

SUBMISSION

Victoria's Third Rolling Action Plan

25 February 2024

Claudia Fatone | Chief Executive Officer

Women's Legal Service Victoria

PO Box 13311, Law Courts VIC 8010

Claudia.fatone@womenslegal.org.au

T: 03 8622 0600

www.womenslegal.org.au | T @WomensLegalVic

Contents

Acknowledgement of Country	3
About Women's Legal Service Victoria	3
Foundations of our submission	4
Part A: Introduction.....	5
Part B: Summary of Recommendations.....	6
Part C: Strengthen support for victim survivors	8
Unmet legal need of victim/survivors of family and sexual violence.....	8
Legal assistance in the Orange Door	10
Specialist Family Violence Courts	11
Justice sector workforce development	13
Safer Families training for private lawyers	14
Early intervention and holistic support	15
Supporting mothers and children in the child protection system	16
Critical legal issues map training.....	17
Systems abuse.....	20
Children and Young People	21
Part D: Looking to the future	22
A system-wide approach to measuring impact	22
Beyond the third rolling action plan	23

Acknowledgement of Country

Women's Legal Service Victoria (Women's Legal) acknowledges and pays respect to the traditional custodians of the land on which we work, the Wurundjeri People of the Kulin Nation, and all Aboriginal and Torres Strait Islander people across Australia. We pay respect to Elders past, present and emerging.

We honour Aboriginal and Torres Strait Islander peoples' ongoing connection to sea, waterways and Country.

We also recognise the strength and resilience of Aboriginal and Torres Strait Islander people, especially those who have been affected by domestic and family violence.

About Women's Legal Service Victoria

Women's Legal is a for-purpose organisation that has been providing free specialist legal services to women since 1982. We work with and for women to address legal issues arising from family violence and relationship breakdown.

Women's Legal exists to help build a gender equitable country. Our unique contribution to this vision – as lawyers, advocates, and educators – is to work alongside women experiencing disadvantage to promote their rights to live free from violence and make informed choices about their relationships.

Women's Legal specialises in family violence, family law, migration law, child protection law and victims of crime assistance – recognising the intersection between the jurisdictions.

We focus on women's safety, recovery from violence and economic security. We do this by:

- providing legal advice and representation to women, with a wraparound model of service delivery where women are also supported by social workers and financial counsellors, depending on their needs
- advocating for law and policy that respects and promotes the rights of women
- building the capacity of other professionals and communities to identify and respond appropriately to legal need

Foundations of our submission

Women's Legal puts women – individually and collectively – at the centre of everything we do. As specialists in family violence, we work across the spectrum from tertiary response to primary prevention of gendered violence. We work with women to achieve optimal legal and wellbeing outcomes, and we integrate what we learn in our policy reform advocacy, to put forward well-informed systemic and structural solutions that will improve the safety and wellbeing of women and children and work towards the elimination of gendered violence.

Part A: Introduction

Women's Legal welcomes this opportunity to contribute to the action priorities for Victoria's third Family Violence Rolling Action Plan 2024 - 2027 (FVRAP). Women's Legal acknowledges the reforms undertaken by the Victorian Government to implement all 224 recommendations of the Family Violence Royal Commission. We urge the Government to take meaningful action to deliver on the 'full extent of the Royal Commission's vision'¹

Predominately male perpetrators continue to coerce, threat, abuse and kill women and children in their own homes. An estimated 679,000 women in Victoria (26%) have experienced violence by a cohabiting partner since the age of 15, including:

- 16% (413,700) who experienced physical and/or sexual violence
- 22% (572,600) who experienced emotional abuse
- 15% (372,000) who experienced economic abuse.²

At the same time, inappropriate service responses result in unsafe outcomes for women and children experiencing violent relationships. Despite efforts to improve family violence system response, women we represent are often fearful of engaging with services, including those in the justice sector, due to well-known system failures.

An ambitious rolling action plan is needed to address the persistent family violence crisis in our community. In order for the community to experience the full impact of the many years of reform and investment, we encourage the Victorian Government to ensure that vital support services meet demand, embed system and practice changes, and maintain system-wide lens on safety for victim/survivors. Women's Legal reiterates the importance of a whole-of-Government approach to end violence against women and children. To be effective, each part of the family violence system must be fully integrated, mutually reinforcing and facilitate reciprocal accountability. A well-integrated family violence system can reduce risk to victim/survivors.

¹ Department of Families, Fairness and Housing [Strong Foundations](#), *Building on Victoria's work to end family violence* (2023) p. 20.

² Australian Bureau of Statistics (2021-22), [Personal Safety, Australia](#), ABS Website, accessed 21 February 2024.

This submission outlines priority actions relevant to the justice sector that are necessary to prevent violence, hold perpetrators to account and ensure victim/survivors can make informed decision about their family and safety needs. This includes reform initiatives that commenced under the second rolling action plan and are yet to be fully implemented.

Part B: Summary of Recommendations

Recommendation 1: Implement competency-based training to ensure the legal assistance sector has the knowledge and skills required to effectively respond to sexual violence.

Recommendation 2: Enhance the capacity of legal services to respond to unmet legal need among victim/survivors of family violence and sexual abuse, particularly those experiencing socio-economic disadvantage.

Recommendation 3: Ensure legal assistance is fully integrated in the family and sexual violence response model and properly resourced. Priority actions for the next three years include:

- expanding The Orange Door legal assistance model statewide and embedding community legal services across The Orange Door network.
- providing training to The Orange Door practitioners to identify legal issues and make appropriate referrals, and to legal services to provide high quality family violence legal assistance
- ensuring Aboriginal victim survivors who access The Orange Door network are connected with specialist Aboriginal family violence and legal services.

Recommendation 4: Fully implement the legal practice model at the seven new specialist family violence court locations, as well as any proposed new locations, and consider further improvements to court facilities to promote safety.

Recommendation 5: Invest in culturally-safe family violence training and development for practitioners across the justice sector to build capability and support trauma-informed practice.

Recommendation 6: Expand the Safer Families model to provide best practice family violence training for private lawyers and support trauma-informed practice.

Recommendation 7: Expand early engagement methods and socio-legal early intervention models to assist victim/survivors experiencing family violence.

Recommendation 8: Resource specialist family violence legal services and Aboriginal legal services to provide early assistance to families engaged with child protection to prevent unnecessary child removals and address family violence.

Recommendation 9: Invest in further training for community service professionals, including financial counsellors and tenancy workers, to identify legal issues and make appropriate referrals.

Recommendation 10: Develop solutions to remove access to justice barriers and prevent systems abuse, such as the misuse and exploitation of legal processes and systems by perpetrators.

Recommendation 11: Enhance legal support for children and young people as victims in their own right, and young people using violence in the home, as part of holistic and therapeutic responses.

Recommendation 12: Expand access to early and holistic legal and other social supports for children and young people experiencing or using violence in the home.

Recommendation 13: Establish a mechanism to facilitate ongoing system-wide, outcomes-focused monitoring and evaluation that centres the lived experience of those affected by family violence and draws on expertise held by those working within the family violence system.

Recommendation 14: Commence a community-based co-design process within 18 months to develop a longer-term strategy to deliver on the full extent of the Royal Commission's vision.

Part C: Strengthen support for victim/survivors

Unmet legal need of victim/survivors of family and sexual violence

Legal assistance services are on the front lines of family violence system response. Women who require legal assistance to leave a violent relationship may seek legal assistance prior to engaging with other family violence supports.

Independent legal advice and representation is integral to keeping victim/survivors safe, holding perpetrators to account, and preventing systems abuse. Women experiencing family violence (including sexual abuse) require legal assistance in relation to family violence intervention orders and complex legal problems including family law, migration, child protection and criminal law matters.

Sexual offending perpetrated against women by a cohabiting partner is significantly under-reported, and barriers to help-seeking are compounded by socio-economic disadvantage.³ Barriers to disclosure include the prioritisation of other immediate safety needs, fear of adverse consequences arising from disclosure, and the desire to avoid a criminal justice response. Lawyers who are trained to discuss sexual abuse and respond to clients' needs can make a profound difference to the lives of victim/survivors.

While the discussion paper recognises that justice services play a vital role in holding perpetrators to account,⁴ there is little recognition of the level of unmet legal need, or the complexity of legal issues faced by victim/survivors. Many women experiencing disadvantage do not have access to family violence legal assistance and therefore experience unsafe and unjust outcomes. Funding for the legal assistance sector falls well short of addressing the level of legal need in our communities, identified most recently through the Public Understanding of Law Survey.⁵ Community legal centres remain

³ Cox, P. (2015), *Sexual assault and domestic violence in the context of co-occurrence and re-victimisation: State of knowledge paper*, Sydney: ANROWS

Victoria Police (2018), *Policing Harm, Upholding the Right: Victoria Police strategy for family violence, sexual offences and child abuse 2018-2023*, Victoria

⁴ Department of Families, Fairness and Housing, 'Strong Foundations, Building on Victoria's work to end family violence', 2023, p. 38

⁵ Balmer, N.J., Pleasence, P., McDonald, H.M. & Sandefur, R.L. (2023). *The Public Understanding of Law Survey (PULS) Volume 1: Everyday Problems and Legal Need*. Melbourne: Victoria Law Foundation.

chronically underfunded, impacting their ability to support disadvantaged women experiencing family violence and sexual abuse. For example, recent data (collected in October 2023) estimates that up to 4,500 women are unable to be assisted by Women's Legal each year, based on current resources.

Improving access to legal advice and representation and integrating legal assistance with the broader family violence system is an existing priority under the second rolling action plan.⁶ The next Rolling Action Plan must ensure that legal assistance is fully integrated in the family violence response model and properly resourced. Additional investment is urgently needed to enable the community legal assistance sector to address unmet legal need and provide trauma-informed support to victim/survivors.

⁶ Family Safety Victoria, 'Family Violence Reform Rolling Action Plan (2020 – 2023) Activities Index', p. 9-10.

Recommendation 1:

Implement competency-based training to ensure the legal assistance sector has the knowledge and skills required to effectively respond to sexual violence.

Recommendation 2

Enhance the capacity of legal services to respond to unmet legal need among victim/survivors of family violence and sexual abuse, particularly those experiencing socio-economic disadvantage.

Legal assistance in the Orange Door

Embedding access to legal assistance in The Orange Doors is essential to safety and justice outcomes. A coordinated and consistent point-of-entry in meeting the immediate safety needs of family violence victim survivors will only be realised if victim/survivors can access legal assistance across all The Orange Doors.

Under the second rolling action plan, a state-wide approach to the connection and coordination of legal services within The Orange Door Network was developed. Funding was provided through the 2021/22 State Budget to pilot an area-based model at the Bayside Peninsula Orange Door. Women's Legal was engaged to

- deliver Critical Legal Issues Map (CLIM) training at the Bayside Peninsula hub to The Orange Door practitioners working with victim-survivors and people using violence to identify legal issues and make appropriate referrals, and
- Safer Families Duty Lawyer training for legal services staff involved in the pilot.

101 participants attended training over 8 sessions from 7 February 2023 to 30 May 2023. 51 training participants responded to the survey. One survey participant said: 'Excellent training. I found the information relevant and user friendly. I feel much better resourced to support the The Orange Door clients. I love the booklet.'

In the next phase of reform, priority should be given to integrating legal assistance at all locations across The Orange Door network, utilising learnings from the Bayside Pilot, including evaluation findings. Funding is required to support an effective legal response at both regional and metropolitan locations that builds on established relationships and ways of working. In the first year, this could involve scaling the pilot to three The Orange Door sites

and building on this in subsequent years. Consistent with the pilot, resourcing should be provided to support foundational training to The Orange Door practitioners to equip them to identify clients' legal issues and needs and support effective collaboration with legal practitioners.

Women's Legal shares concerns about the lack of referrals to Aboriginal legal services participating in the Bayside Pilot. Aboriginal victim/survivors who seek assistance through The Orange Doors must be provided with legal referrals to culturally safe services and should be afforded the choice to access a specialist Aboriginal family violence legal service if they wish.

Recommendation 3:

Ensure legal assistance is fully integrated in the family and sexual violence response model and properly resourced. Priority actions for the next three years should include:

- expanding The Orange Door legal assistance model statewide and embedding community legal services across The Orange Door network.
- providing training to The Orange Door practitioners to identify legal issues and make appropriate referrals, and to legal services to provide high quality family violence legal assistance
- ensuring Aboriginal victim survivors who access The Orange Door network are connected with specialist Aboriginal family violence and legal services.

Specialist Family Violence Courts

The Royal Commission recommended the establishment of Specialist Family Violence Courts (SPFV) at all major courts in Victoria to improve the safety of victim survivors of family violence and to strengthen accountability mechanisms for people who use family violence through the court process.

SFVCs are now operational at 12 locations across the state, namely Shepparton, Ballarat, Moorabbin, Heidelberg, Frankston, Melbourne, Broadmeadows, Dandenong, Geelong, Latrobe Valley, Ringwood, and Sunshine. The Government has committed to expand to 14 courts by 2025, with the anticipated gazettal of SPFV court at Bendigo and Wyndham.

Victoria Legal Aid and community legal centres received multi-year funding in 2019/2020 to provide people attending the first five SFVCs with intensive and tailored support to negotiate safer outcomes at court. An interim evaluation found the legal practice model at those courts provided a tailored response to people with diverse needs and experiences, making it easier for clients obtain information about the court process and legal advice.⁷

However, the level of funding provided to establish a further seven SFVCs in 2022/2023 has been insufficient to fully implement the legal practice model,⁶ resulting in inequitable access to legal assistance across the state. Additional investment is therefore needed to ensure that people with family violence legal needs receive high quality and client-centred services, which are easy to access, safe to use and integrated within the broader family violence services sector. Regardless of which SFVC they attend, victim/survivors should have access to holistic, client-centred, and trauma-informed legal advice and representation. This includes the design of courts, including the Melbourne Magistrates Court, be further improved to promote safety at court. This would involve alterations to safe waiting areas and layout of court facilities.

⁷VLA, Summary of SFVC Legal Practice Model [Interim Evaluation](#), 2023.

Recommendation 4

Fully implement the legal practice model at the seven new specialist family violence court locations as well as any proposed new locations and consider further improvements to court facilities to promote safety.

Justice sector workforce development

Victoria's Royal Commission into Family Violence recognised the profoundly harmful impacts on victim survivors of poor practice that fails to account for the nature and dynamics of family violence.⁸ The current rolling action plan commits to working with legal services to ensure that training aligns with the Family Violence Multi-Agency Risk Assessment and Management Framework (MARAM).

The justice system is often criticised for taking an incident-based approach to family violence; responding mainly (and in many instances, only) to the more readily identifiable forms of violence, such as physical abuse. Building understanding of the dynamics of family violence and relevance of evidence-based risk factors in decision-making and practice across the legal system is fundamental to achieving safer outcomes.

Strengthening the capability of professionals across the justice sector to identify and respond appropriately to family violence risk remains a key priority for action to ensure consistency in and best practice family violence informed service provision. A commitment must be made to ensure accessible and readily available training to all practitioners that engage with victim-survivors including judicial officers, lawyers, police, and other staff working in justice agencies. Women's Legal recommends that existing service providers be resourced to coordinate, develop, and deliver workforce development programs tailored to specific roles.

The Commonwealth, States and Territories Attorneys-General have committed to embed family violence competency into CPD frameworks for legal practitioners across Australia. In addition, Women's Legal recommends mandating family violence training and professional

⁸ State of Victoria, *Royal Commission into Family Violence: Report and recommendations, Vol 1*, Parl. Paper No. 132 (2014-16), p. 25.

development for the judiciary to ensure decision-makers have the requisite knowledge and skills to determine legal matters involving family violence.

Recommendation 5

Invest in culturally-safe family violence training and development for practitioners across the justice sector to build capability and support trauma-informed practice.

Safer Families training for private lawyers

Women's Legal has built considerable expertise over many years in family violence capacity building for the legal assistance and community sector, through our flagship Safer Families. Safer Families is a proven, cost-effective MARAM-aligned training model designed to build capability across the community legal assistance sector to deliver high quality family violence legal help. In the 2021/2022 financial year, Women's Legal delivered 20 Safer Families training sessions to 347 participants.

In response to the mixed model of legal assistance provision in Victoria, Women's Legal sees the benefit in expanding the Safer Families training to private lawyers and barristers so that regardless of who is providing the legal service victim/survivors receive a high-quality trauma-informed service. Expanding on an existing training offering is an efficient and effective way to achieve best practice across the sector.

Some of the main barriers for lawyers undertaking continuing professional education (CPD) include the financial and opportunity cost of attending training.⁹ Legal practitioners often don't prioritise family violence training in a competitive CPD market.

The Government has previously committed to consider opportunities to expand the Safer Families model.¹⁰ Safer Families should be formally recognised and resourced in the forthcoming plan to build capability of private lawyers.

Recommendation 6

⁹ Victorian Legal Services Board and Commissioner, *Getting the point? Review of Continuing Professional Development for Victorian*, November 2020 (CPD report), p. 50.

¹⁰ Family Safety Victoria, *Family Violence Reform Rolling Action Plan 2020 – 2023*, Activities Index, page 10.

Expand the Safer Families model to provide best practice family violence training for private lawyers and support trauma-informed practice.

Early intervention and holistic support

Integration of early legal assistance with other support services enables victim/survivors to access holistic support.¹¹ Early legal assistance prevents legal and other issues from escalating and reduces costs to government in the long term. Investment in service integration is cost effective and saves lives.

Specialist family violence legal services have developed considerable expertise in delivering wrap around services that address the multiple legal and non-legal needs clients present with. Women's Legal, for example, provides high quality cross-jurisdictional and wrap-around assistance to women experiencing family violence and relationship breakdown. In the context of high inflation, housing crisis and financial stress exacerbated by ongoing pandemic impacts, our integrated social work and financial counselling services have been crucial.

Community legal services have also established targeted partnership models that bring together legal assistance with other specialist services to address complex problems and enable women to get the support they need. However, these partnerships remain limited in scope due to resourcing required to establish and sustain effective partnerships.

Health justice partnerships (HJP) have been shown to contribute to earlier access to legal help for women experiencing violence, increase the use of secondary consultations with legal professionals and promote confidence that referrals are safe and trauma-informed. A recent Health Justice Insights report identified that "there is an opportunity to recognise, and expand upon, the role of health justice partnership as part of the landscape of early support for children and their families".¹² Moreover, that "early support is the best

¹¹ Department of Families, Fairness and Housing, *Strong Foundations, Building on Victoria's work to end family violence*, 2023, p. 38

¹² Chia, J (2023), *Health justice partnerships as early support for children and their families*, Health Justice Australia, Sydney, p7.

way to protect children, by providing families with the assistance they need to address circumstances that put children at risk".¹³

Women's Legal advocates for sustained investment to support holistic early intervention and stronger partnerships between legal services, specialist family violence and sexual violence services, as well as organisations working with both adult and child victim/survivors in universal settings.

Recommendation 7

Expand early engagement methods and socio-legal early intervention models to assist victim/survivors experiencing family violence.

Supporting mothers and children in the child protection system

There is an urgent need to provide expanded early legal and wrap around support for mothers and children at risk of child protection intervention due to family violence. Women experiencing complex trauma and disadvantage often require intensive support to address related protective concerns and enable them to safely care for their children.

The Royal Commission recognised that 'there should be no onus on victims of family violence to manage risk; it is the unacceptable nature of perpetrators' behaviour that should be the focus of attention.' In practice, mothers continue to bear the burden of managing risks of family violence to themselves and their children although doing so may be impossible. Providing access to early legal assistance enables mothers to engage with the legal process and help shift the focus onto perpetrator accountability.

Women's Legal has been at the forefront of early intervention for mothers at risk of having their newborn baby removed from their care. In May 2020 Women's Legal partnered with Monash Health to establish the Together from the Start Health Justice Partnership (HJP). Commonwealth funding has been provided to support this program until June 2025. The HJP provides early intervention and holistic support for women experiencing family violence attending Monash Health for antenatal care. The model was developed to support women

¹³ Ibid p.7

experiencing family violence, with the opportunity to provide a safe and healthy environment for their children, to keep mothers and babies together from the start. An independent evaluation found the HJP has been a successful partnership to date, characterised by trust, good communication, and a shared commitment to support vulnerable women.

Providing holistic support including legal assistance for mothers at risk is fundamental to promoting the safety and wellbeing of children exposed to family violence and prevent children being separated from the protective parent. The Government must invest in early intervention and wrap around support for mothers at risk and build on holistic intervention models where they exist.

Aboriginal children and families are significantly overrepresented in the child protection system. Women's Legal supports implementation of the Yoorrook Justice Commission recommendations in full. Aboriginal organisations must be properly resourced to provide legal assistance and other supports to Aboriginal families to keep Aboriginal children out of the child protection system and to prevent their involvement from escalating when it does occur.

Recommendation 8:

Resource specialist family violence legal services and Aboriginal legal services to provide early assistance to families engaged with child protection to prevent unnecessary child removals and address family violence.

Critical legal issues map training

Early access to legal assistance also requires workers in family violence and universal services, such as financial counselling and community health, to be able to identify legal need early and refer to legal services. The current rolling action plan recognises the need to increase legal assistance referral pathways for victim survivors and support family

violence, justice, and legal assistance sectors to support improved identification of client legal risks and needs.¹⁴

Women's Legal Service relies on core funding to deliver training to the specialist family violence workforce and broader community service workforce. Our critical legal issues map training supports practitioners to identify and respond appropriately to legal issues arising from family violence.

Women's Legal has confirmed funding to deliver MARAM-aligned training to financial counsellors and tenancy workers until June 2025. Additional investment is required to build on foundational competencies in both sectors while delivering training to new professionals commencing their careers to maintain knowledge in the sector.

Across both sectors, we have also identified an opportunity to provide training to practitioners working with people who use violence and/or clients who are still residing with or returning to live with adults using violence in ways that support safety.

Recommendation 9:

Invest in further training for community service professionals, including financial counsellors and tenancy workers, to identify legal issues and make appropriate referrals.

Misidentification of the primary aggressor

Accurately identifying the predominant aggressor is fundamental to provide just and safe outcomes for victim/survivors. Women are frequently misidentified by police as the primary aggressor, resulting in grave consequences including heightened safety risks, homelessness, criminalisation, visa cancellation or refusal, unemployment, child protection intervention and inability to access support services. Misidentification also contributes to distrust and fear of police and the legal system, resulting in reluctance to seek assistance in the future.

Estimates of the prevalence of misidentification vary. A case file review undertaken by Women's Legal in 2018 indicated that 45 out of 79 (57 per cent) of female respondents on

¹⁴Family Safety Victoria, 'Family Violence Reform Rolling Action Plan (2020 – 2023) Activities Index, page 10.

police applications for FVIOs were mis-identified.¹⁵ Internal Victoria Police analysis of a sample of incidents in 2020 where a woman was named as the respondent suggests that it misidentifies female respondents at a rate of 12 per cent.¹⁶ A further 35.2 per cent of cases can be classed as 'borderline' for correct identification. A 2021 report by the Family Violence Reform Implementation Monitor found there was a 27 per cent increase of females listed as respondents on family violence reports over the five years 2016 to 2020.¹⁷ For the same period, there was a 44 per cent increase of Aboriginal women who were listed as respondents on family violence incident reports.¹⁸ In 2020, nearly 30 per cent (29.4) of FVIO applications where the respondent is female were struck out or withdrawn at court compared with 13.3 per cent of applications where the respondent is male.¹⁹ The data accords with our practice experience, which indicates that misidentification is a widespread issue, particularly among women with disabilities, migrant and refugee women, and Aboriginal women.

Every effort must be made to prevent victim/survivors being incorrectly identified as the perpetrator of family violence. When a victim/survivor of family violence has been incorrectly identified as the perpetrator, immediate system-wide corrective action should be taken including withdrawal of family violence intervention order applications and related criminal charges, notifying relevant organisations and correcting records.

Victoria Police must continue improving training and guidance for police members about the dynamics of family violence, and eradicating biases. Victoria Police must put systems in place for misidentification to be corrected if/when misidentification occurs. Where child protection is involved, a thorough review of child placement decisions and contact arrangements should be undertaken.

¹⁵ Women's Legal Service Victoria, *Snapshot of police family violence intervention order applications*, May 2018.

¹⁶ Victoria Police, *Predominant Aggressor Trial Summary and Findings*.

¹⁷ Family Violence Reform Implementation Monitor, *Accurate identification of the Predominant Aggressor* (2021) p.10.

¹⁸ *Ibid.*

¹⁹ *Ibid.*

A system-wide approach is needed to prevent misidentification, implement processes to rectify misidentification and monitor indicators of misidentification over time, of which training and development initiatives are a part of the response.²⁰ The Victorian Government has a key role to play in coordinating a whole-of-system response that draws together justice system agencies, the legal sector, the specialist family violence sector, child and family services, and Child Protection to identify practical solutions and drive change.

Recommendation 9:

Implement a system-wide approach, informed by the recommendations of the Family Violence Reform Implementation Monitor, to monitor, prevent and rectify misidentification of victim/survivors as perpetrators of family violence.

Systems abuse

To achieve the vision of ending family and sexual violence, we must address the structures that enable violence to continue.²¹ Systems abuse describes the discrete and overt ways perpetrators exploit the legal process and the justice system to assert control over and cause harm to victim/survivors. Systems abuse is a tactic used by family violence perpetrators that often continues for many years after separation. Systems abuse is a pivot to the perpetrator, but in a way that turns attention to systems. It brings into view the underlying, systemic causes and enablers of perpetrator's tactics.

Where court mechanisms are abused by the perpetrator for the purposes of continuing to exercise power and control over the victim, this has a profound effect on the physical and emotional well-being of victims as well as their ability to heal and recover from their experiences'.²² Examples of systems abuse include vexatious court applications, perpetrators deliberately creating conflict of interest issues to limit victim/survivors' access

²⁰ Family Violence Reform Implementation Monitor, *Accurate identification of the Predominant Aggressor* (2021)

²¹Department of Families, Fairness and Housing, *Strong Foundations, Building on Victoria's work to end family violence*, 2023, p. 29.

²² State of Victoria, *Royal Commission into Family Violence: Report and recommendations, Vol I*, Parl. Paper No. 132 (2014–16), p. 21.

to legal assistance and appealing to unconscious biases of police and other institutions to position victim/survivors as responsible for the impacts of violence on children.

Preventing systems abuse requires rectifying aspects of the legal process and justice system that enable systems abuse to occur. While there is a growing evidence base in relation to systems abuse, there is a need to build understanding about enablers of systems abuse and identify systemic solutions. Under the next rolling action plan, priority should be given to developing solutions to address systemic enablers of systems abuse and prevent perpetrators using the legal and justice system to perpetrate further harm.

Women's Legal has a small-scale regional pilot in Mildura to improve access to legal assistance for victim/survivors and help address conflict of interest issues. The model may be expanded in future to other regional locations where VLA/CLC service provision for victim/survivors is limited.

Recommendation 10

Develop solutions to remove access to justice barriers and prevent systems abuse, such as the misuse and exploitation of legal processes and systems by perpetrators.

Children and Young People

There is an urgent need to provide early and holistic support for children and young people experiencing or using family violence. Children affected by family violence often have multiple and complex individual support needs. Government must ensure that legal assistance is included in victim-centred practice development for children and young people. Effective responses to children and young people integrate legal assistance with other support services for example, housing, financial, educational, or therapeutic support.

There is little support available for families experiencing adolescent violence in the home. It is critical that the justice system recognises that young people who use violence in the home have themselves often experienced significant trauma and abuse.²³ Where young

²³ Campbell, E., Richter, J., Howard, J., & Cockburn, H. *The PIPA project: Positive Interventions for Perpetrators of Adolescent violence in the home (AVITH)* (Research report, 04/2020). Sydney, NSW: ANROWS.

people using violence come into contact with the justice system, responses must be trauma informed and integrated supports provided early on. Early access to holistic support services, including legal services and therapeutic supports, and particularly where there are court proceedings, is essential. Women's Legal recommends implementation of the PIPA Report recommendations²⁴ to enhance responses to young people using violence in the home.

Recommendation 11

Enhance legal support for children and young people as victims in their own right, and young people using violence in the home as part of a holistic and therapeutic responses.

Recommendation 12

Expand access to early and holistic legal and other social supports for children and young people experiencing or using violence in the home.

Part D: Looking to the future

A system-wide approach to measuring impact

The Family Violence Implementation Reform Monitor (FVRIM) has played a critical role in holding government and its agencies to account for implementing the Royal Commission's recommendations. Drawing on expertise held within the family violence service system and lived experience experts, FVRIM reports have identified current practice challenges and areas for systemic reform.

Women's Legal recommends that Government consult further with stakeholders regarding the best approach to facilitate ongoing system-wide monitoring and evaluation, noting the FVRIM concluded its work on 31 May 2023.

There is an ongoing need for outcomes-focused evaluation and monitoring to enable regular updates to be provided to Government regarding reform implementation. Analysis at both the system and service level is needed to identify emerging issues, promote

²⁴ Campbell, E., Richter, J., Howard, J., & Cockburn, H. *The PIPA project: Positive Interventions for Perpetrators of Adolescent violence in the home (AVITH)* (Research report, 04/2020). Sydney, NSW: ANROWS.

accountability, and enable prevention, early intervention, and response to inform one another. Maintaining a strong evidence base is necessary for effective reform and helps ensure Government investment is cost-effective.

Detailed consideration should be given to establishing a process and methodology for engaging with lived experience experts. As the discussion paper notes the expertise of victim/survivors is required at every level of system design, delivery, and evaluation.²⁵ Existing mechanisms, such as the Victim Survivors Advisory Council, are insufficient to ensure people with lived experience have input to ongoing family violence reform.

Recommendation 13

Establish a mechanism to facilitate ongoing system-wide, outcomes-focused monitoring and evaluation that centres the lived experience of those affected by family violence and draws on expertise held by those working within the family violence system.

Beyond the third rolling action plan

A continued commitment to reform across the family violence service system is needed to eliminate violence against women and children over the longer term. Having led family violence system and practice reform nationally, Victoria should develop a further ten-year strategy. Women's Legal recommends that the Government commence a co-design process to facilitate meaningful engagement with stakeholders regarding future reform priorities prior to the end of the third rolling action plan.

Recommendation 14

Commence a community-based co-design process within 18 months to develop a longer-term strategy to deliver on the full extent of the Royal Commission's vision.

²⁵ Department of Families, Fairness and Housing, *Strong Foundations, Building on Victoria's work to end family violence*, 2023, p. 48