;
- 1.2 Support for and establishment of further specialist socio-legal services;
- 1.3 Promote primary prevention and gender equality;
- 1.4 Promote community involvement, promote positive male attitudes and education for young people on developing respectful relationships;

² House of Representatives Standing Committee on Social Policy and Legal Affairs, Parliament of the Commonwealth of Australia, *A better family law system to support and protect those affected by family violence* (Submission, December 2017) 149-155 ('*A better family law system to support and protect those affected by family violence*').

- 1.5 Expand and improve perpetrator intervention programs and support services for men;
- 1.6 The adoption of nationally consistent definitions and data recording practices.

Comments on the Terms of Reference for Consideration

A. Urgent recommendations

1.1 Recommendation: Urgent technology and housing support and the establishment of an urgent COVID-19 family violence list

The COVID-19 pandemic has increased women's vulnerability to all forms of gender-based violence. The United Nations Population Fund has predicted, that for every three months that lockdowns continue, an additional 15 million cases of domestic violence will occur worldwide.³ The UN Secretary-General has labelled violence against women the 'shadow pandemic'.⁴

VWL and AWL commend the Australian Government's funding released in March of this year to support resourcing family violence services during the pandemic and the Victorian Government's funding to cover short-term accommodation and meet increased demand, including technology support.

However specialist services have reported that there has been a lag time on the actual delivery of this funding initiative.⁵ VWL and AWL recognise the complexities involved in addressing the shadow pandemic and confirm that the complexity of family violence has increased as follows:

- Women have reported that during the COVID-19 pandemic, the frequency and severity of violence against women has increased.⁶
- Specialist services are also reporting that women are experiencing a reduced ability to seek help due to technology-facilitated abuse, where perpetrators have increased ability to monitor phone use of victims. Victims find it difficult to seek help or make appointments when they are at home with the perpetrator.⁷

³ United Nations Population Fund, 'New UNFPA projections predict calamitous impact on women's health as COVID-19 pandemic continues' (Press Release, 28 April 2020) [5] <<https://www.unfpa.org/press/new-unfpa-projections-predict-calamitous-impact-womens-health-covid-19-pandemic-continues>>.

⁴ See generally: United Nations Women, 'Violence against women and girls: the shadow pandemic' (Press Statement, 6 April 2020) <unwomen.org/en/news/stories/2020/4/statement-ed-phumzile-violence-against-women-during-pandemic>.

⁵ Naomi Pfitzner, Kate Fitz-Gibbon and Jacqui True (Monash University), *Responding to the 'Shadow Pandemic' Practitioner views on the nature and responses to violence against women in Victoria, Australia during the COVID-19 restrictions* (Report, 2020) 16 ('*Responding to the 'Shadow Pandemic'*).

⁶ Ibid.

⁷ Ibid.

- Perpetrators are using the pandemic to inflict new forms of violence and control including social isolation 'to protect them', which has long been recognised as a form of coercive control. Perpetrators have also demanding that women wash their hands and body excessively and spreading rumours that victims had contracted COVID-19 so that no one would approach the victim.⁸

VWL and AWL call on the Government to continue to provide funding for emerging innovations and resources that assist in responding to women experience violence. Following the pandemic, such resources will continue to be useful for support services to engage with women living in rural areas, having difficult accessing public transport (due to safety or disadvantage), mothers living with small children and women with disabilities.

In addition to continued focus on safe housing shortages for women and children experiencing and fleeing from violence, VWL and AWL support the following innovations which specialist services have reported using during the pandemic:⁹

- Utilising virtual platforms, such as Zoom, Microsoft Teams and WhatsApp for service delivery, including contact, safety planning and risk assessment;
- Setting up alert systems to signal when help is needed;
- Integrating family violence support into essential services, such as GP clinics and Centrelink, and using these venues for first-time face-to-face appointments;
- The use of Gruveo, an encrypted web-based video call link that does not require users to download an app, making it undetectable on devices;
- Supporting the development of apps like Daisy app, developed by 1800Respect; and
- Partnering with transport services like, Shebah, an all-women rideshare company, to provide safe transport and goods delivery for women and children experiencing and/or at risk of violence.

VWL and AWL also endorse WLSV's recommendation of the establishment of a special COVID-19 list for family law matters. Since that recommendation, the family law courts have introduced such a list. VWL and AWL seek that a similar list be introduced for all family violence state-wide courts across Australia to introduce urgent COVID-19 lists and provide virtual court hearings by request.

⁸ *Responding to the 'Shadow Pandemic'* (n 5).

⁹ *Ibid.*

1.2 Recommendation: provide further support and develop more specialist socio-legal services

On average, one in four women have experienced violence by a partner since the age of 15 in Australia.¹⁰ However 1 in 2 women never sought advice or support and 9 in 10 women do not contact the police following abuse from a partner.¹¹ Although the exact numbers are unknown, these numbers would have no doubt worsened during the pandemic. In recognising the myriad of issues associated with leaving a domestically violent relationship, policy and reform should be informed by an integrated services model (an all services approach to assisting women leaving domestically violence relationships).

WVL and AWL endorse WLSV's recommendation that women and their children need to receive holistic support including health, housing, education, employment and legal assistance. Integrated socio-legal models can address the complex needs of victim survivors. Specialist family violence support services like WLSV operate from a trauma-informed practice, where they can address multiple issues and support to significantly reduce the trauma and financial hardship and improve safety for women.¹²

Economic and social wellbeing is critical for women and their children who have been victims of violence to rebuild their lives. Services need to be equipped to support this.

The social and legal support services available to women in specific demographics have been identified as a major barrier in women being able to escape the violence. The crisis response and risk management model utilised by support services often means that women in rural, regional and remote areas who are geographically isolated are not able to access outreach services.¹³ In addition migrant women reported difficulties with service providers including misinterpretation by interpreters in court settings and their ability to obtain accurate information concerning the legal process¹⁴.

Changes to support services are required to ensure that they can provide the necessary services to these women, including the provision of social housing, urgent medical care, economic support and employment opportunities. A collaborative approach between state and local government and

¹⁰ Australian Bureau of Statistics, *Personal Safety, Australia, 2016* (Catalogue No 4906.0, 8 November 2017).

¹¹ Australian Institute of Health and Welfare, *Family domestic and sexual violence in Australia: continuing the national story* (Report, 2019) 11 <https://www.aihw.gov.au/getmedia/b180312b-27de-4cd9-b43e-16109e52f3d4/aihw-fdv4-FDSV-in-Australia-2019_in-brief.pdf.aspx?inline=true> ('*Family domestic and sexual violence in Australia: continuing the national story*').

¹² Appendix A.

¹³ Sarah Wendt et al, *Seeking help for domestic violence: exploring rural women's coping experiences* (Final Report, Issue 6, 2017) 50.

¹⁴ See generally: Cathy Vaughan et al, *Promoting community-led responses to violence against immigrant and refugee women in metropolitan and regional Australia: the ASPIRE Project* (Report, December 2015).

community groups to address the deficiencies in services should be established, with a direct focus on immediate responses available to women affected by violence.

Further funding for multi-disciplinary training for professionals (including, but not limited to, police, lawyers, judicial officers, counsellors and other professionals working in the family violence/family law system) and education is required to develop more specialist services like WLSV that are trauma-informed and apply such services to women of different groups, and to provide better delivery of services for children, Indigenous women and women with disabilities. Further training for professionals can also assist the early identification of violence and avoid further misidentification of women as perpetrators.¹⁵

B. Long-term recommendations

1.3 Recommendation: promote primary prevention and gender equality

Family, domestic and sexual violence, although also impacting those identifying as male, is gendered in nature. Gender inequality is one of the main drivers of the perpetration of family, domestic and sexual violence against women. Only a broader social and cultural shift, which addresses the underlying attitudes which contribute to, and cause, violence against women, will long-term change truly be achieved.

The unequal distribution of power and resources between women and men and adherence to rigid or narrow gender roles continues to contribute to the prevalence and perpetration of violence. In Australia, women are nearly three times more likely than men to experience intimate partner violence and there is evidence that women with disability are more likely to experience violence.¹⁶ One woman is murdered every week by her current or former partner.¹⁷ Australia's full-time gender pay gap remains at 13.9% with women earning on average \$242.90 per week less than men. The gender pay gap is influenced by a number of factors including discrimination and bias in hiring and pay decisions, women's

¹⁵ See generally: Women's Legal Service Victoria, "Officer she's psychotic and I need protection": Police misidentification of the 'primary aggressor' in family violence incidents in Victoria' (Policy Paper 1, July 2018) <<https://www.womenslegal.org.au/files/file/WLSV%20Policy%20Brief%201%20MisID%20July%202018.pdf>>.

¹⁶ 'Quick facts', *Our Watch* (Web Page) <<https://www.ourwatch.org.au/quick-facts/>>, quoted in Australian Bureau of Statistics, *Personal Safety, Australia, 2016* (Catalogue No 4906.0, 8 November 2017).

¹⁷ Fiona Wade, 'Statement on announcement of new inquiry into domestic violence from Law Council President, Pauline Wright' (Press Statement, 31 May 2020) [3] <<https://www.lawcouncil.asn.au/media/media-releases/statement-on-announcement-of-new-inquiry-into-domestic-violence-from-law-council-president-pauline-wright>>.

disproportionate share of unpaid caring and domestic work, lack of workplace flexibility and women's greater time out of the workforce impacting career progression.¹⁸

Without primary prevention, the key attitudes, cultural norms, and social and structural conditions which underpin violence against women cannot be changed. Prevention requires individuals and communities to promote respect and equality and to reject violence in all forms.¹⁹ WLSV's recent discussion paper, *Starts with Us*, uses real life experiences from women and men in the legal and justice sector, to demonstrate how gendered constructions of masculinity and femininity and disrespect towards women and male peer relations, including condoning violence against women are all drivers of violence.²⁰

VWL and AWL support government primary prevention strategies which are implemented through a coordinated and holistic approach, including strategies such as social marketing, school-based education programs and mandatory educational programs across all workplaces which promote positive and equitable workplace cultures and confront controlling, macho and ultimately aggressive behaviours.

Broader social policy initiatives that address gender inequality and improve the status of women are critical to reducing violence against women in the long-term.

1.4 Recommendation: promoting community involvement, promote positive male attitudes and education for young people on developing respectful relationships

Research shows that social norms, attitudes and beliefs contribute to all forms of violence against women, whether it is emotional, psychological, economic, physical or sexual violence. Some of the strongest predictors for holding violence-supportive attitudes at the individual level are low levels of support for gender equality and following traditional gender stereotypes.²¹

Violence against women is a community problem that requires a community-wide response with a strategy aimed at encouraging people throughout Australia to embrace responsibility and take a role in encouraging equality, challenging gender stereotypes for all people, and preventing and reducing violence against women and children.

¹⁸ Workplace Gender Equality Agency, 'Australia's Gender Pay Gap Statistics' (Report, February 2020) 2 <<https://www.wgea.gov.au/data/fact-sheets/australias-gender-pay-gap-statistics>>.

¹⁹ Women's Legal Service Victoria, 'Sexism and gender inequality in the Victorian legal and justice sector' (Discussion Paper, 2019) 5 <<https://www.womenslegal.org.au/files/file/Starts%20With%20Us%20discussion%20paper.pdf>>.

²⁰ Ibid.

²¹ Department of Social Services, 'The National Plan to Reduce Violence against Women and their Children 2010 – 2022' (Report, August 2019) 14 <https://www.dss.gov.au/sites/default/files/documents/08_2014/national_plan_accessible.pdf>.

The promotion of community involvement and education is critical to addressing the higher incidence levels of domestic abuse and intimate partner violence within key populations groups. With one in ten Aboriginal and Torres Strait Islander women experiencing family and domestic violence,²² a focus on education based programs within the younger generations, delivered through school, outreach services or legal groups, is needed to shift the cultural norms prevalent within this demographic.

Women within specific population groups not only experience a higher incidence of domestic abuse, but are at risk of more severe outcomes and lack the support services needed to escape the abusive environment.²³

Service providers have identified that a major barrier for women with disabilities accessing support was knowing their rights and being able to identify domestic violence.²⁴ Women suffering from a long-term health condition or disability experience violence at a higher rate of 5.9% compared to 4.3% of the general population.²⁵ The provision of education programs through health and social services is essential to assist women in this population group in being able to identify when violence happens to them and what options are available when in seeking assistance.

Similarly, service providers have recognised that a lack of knowledge of the specific needs of the LGBTQIA+ community in regards to intimate partner violence and a generational view that intimate partner violence is limited to heterosexual relationships,²⁶ is a major barrier in women accessing essential support. A focus on expanding the field of knowledge and experience within the space is needed as a preliminary step to addressing domestic violence within this demographic.

School-based approaches that help young people identify inappropriate sexual or violent behaviour, and shape their expectations to build healthy relationships based upon equality will assist with long-term primary prevention.

1.5 Recommendation: Expand and improve perpetrator intervention programs and support services for men

VWL and AWL advocate for the continued and increased use of perpetrator intervention programs and support services, also known as Men's behaviour change programs (**MBCPs**) as part of a holistic

²² Australian Bureau of Statistics, *National Aboriginal and Torres Strait Islander Social Survey* (Catalogue No 4714.0, 2014-15).

²³ COAG Advisory Panel, 'Reducing violence against women and their children' (Final Report, 2012) 9-12.

²⁴ Leanna Dowse et al, 'Stop the Violence: Addressing Violence Against Women and Girls with Disabilities in Australia' (Background Paper, 2013), 51.

²⁵ Australian Bureau of Statistics, *Personal Safety, Australia* (Catalogue No 4906.0, 2016).

²⁶ Monica Campo and Sarah Tayton, 'Sexual violence and gay, lesbian, bisexual, trans, intersex, and queer communities' (Report, 2012) <<https://aifs.gov.au/cfca/sites/default/files/publication-documents/cfca-resource-dv-lgbti-2020.pdf>>.

approach to addressing family, domestic and sexual violence. Research demonstrates that 65% of men report that they are 'violence free' or almost violence free for two years after completing a course.²⁷

Following COVID-19 restrictions, Victorian services have reported an increase in service use. The average number of weekly referred calls to the Men's Referral Service, a national telephone counselling service operated by No to Violence, increased by more than 400 calls a week in Victoria compared to the same period last year.²⁸

Perpetrator intervention programs or MBCPs are important because they focus on making the perpetrators of family, domestic and sexual violence accountable and responsible for their violence towards family members. These programs ensure that the victims of family, domestic and sexual violence are not burdened with the responsibility of shifting the perpetrators' behaviours.

VWL and AWL recognise that perpetrator intervention programs may be more likely to be successful when the perpetrator is engaged with other support services to ensure that the perpetrator is responsive and committed to changing their behaviours.²⁹

When implementing MBCPs, VWL and AWL note that these programs need to ensure that they address the needs of women from all demographics, including CALD, Aboriginal and Torres Strait Islander people, the LGBTIQIA+ community and women living in rural and remote locations. Programs need to address the cultural and societal norms present in specific population groups to ensure a focus on preventing the continued perpetration of domestic violence.

1.6 Recommendation: adoption of nationally consistent definitions and data recording practices

VWL and AWL call for the adoption of nationally consistent definitions and data recording practices across the States, Territories, and pertinent sectors, including a shared definition of family violence as coercive control, nationally.³⁰ Furthermore, VWL and AWL recommend the use of alternative forms of

²⁷ Thea Brown et al, *A study of the impact on men & their partners in the short term & long term of attending men's behavior change programs*, (Australian First Printing, 2016) i.

²⁸ *Responding to the 'Shadow Pandemic'* (n 5).

²⁹ Rodney Vlasis et al, 'Family and domestic violence perpetrator programs' (Issues paper of current and emerging trends, developments and expectations, Stopping Family Violence Inc, 2017) 4 <<http://sfv.org.au/wp-content/uploads/2017/05/FDV-perpetrator-programs-issues-paper.pdf>>.

³⁰ Australian Bureau of Statistics, *Defining the Data Challenge for Family, Domestic and Sexual Violence, Australia* (Catalogue No 4529.0, 2013) 6 (*Defining the Data Challenge for Family, Domestic and Sexual Violence, Australia*).

data collection, such as administrative by-product data and surveys,³¹ to gain a more accurate understanding of the occurrence and frequency of family, domestic and sexual violence incidents.

The qualitative and quantitative evidence based around the reporting of violence is impacted by both difficulties in data collection, classification and measurement, and by barriers preventing victims from disclosing incidents.

Deficiencies in data collection and analysis include:³²

- Inconsistent and continually-evolving definitions of family violence across the States and Territories and across the courts, police, health and housing sectors – for example, support services are inclined to adopt a holistic approach to family, domestic and sexual violence incidents, whereas legal definitions tend to be more prescriptive.
- Inconsistent data recording practices across States, Territories and sectors.
- Hidden reporting: where a victim accesses support services but does not state family violence as the reason for the contact. For example, treatment for injuries may be recorded in the health system, without the underlying cause of injury being recorded.
- Under-recording: family, domestic and sexual violence often manifests as an ongoing pattern of behaviour, which can present difficulties in measurement and classification due to perceptions by victims that certain types of incidents are insufficiently severe to be reported, or due to procedural variations in recording incidents by authorities.

The quality of the evidence base is also affected by barriers which prevent victims from disclosing incidents and indeed violence remains chronically underreported in Australia.³³ These barriers include fear of retaliation; economic dependence on and fear of the perpetrator; shame and fear of not being believed; distrust in the criminal justice system; lack of access to support networks; cultural or language barriers; and lack of awareness around family, domestic and sexual violence support services.³⁴

Concluding remarks

In addition to the above recommendations, VWL and AWL encourage the Inquiry to listen and act on the expertise and recommendations of women's and specialist violence against women organisations, including organisations led by and working with women who experience multiple barriers to accessing

³¹ Ibid 17.

³² *Defining the Data Challenge for Family, Domestic and Sexual Violence, Australia* (n 34) 15.

³³ *Family domestic and sexual violence in Australia: continuing the national story* (n 12) 11.

³⁴ *Defining the Data Challenge for Family, Domestic and Sexual Violence, Australia* (n 34) 16.



support for domestic violence and multiple layers of discrimination, including racism, homophobia and discrimination on the basis of disability.

As a primary focus, VWL and AWL support whole-of-population legislative and policy initiatives to achieve broader social and cultural shifts as primary prevention. Such prevention is critical for true long-term change, without which, violence against women and children will continue to exist in our society.

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