



YOUR
VOICE
AGAINST
VIOLENCE

Inquiry into Family, Domestic & Sexual Violence

Responses to Questions on Notice

Domestic Violence Victoria (DV Vic) thanks the Senate Committee on Social Policy and Legal Affairs for the opportunity to appear at the public hearings for the Inquiry into Family, Domestic and Sexual Violence. Please find below DV Vic's responses to questions taken on notice from the public hearing.

Lighthouse Project

The development of the Lighthouse Project within the Family Court of Australia is an important milestone that recognises the significant overlap between family violence and the family law system. For too long, the safety and needs of victim-survivors of family violence have not been met through their engagement with the family law system - in fact the system usually exacerbates their experience of family violence and leads to victim-survivors settling for less than what they deserve (for example, during property settlements) or having to compromise on their safety (for example, agreeing to shared parenting arrangements that continue to expose themselves and their children to the perpetrator of family violence). Therefore, DV Vic endorses a Family Court pilot of a specialist model for identifying and managing the safety of victim-survivors of family violence – adults and children - that provides a specialist pathway for them through the family law system based on early identification of family violence.

Any specialist family violence model within the Family Court must put the safety of victim-survivors at the centre, rather than the systems or predilections of the institution. While we understand that the Lighthouse Project is a pilot, and that it is an improvement on the status quo and will be used to inform future iterations and refinements to the model, we cannot ignore what is already known about family violence in the context of the family law system and family violence risk, identification, and management. The Lighthouse Project is not a specialist family violence response. It is based on a broad definition of risk and uses a universal screening tool to screen for family violence, child abuse, mental health and drug and alcohol risk, and high conflict. DV Vic recommends improvements to the project's family violence screening and triage tools and processes to ensure they include evidence-based family violence risk indicators to identify those at highest risk, put them on the specialist family court pathway, and provide them with specialist family violence support including safety planning. ANROWS has provided comprehensive guidance in *National Risk*

*Assessment Principles for domestic and family violence*¹ and Victoria has recently developed a sector-leading evidence-based multiagency risk assessment and risk management framework.²

Further, DV Vic recommends that practitioners implementing the model are specialist family violence identified positions, rather than generic family counsellors who have family violence experience yet who have multiple roles within the Family Court. This is required to ensure family violence expertise is applied and independent assessment and support is provided. Finally, DV Vic is concerned that the online self-report risk screening approach leaves the Lighthouse Project model vulnerable to vexatious and malicious use by perpetrators of family violence. Further safeguards are required to ensure perpetrators of family violence presenting as victims cannot use the model as a form of systems abuse, starting with utilising specialist family violence practitioners.

DV Vic is grateful for the briefings it has received on the Lighthouse Project from the Family Court and their responsiveness to our questions and feedback.

Proposal of a National Family Violence Commissioner

To the extent that responding to family violence sits within the Federal jurisdiction, DV Vic supports independent statutory oversight of the Federal Government's response to family violence. However rather than create and resource a National Family Violence Commissioner, DV Vic recommends that the remit of the existing Commissioners within the Australian Human Rights Commission all explicitly include monitoring family, domestic and sexual violence.

Flexible Support Packages

Flexible Support Packages (FSPs) were introduced in Victoria in 2015, when the government announced the allocation of \$12 million over four years to fund the program to assist with expenses experienced by victim-survivors escaping family violence.³

The program was expanded following recommendations from the Victorian Royal Commission into Family Violence. Further information related to the expansion of the FSP program is available [here](#) and details related to program requirements are available [here](#).

Criminalisation of Coercive Control as a Response to Technology-Facilitated Family Violence

While criminalising coercive control may provide a new criminal response to family violence, including technology-facilitated family violence, DV Vic argues that there is existing legislation that can be used or adapted to respond to this tactic of family violence, and which are potentially being underutilised within the

¹ ANROWS. (2018). *National Risk Assessment Principles for domestic & family violence*. Retrieved September 30, 2020 from <https://www.anrows.org.au/research-program/national-risk-assessment-principles/>

² State of Victoria. (2020). *Family Violence Multi-Agency Risk Assessment & Management Framework*. Retrieved September 30, 2020 from <https://www.vic.gov.au/family-violence-multi-agency-risk-assessment-and-management>

³ State of Victoria. (2016). *Royal Commission into Family Violence: Report and recommendations, Vol 1*, Parl Paper No 132 (2014–16). Victorian Government. <http://rcfv.archive.royalcommission.vic.gov.au/Report-Recommendations.html>

current criminal justice response. DV Vic refers the Committee to the [comprehensive summary of existing criminal and civil legislation related to tech-facilitated and image-based abuse that has been collated by WESNET](#).⁴ In relation to the use of spyware for example, analysis of legislation has shown that unless it is being used with consent of all parties ‘the operator is likely to violate a range of Australian laws ... related to harassment, stalking, fraud, identity theft, surveillance devices, computer offences, telecommunication offences, and breach of confidence’ (p.20).⁵ DV Vic believes that this demonstrates that while criminalisation of coercive control may provide new avenues for responding to technology-facilitated family violence via the criminal justice system, it is not due to an absence of existing legislation.

Existing Research on Criminalisation of Coercive Control

Please see attached articles and papers, as well as links below.

[Criminalising coercive control will not help victims of domestic abuse](#)

[What does it mean to criminalise coercive control?](#)

[Shifting Language & Meanings between Social Science and the Law: Defining Family Violence \(see section IV\)](#)

⁴ WESNET. (2020). *Women’s Legal Guides on Tech-Based Abuse*. Retrieved September 30, 2020 from <https://techsafety.org.au/resources/legal-guides/>

⁵ Molnar, A. & Harkin, D. (20019). *The Consumer Spyware Industry: An Australian-based analysis of the threats of consumer spyware*. Deakin University. <http://accan.org.au/grants/completed-grants/1435-risks-impacts-and-accountability-in-the-consumer-spyware-industry>