

Submission to the Family Law Council

from

No To Violence Male Family Violence Prevention Association Inc.

Thank you for the opportunity to provide this submission to the Family Law Council in relation to *Families with Complex Needs & the Intersection of the Family Law and Child Protection Systems*. Our response is relevant to questions 3, 4, 5 and 6 of the questions provided in the Family Law Council discussion paper and terms of reference.

No To Violence (NTV) is the Victorian peak body for organisations and individuals working on perpetrator interventions and accountability systems towards ending men's use of family and domestic violence. Although we have historically had a Victorian focus, over the past five years we have worked in most Australian states and territories, as we are the only Australian non-government organisation of its kind with a mandate to promote practice, policy and research in perpetrator interventions and accountability systems.

Many of our members are community-based men's behaviour change program providers, and NTV bases this submission on the collective experience of our members working with tens of thousands of perpetrators over the past 20 years.

Our submission will focus on the potential of family law practitioners and family law courts to make much more use of men's behaviour change programs, in situations where there is sufficient evidence pointing to the father being a perpetrator of family and domestic violence, to provide advice to the court regarding the man's safe parenting capacity and the risk that his violence poses to the children.

First, however, we wish to bring to the Family Law Council's attention the following document which we believe provide very important perspectives and potential recommendations relevant to the questions in the terms of reference paper:

*Women Legal Service Victoria (2015). Submission – Multi-jurisdictional issues. Royal Commission into Family Violence.*¹

¹ See <http://www.rcfv.com.au/getattachment/EE478C8B-9E2F-469B-8490-C91F9BC748A3/Women's-Legal-Service-Victoria---02>

About men's behaviour change programs

Men's behaviour change programs (MBCPs) are one of the most commonly misunderstood elements of integrated family violence service systems and coordinated community responses. While they exist in part to work with men towards accepting responsibility for their violent and controlling behaviour, and to make attitudinal, behavioural and lifestyle choices towards nonviolence, other ways in which they contribute towards the safety and wellbeing of women and children are unfortunately not given the emphasis they deserve. Contributions to ongoing risk assessment and risk management, monitoring, partner support and advocacy, consideration of children's needs, and strengthening the capacity of perpetrator interventions and accountability processes initiated by other systems agencies all make investments in these programs worthwhile.

Importantly, these are not stand-alone interventions that men are put through in isolation to other accountability processes, justice system and/or otherwise. The most effective programs operate within the context of an existing, strong coordinated community response, of which the MBCP is only one part.

MBCPs predominantly utilise group-based interventions, however the potential to enhance effectiveness through supplementary one-to-one and case planning work is significant. For many men, the journey towards nonviolence is long and difficult, and unfortunately there are no 'quick fixes', short cuts or alternatives that can quicken this process. The work to invite resistant men towards attitudinal, behavioural and personal change is highly specialised and potentially risky if not done carefully.

Confidence in MBCP work has been constrained by the lack of investment in evaluating program effectiveness by Australian state and territory governments. This is further complicated by a narrow view of what success means through this work - a singular focus on recidivism and behaviour change goals at the expense of other potential outcomes towards the safety of women and children - and unrealistic expectations that anything less than full violence cessation represents failure. This impossibly high standard is not held in most other human services, health and justice concerns - governments invest in cancer research, for example, even though the objective might be to prolong a patient's quality of life rather than expecting a total cure.

There is no research, even at a speculative level, suggesting what 'types' of men might benefit most from MBCP participation. Certainly, there is a developing understanding that referral to a MBCP might not be indicated for the most severe 10-20% of family violence offenders, those with particularly high levels of psychopathy and extensive histories of using violence in a range of situations (not only in family contexts). Furthermore, men with severe substance abuse or mental health issues, to the extent of interfering with their capacity to function effectively in a group environment, might not be appropriate for this work until these issues are stabilised. However,

apart from these exclusion criteria, there is no research suggesting with category/segment or otherwise grouping of men should be prioritised with MBCP interventions. The uncomfortable reality for funders is that MBCPs, run according to up to date minimum standards, are the only intervention of choice for the majority of family violence perpetrators.

MBCPs and family law: The UK context

In Australia, MBCPs receive only a miniscule proportion of their overall referrals through the family law system. It is not uncommon for a MBCP to go throughout a calendar year and not receive a single referral generated through the family law system. While a significant minority of MBCP participants are undergoing family law matters, they are not referred into the program by the family law system, and there is no exchange of information between the MBCP and that system.

This is very different to the UK, where the family law system is the second largest referrer of participants into community-based domestic violence perpetrator programs (DVPP) in that country – second only to child protection services as the largest referrer. The large volume of these referrals is not surprising given the significant proportion of family law matters involving a father who is perpetrating family and domestic violence, and the potential for this violence to significantly compromise children's safety and emotional, mental and physical health.

These referrals are facilitated through the Children and Family Court Advisory and Support Service (CAFCASS). CAFCASS makes the referral direct to the DVPP, and during the man's participation and at its conclusion, the DVPP reports back to CAFCASS concerning the updated/current risk that the father poses to his children, and assessments of his capacity to be a safe parent.² CAFCASS, which is independent of the courts, social services, health agencies and other similar authorities, uses this together with any other relevant information to then make recommendations to the Family Court around consent order and parenting arrangements based on representing the best interests of the child.

DVPPs in the UK therefore perform an important role in assisting CAFCASS to make assessments of the pattern and profile of the man's safe parenting capacity, and whether he is making the changes required to become a safer parent through taking responsibility for his use of family and domestic violence, and putting in the hard work required to change his attitudes and behaviour. Importantly, DVPPs in the UK, to varying extents, work closely with child protection authorities, when these authorities are involved, to provide joint assessments on the man's safe parenting capacity, and his progress towards becoming a safer parent.

² See https://www.cafcass.gov.uk/media/199244/dvpp_factsheet_april_2014.pdf

This is of course in recognition that men's perpetration of family and domestic violence, even when targeted mostly towards the mother, is a child protection issue given the major impacts on children's safety, stability and development.

The Australian potential

MBCPs in Australia and child protection authorities are on the cusp of developing stronger working relationships towards assessing men's safe parenting capacity. Without duplicating detail here, we bring the Family Law Council's attention to the relevant parts of our submission to the Victorian Royal Commission into Family Violence focusing on the potential of child protection and family violence systems to work more closely together, pp 49-51 and pp 80-90.³

The assessment of men's safe parenting capacity in the context of a history of family and domestic violence perpetration is complex. There is no single assessment tool or template that can be used by non-family violence specialists to determine whether a father is making progress in addressing and reducing his use of family and domestic violence; and whether he is engaging in reparative, restorative and responsible parenting mindful of the effects that his violence has had and is having on his partner, his children and the mother-child bond. As our Victorian Royal Commission submission demonstrates, particularly the part of our submission written by U.S. Safe and Together model founder David Mandel (pp. 80-90), there is unfortunately substantial research showing that many family and domestic violence perpetrators engage in a range of behaviours and tactics to undermine their partner's or former partner's confidence and ability to parent, and the relationship she has with her children.

MBCPs, working with men over a period of time and collaborating with child protection authorities and family services providers, are in the best position to provide accurate and informed advice in family court situations about the risk that family and domestic violence perpetrators pose to their children, and whether he is making the changes required to provide safe, reparative and restorative parenting.

No To Violence therefore recommends that **the Family Law Council consider the role of MBCPs in receiving referrals through the family law process, to assist family law practitioners and Federal Circuit Court Judges to have available specialist and timely assessment information concerning the safe parenting capacity of family and domestic violence perpetrators.**

We also recommend that **these referrals be generated either directly through the Federal Circuit Court itself, or through an independent CAFCASS type service or Independent Children's Lawyer equivalent.** This would facilitate appropriate information based on the MBCP

³ <http://www.rcfv.com.au/getattachment/D4579FB4-D848-4DC1-8616-CEDAE86F68D4/Men's-Referral-Service;-No-To-Violence->

assessment and the MBCP's work with the man to be provided back directly to the court or the independent service. Referrals generated through a father's legal representation is more likely to set up a dynamic where the man participates in the MBCP with the sole purpose to 'look good' as part of his family law legal case, rather than to make genuine changes to his behaviour. Furthermore, MBCP providers are likely to provide significantly more limited information to a man's legal representative than to an independent service representing the best interests of the children or to the court itself.

No To Violence welcomes any clarification or questions by the Family Law Council based on the information and recommendations provided in this submission.