



Submission to the Attorney-General's Department

*Re: Amendments to the Family Law Act 1975 (Cth) to
Respond to Family Violence*

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Who we are

The Australian Association of Social Workers (AASW) is the professional body representing more than 10,000 social workers throughout Australia.

We set the benchmark for professional education and practice in social work and have a strong voice on matters of social inclusion, social justice, human rights and issues that impact upon the quality of life of all Australians, including family violence.

The social work profession

Social work is a tertiary-qualified profession recognised nationally and internationally that supports individuals, families, groups and communities to improve their wellbeing. Principles of social justice, human rights, collective responsibility and respect for diversity are central to the profession and are underpinned by theories of social work, social sciences, humanities and Indigenous knowledge. Social workers consider the relationship between biological, psychological, social and cultural factors and how they impact on a person's health, wellbeing and development. Accordingly, social workers maintain a dual focus in both assisting with and improving human wellbeing and identifying and addressing any external issues (known as systemic or structural issues) that may have a negative impact, such as inequality, injustice and discrimination.

Social workers are integral to the delivery of support and intervention services for victims and survivors of family violence. In their practice, social workers believe that everyone has a right to live free from fear and violence in their home and broader society. The scope of social work practice includes counselling, crisis interventions, group work, consultation, coordination and case management, and community development, as well as policy development, research, evaluation and advocacy. Above all, social workers are deeply committed to challenging family violence at both an individual and systemic level, with the aim of minimising its profound, long-lasting impacts.

The AASW welcomes the opportunity to make a submission and commends the Australian Government's recognition of family violence as unacceptable and issues of urgent public concern and responsibility.

The AASW's position on family violence

The AASW takes the view that family violence is a gendered crime and human rights abuse that is highly prevalent but preventable. Violence against women is recognised as the most pervasive, yet least recognised, human rights abuse in the world (ref).

The AASW understands that while family violence affects many members of society, it is a gendered crime most commonly perpetrated by men against women and children.¹ It is this form of family violence that is the key focus of most social workers' work in this field.

The AASW endorses Domestic Violence Victoria's definition, identifying family violence as:

...a pervasive, life-threatening crime that impacts on thousands of women and children with serious physical, psychological and economic effects. Family violence includes not only physical assaults but also an array of power and control tactics used along in concert with one another... Family violence can occur within any intimate relationship, age and ethnicity. While it can be perpetuated by any member of a family against another, it is more likely to be perpetrated by men (predominately by a woman's current or ex-

¹ <http://anrows.org.au/sites/default/files/Violence-Against-Australian-Women-Key-Statistics.pdf>

partner) against women and children.^{2 3}

Social workers understand that some women are more vulnerable to becoming victims of family violence based on factors such as age, Indigenous identity, location, disability, ethnicity, and English language abilities.⁴ The causes of family violence are complex and include individual, environmental, cultural and social factors, such as gender inequality and community attitudes towards women.

As a fundamental cause of violence against women, gender inequality is reflected across all aspects of a woman's life. Women experience a range of disadvantages, including lower incomes, poor health and wellbeing outcomes across the lifespan as a consequence of not only violence but structural discrimination based on their gender. Discrimination based on gender has been widely documented in a range of structural settings, such as unequal economic, social and political power between men and women. Although acknowledging other forms of violence, the predominant societal issue is one of violence against women. Violence against women is prevalent and preventable and has detrimental impacts on women, children, men, communities and the broader society. These impacts have a direct cost at a personal, family, community, societal and economic level. The psychological costs of these traumas are immeasurable but may include mental health disorders, attachment issues, behavioural difficulties, drug and alcohol use, and fractured family relationships.

Social workers understand that addressing and challenging violence against women will benefit society as a whole. Accordingly, the social work profession has a critical role in addressing and responding to family violence at an individual and structural level, regardless of the context of practice.

Our response

Our response focuses specifically on the amendments relating to court processes, staff training and support services.

- 1.1 Broadly, the AASW supports the streamlining of court processes in cases where access to justice is not compromised while the potential for perpetrator-led systems abuse and the potential for victims of family violence to be re-traumatised are limited. The AASW strongly endorses the proposal to educate all court staff on the complexity of family violence and supports procedural change that assumes a zero-tolerance approach to breaches and aims to increase protections for victims of family violence. We also welcome the reform initiatives mindful of developmentally appropriate and respectful communication with children in alignment with the best interests of the child and the repeal of marital services orders for legislation reflective of contemporary social values.
- 1.2 The AASW has continuously argued for significant reform of family law court legislation, processes and procedures to be more sensitive to and reflective of the complexities of family violence, including a significant increase in Legal Aid and community legal services funding and access for victims of family violence. While we welcome the amendments, greater clarity and a commitment to resources will be needed to make sure the courts are not perpetuating the abuse.
- 1.3 The Family Court is where family violence is frequently revealed, yet the court system does not consistently appear to understand the complexities of the dynamics and the nuances of coercive control. Systems abuse occurs in non-family violence court processes as well as domestic and family proceedings. Perpetrators continue to control victims in many ways

² <http://www.dvvic.org.au/>

³ Also see

[http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/f932b66241ecf1b7ca256e92000e23be/083D69EC540CD748CA2574CD0015E27C/\\$FILE/08-52a.pdf](http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/f932b66241ecf1b7ca256e92000e23be/083D69EC540CD748CA2574CD0015E27C/$FILE/08-52a.pdf)

⁴ http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BN/2011-2012/DVAustralia

through court processes. The failure for the courts and legal system to adequately intervene perpetuates and complies with continuing abuse at the systemic level. A significant review of the court system is required to ensure the signs, impacts, and complexities of family violence are recognised and responded to.

- 1.4 As the amendments identify, greater training in family violence for all court staff is of the utmost importance. Identifying family violence and knowing how to intervene is a complex issue that requires significant understanding and awareness of its intricacies by all judicial and court staff. We welcome this increased focus on training but it would need to be continuous and developed and implemented by highly qualified professionals, such as accredited social workers, with significant knowledge and experience in understanding the complex and various factors that contribute to family violence.
- 1.5 The courts further perpetuate family violence and abuse when victims are unable to access adequate legal support and advice. Women and children must be protected, supported, and assisted through legal processes that can be lengthy, abusive and traumatic. Court processes are particularly used to abuse and control in contested and custody cases. Limited financial, Legal Aid, and community legal resources often lead to women representing themselves against perpetrators who frequently have greater economic resources and therefore access to legal representation. Due in part to poor funding and restrictive eligibility requirements, the amounts of Legal Aid are so limited that it is very difficult for victims to access adequate representation. This allows the perpetrator to use the family court processes to further abuse the victim. The lack of adequate legal support is not only discriminatory, but further entrenches the violence and abuse that victims are trying to escape.
- 1.6 There is an ongoing government responsibility to address discrimination in all forms. Governments need to adopt a zero-tolerance position regarding violence towards women. This needs to be reflected in laws and policies that are accompanied by swift and immediate sanctions for occurrences of violence and enforced by penalties for breaches. This should specifically include policing and the courts. To begin to address these larger structural issues governments need to adequately fund the overall service system that responds to women and children who experience family violence and the social needs generated by it, including family violence services, sexual assault services, health services, judiciary, law enforcement, men's behaviour change programs, and housing services. Additionally, governments need to adequately fund primary, secondary and tertiary programs across a range of settings so that the work of preventing violence against women is integrated into all levels of society. Integral to this is ensuring that every woman who makes a complaint of domestic violence is given the professional assistance of an accredited social worker. Above all, there is a significant need for governments to show leadership in regard to the educational, behavioural and attitudinal change that is desperately needed to address this national emergency.
- 1.7 While these amendments are a good start, they will not achieve their desired outcomes unless they are matched with a significant investment in Legal Aid and community legal services, immediately reversing the proposed funding cuts, and being accompanied by major investments in associated social support services

Submitted for and on behalf of the Australian Association of Social Workers Lt



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