

20 January 2017

Public consultation: Family violence amendments
Family Law Branch
Attorney-General's Department
3-5 National Circuit
BARTON ACT 2600

RE: Consultation Paper: Amendments to the *Family Law Act 1975* to respond to family violence

Thank you for the opportunity to respond to the proposed amendments to the *Family Law Act 1975* (Cth). No To Violence Incorporating the Men's Referral Service (NTV/MRS) appreciates this opportunity.

About No To Violence Incorporating the Men's Referral Service

No To Violence incorporating the Men's Referral Service (NTV/MRS) is the Victorian peak body for organisations and individuals working with men to end their violence and abuse against family members. NTV/MRS oversees the standards of practice for men's behaviour change programs delivered by more than 100 members, delivers the Graduate Certificate in Male Family Violence which is the core qualification for facilitators of Men's Behaviour Change Programs, and undertakes practice and policy development work to ensure men who use violence are held accountable for their behaviour.

The Men's Referral Service has had over 150,000 conversations with men about their use of violence over the last 23 years. MRS currently engages with more than 10,000 perpetrators per year in Victoria, New South Wales, Tasmania and across Australia. MRS provides the follow up to all weekend police incidents in Victoria – more than 17,000 per year – and provides follow up to all 40,000 men assessed to be victims in family and domestic violence incidents in NSW. In total, NTV/MRS provides support for more than 70,000 men affected by family violence each year.

Introduction and overall comments

NTV/MRS supports the Government's intention to improve the responsiveness of the family law system to family violence, to keep victims/survivors and children safe and to hold perpetrators of violence accountable for their behaviour. These are the focus of a range of reforms at State and Territory level, which need to be complemented by reforms in the family law system.

NTV/MRS supports the development of a *web of accountability* around men who use violence, involving the multiple statutory and social service systems that have bearing on family violence. A web of accountability ensures that:

- Children's needs for safety and safe parenting are prioritised, and children have a voice in decisions that affect them



- The safety of women and children is the central priority, with processes in place to ensure safety from family violence
- The violence used by men towards their family members is identified and named
- Men who use violence are held responsible for their behaviour
- Systems do not have gaps which allow men to evade responsibility for their use of violence, and systems undertake ongoing improvement to fill any gaps
- Workers are skilled in identifying and responding to family violence
- Workers do not collude with men who use violence to deny responsibility, minimise the impact, and blame the victim

To this effect, NTV/MRS supports the Family Law Council's recommendations from the review in 2015-16 on the needs of families with complex needs in the family law context. Many of the recommendations made by the Family Law Council would support the implementation of the proposed legislative changes by creating mechanisms to identify and address family violence.

Within a family law context there are a number of mechanisms that work against the goal of ensuring safety for victims/survivors and holding perpetrators accountable.

National Outcome Standards for Perpetrator Interventions

The National Outcome Standards for Perpetrator Interventions (NOSPI) outline a number of core outcome areas which interventions aimed at perpetrators of family violence must ensure they comply. Family law system agencies are included among the core group of services to whom the NOSPI apply. The NOSPI were supported by COAG as a key action under the National Plan to Reduce Violence Against Women and their Children.

NTV/MRS suggests that the Australian Government considers how to implement the NOSPI within the family law system more broadly, and would be happy to contribute to any related initiatives.

Expanding the jurisdiction of state and territory courts to exercise Family Law Act powers

NTV/MRS supports these amendments in principle. Where specialist family violence courts have been implemented, they have delivered positive outcomes by providing an integrated response to the multiple legal issues faced by families affected by family violence, including family law matters. Furthermore, providing for a single court to make a variation to relevant family law orders will simplify processes. This would support the principle of ensuring 'swift and certain justice' recommended by the Victorian Royal Commission into Family Violence.

However, many State and Territory courts are currently under-resourced and not highly skilled with hearing family law matters, and tend not to exercise the powers currently available to them under the Family Law Act. More complex matters may not be best heard by a State or Territory court.

NTV/MRS supports recommendation 15 from the Family Law Council regarding professional development of judicial officers to exercise family law powers in State and Territory courts.



Criminalising personal protection injunctions

The proposal to increase the authority of personal protection injunctions is a positive step that creates an additional safety measure within the family law system. However, in practice the introduction of criminal sanctions for contravention of personal protection injunctions may be complicated by a number of factors.

Many State and Territory police are unfamiliar with their powers under the Family Law Act, and lack resources and expertise to exercise these powers. NTV/MRS would support the development of an education strategy for State and Territory police on family law matters in order to improve the accountability measures in both State and Commonwealth jurisdictions.

The existence of personal protection injunctions alongside other State and Territory protection orders for family violence may increase the complexity of a situation for a family. NTV/MRS would recommend that the family law system is supported to participate in information sharing arrangements relating to family violence in each State and Territory in order to ensure an integrated and efficient process for families.

Increased powers of family law courts to dismiss unmeritorious claims

Contrary to the notion that "family law courts are well placed to identify the difference between a litigant in person who is underprepared due to inexperience or trauma, and a litigant whose case should be dismissed as an abuse of process or because it has no prospect of success," NTV/MRS concurs with Women's Legal Services Australia's assessment that family law courts are not well placed to identify when a litigant is pursuing a family law matter in order to increase control and power over another person. The family law system does not have sufficient capacity or processes to assess the risk of family violence within the court process.

There is a risk that this provision may be utilised by perpetrators to evade responsibility, exert control, and increase the victim/survivor's level of fear by making threats to apply to dismiss a matter brought by a victim/survivor.

NTV/MRS supports recommendation 19 from the Family Law Council's review report, to commission research regarding the extent and nature of intentional misuse of the family law system, and opportunities to intervene.

Conclusion

NTV/MRS would welcome any opportunity to further discuss progressing victim/survivor safety and perpetrator accountability within the family law system.

Yours sincerely,

Jacqui Watt
CEO