

BRIEFING PAPER

FAMILY VIOLENCE

THE **ESSENTIAL** MEMBERSHIP FOR
THE LEGAL PROFESSION

Prepared by the Law Society of Western Australia

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FAMILY VIOLENCE

Issue

The vast majority of dangerous, abusive and violent behaviour that occurs in the privacy of people's homes is committed by men against women.

Background

The following basic statistics help demonstrate the prevalence and severity of violence against women:

- On average, at least one woman a week is killed by a partner or former partner in Australia.
- One in three Australian women over the age of 15 has experienced physical violence.
- One in five Australian women has experienced sexual violence.
- One in four Australian women has experienced physical or sexual violence by an intimate partner.
- One in four Australian women has experienced emotional abuse by a current or former partner.
- Women are at least three times more likely than men to experience violence from an intimate partner.
- Women are five times more likely than men to require medical attention or hospitalisation as a result of intimate partner violence, and five times more likely to report fearing for their lives.
- Of those women who experience violence, more than half have children in their care.
- Violence against women is not limited to the home or intimate relationships. Every year in Australia, over 300,000 women experience violence – often sexual violence – from someone other than a partner.
- Eight out of ten women aged 18 to 24 were harassed on the street in the past year.
- Young women (18 – 24 years) experience significantly higher rates of physical and sexual violence than women in older age groups.
- There is growing evidence that women with

disabilities are more likely to experience violence.

- Aboriginal and Torres Strait Islander women experience both far higher rates and more severe forms of violence compared to other women.

In early 2015, the Council of Australian Governments (COAG) agreed to take urgent collective action to address the unacceptable level of violence against women in Australia.

In May 2017, the Australian Law Reform Commission (ALRC) was directed to conduct the first comprehensive review into the family law system since the commencement of the *Family Law Act 1975* (Cth) (the Act).¹ The ALRC's *Review of the Family Law System: Discussion Paper* (Discussion Paper) was released in October 2018, asking 33 questions and making 124 proposals for change to the family law system.

Policy Position

Law Council of Australia

At the Law Council of Australia Directors' meeting on 27 June 2015, the Law Council established a new Domestic and Family Violence (DFV) Working Group to:

- promote the alignment of domestic violence order legislation;
- progress the cooperative information initiatives already commenced with the Australian Medical Association; and
- investigate opportunities for external funding.

The DFV Working Group is also responsible for reviewing the Government's Women's Safety Package, released in September 2015. The Package was welcomed by the Law Council, but it was noted that if we are serious about assisting victims of domestic and family violence then we must be serious about ensuring they have access to justice. Substantially greater funding for legal assistance is needed to ensure access to justice can be achieved (media release 24/09/15).

The Law Council provided a submission to the ALRC's Discussion Paper. The Law Council noted that whilst the Discussion Paper has a large scope, it did not address the failure by governments to properly resource the existing family law system, and whether the family law system would be the best practice model for family law if it were properly resourced.² The Discussion Paper also did not address the anticipated cost or funding of initiatives, or how current funding might be allocated between current services and new initiatives.

The Law Council agreed with numerous proposals in the Discussion Paper, but also noted that some of the measures duplicate provisions that are already in existence under the *Family Law Act 1975* (Cth).

Law Society of Western Australia

On 24 February 2014, the Law Society provided a submission to the Law Reform Commission of WA in response to their Enhancing Family and Domestic Violence Laws Discussion Paper.

The Society has representatives on the Law Council's DFV Working Group.

The Society also supports White Ribbon Day each year.

The [third and final report](#) of the COAG Advisory Panel on Reducing Violence Against Women and Their Children was provided to COAG on 1 April 2016. The Panel found that despite a lot of good work, rates of violence against women in Australia remain unacceptably high.

The Panel's final report includes 28 recommendations for COAG's consideration, with innovative, practical and deliverable options for further joint Commonwealth, state and territory work to reduce violence against women and their children.

Further, the Victorian Government's Royal Commission into Family Violence final report was tabled in Parliament on 30 March 2016. The Commission's 227 recommendations are directed

at improving the foundations of the current system, seizing opportunities to transform the way that we respond to family violence, and building the structures that will guide and oversee a long-term reform programme that deals with all aspects of family violence.

Funding implications

In early 2015, the COAG agreed to jointly contribute \$30 million for a national campaign to reduce violence against women and their children, and also created an action plan with numerous objectives, including the establishment of a national DVO scheme. In October 2018, the Federal Government confirmed that they will cease the funding of the Keeping Women Safe in their Homes program, for which they had provided funding of \$1.47 million which support more than 700 women and their families in 2017.³

The State Government committed to using emergency funding to organisations to ensure that services were not stopped, and committed more than \$20 million of new funding as part of a comprehensive plan to address family violence.⁴

Bill Shorten, then Leader of the Labor Party, announced that Labor would spend \$18 million on the Keeping Women Safe in their Homes program to extend it to 2021-22, as well as committing to developing a 10 year plan with the intention to reduce instances of domestic violence.⁵

The State Government also developed a \$1.6 million grant process to 'build cross cultural awareness of family and domestic violence to enable Aboriginal and culturally and linguistically diverse (CaLD) victims to access support services.'⁶ Applications for the grants were open until 14 February 2019, and were focused on assisting service providers, and raising awareness and skills within the Aboriginal and CaLD communities in responding to domestic and family violence.

NOTES

1. 'Review of the family law system', Australian Law Reform Commission (Web page, 31 May 2018) <<https://www.alrc.gov.au/inquiries/family-law-system>>.
2. 'Review of the Family Law System: Discussion Paper', Law Council of Australia (Web page) page 5 <<https://www.lawcouncil.asn.au/resources/submissions/review-of-the-family-law-system-discussion-paper>>.
3. Government of Western Australia, 'Federal Government fail to fund successful program to keep women safe' (Media Statement, 28 October 2018)<<https://www.mediastatements.wa.gov.au/Pages/McGowan/2018/10/Federal-Government-fail-to-fund-successful-program-to-keep-women-safe.aspx>>.
4. Ibid.
5. Paul Karp, 'Labor promises \$18m for anti-domestic violence program after funding discontinued', The Guardian (News article, 27 November 2018) <<https://www.theguardian.com/australia-news/2018/nov/27/labor-promises-18m-for-anti-domestic-violence-program-after-funding-discontinued>>.
6. Government of Western Australia, 'Grant to boost culturally appropriate domestic violence supports' (Media Statement, 20 December 2018) <<https://www.mediastatements.wa.gov.au/Pages/McGowan/2018/12/Grant-to-boost-culturally-appropriate-domestic-violence-supports.aspx>>.

Policy Position

The Law Society of Western Australia endorses the Law Council of Australia 2016 Federal Election Policy Platform and thereby seeks the support of all parties to:

- Properly fund courts dealing with family law matters, as well as family violence support services;
- Continue to develop and implement domestic violence strategies for particularly vulnerable groups, including Indigenous Australians and those from CALD communities; and
- Identify and implement measures designed to reduce the prevalence of domestic and family violence.



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