



Submission by
The Australian Association of Social Workers
and Welfare Rights Centre Inc
to the Australian Law Reform Commission regarding

Family Violence: Commonwealth Laws
Discussion Paper 76

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Executive Summary

This submission is being presented collaboratively by the Australian Association of Social Workers (AASW) Queensland Branch, and Welfare Rights Centre – Queensland (WRC). The AASW is the key professional body representing more than 6000 social workers throughout Australia. The social work profession is committed to the pursuit of social justice, the enhancement of the well being, quality of life and the development of the full potential of each individual, group and community in society.

Since 1984, the Welfare Rights Centre - Queensland (WRC) has been providing specialist legal and advocacy services for people having problems with the social security system. While services are targeted towards the most vulnerable, information and advice are provided to all clients.

WRC's extensive client work informs their policy and law reform work. Client services are provided by a multi-disciplinary team of solicitors and social work / human service workers. In the 2009/2010 financial year WRC provided state-wide advocacy services to 1,098 clients with a total of 1,948 social security problems and dealt with 467 casework files in relation to 637 matters.

Social work operates from an holistic perspective that considers the wider impact of social systems, structures and the environment on the individual, family and community. This is particularly important in understanding the context of domestic and family violence and child abuse and neglect, which need to be situated within the broader social structure.

The following recommendations were made in addition to responses to the specific proposals and questions.

Recommendations

The AASW Qld and WRC recommend that all Commonwealth Laws and Regulations be amended to provide a definition of family violence that includes all forms of violent or threatening behaviour, or any other form of behaviour, that coercively controls a family member, or causes that family member to be fearful. Such behaviour may include, but is not limited to:

- a) physical violence;
- b) sexual assault and other sexually abusive behaviour;
- c) economic abuse;
- d) emotional or psychological abuse;

- e) stalking;
- f) kidnapping or deprivation of liberty;
- g) damage to property, irrespective of whether the victim owns the property;
- h) causing injury or death to an animal irrespective of whether the victim owns the animal;
- i) Socially isolating a person;
- j) Denying cultural and/or religious autonomy; and
- k) threats to commit any of the above or threats to commission others to do so;
- l) behaviour by the person using violence that causes a child to be exposed to the effects of behaviour referred to in (a)–(k) above.

The AASW Qld and WRC support proposals 3-2, 3.-3, 3-4, and 3-5 using the amended definition of family violence incorporating points a) to l) and that this definition be articulated in all Commonwealth laws including:

- Child Support (Assessment) Act 1989
- Child Support (Registration and Collection) Act 1988
- A New Tax System (Family Assistance) (Administration) Act 1999
- Fair Work Act 2009

The AASW Qld and WRC support proposal 3-6 and recognise the importance of ensuring that a consistent definition of family violence which is enshrined in legislation is also then carried through to provide the framework for various policies, protocols, training materials and other materials.

The AASW Qld and WRC support proposals 3-7 and 3-8, recognising the importance of ensuring that a consistent definition of family violence which is enshrined in legislation is also then carried through to provide the framework for various regulations.

In response to question 4-1 we recommend:

- 1) The establishment of specialised family violence case management teams within the Case Co-ordination pilots model;
- 2) The pilot models are in place for a duration of 2 years and are evaluated for effectiveness and capability to manage positive outcomes for victims of family violence;
- 3) that the specialised family violence case management teams include Aboriginal and Torres Strait Islander case workers;

- 4) that the specialised family violence case management teams include case worker from diverse community backgrounds; and
- 5) that intensive training on family violence is provide before the commencement of the case management model and regularly thereafter.

In relation to proposal 13-3, prior to further expanding and revising an income management model, research is needed to ensure that any model is based on a robust evidence base, that intended and unintended consequences are carefully considered and that any implementation occur at a pilot site with a rigorous evaluation process built in.

1. Introduction

This joint submission is being presented collaboratively by the Australian Association of Social Workers (AASW) Queensland Branch, and Welfare Rights Centre – Queensland (WRC). The AASW Qld and WRC welcome the opportunity to inform this significant review process being undertaken by the Australian Law Reform Commission in relation to Family Violence: Commonwealth Laws. We commend the Australian Government for undertaking a collaborative process and in particular, for the opportunity to provide feedback to the emerging policy framework.

The AASW is the key professional body representing more than 6000 social workers throughout Australia. The social work profession is committed to the pursuit of social justice, the enhancement of the well being, quality of life and the development of the full potential of each individual, group and community in society.

Since 1984, the Welfare Rights Centre - Queensland (WRC) has been providing specialist legal and advocacy services for people having problems with the social security system. While services are targeted towards the most vulnerable, information and advice are provided to all clients.

WRC's extensive client work informs their policy and law reform work. Client services are provided by a multi-disciplinary team of solicitors and social work / human service workers. In the 2009/2010 financial year WRC provided state-wide advocacy services to 1,098 clients with a total of 1,948 social security problems and dealt with 467 casework files in relation to 637 matters.

Social work operates from an holistic perspective that considers the wider impact of social systems, structures and the environment on the individual, family and community. This is particularly important in understanding the context of domestic and family violence and child abuse and neglect, which need to be situated within the broader social structure.

2. Conceptual framework

The AASW Qld and WRC support the importance of a conceptual framework that is underpinned by key human rights principles and international conventions. The identified instruments identified by the ALRC provide a robust framework to guide decision making. Key to this is a commitment at every level of our judicial and intersecting systems to:

- the rights of the child to protection as being paramount
- that any form of violence against women is not acceptable as per the CEDAW

Missing however is a clear articulation of the importance of a zero tolerance response to violence, which, we believe is crucial.

The conceptual framework discussion does not make reference to the Optional Protocols associated with the various UN conventions. Australia is a signatory to the CEDAW Optional Protocol which carries compliance and accountability requirements. In effect this means that all Commonwealth Laws, Regulations, and implementation mechanisms need to reflect the core principles and requirements set out in CEDAW. The AASW Qld and WRC suggest that direct reference to relevant sections of this protocol, be articulated within the guiding principles and practice framework of all relevant Commonwealth Laws and Regulations.

The conceptual framework highlights the tensions between privacy, and the rights of one person over another in a family or domestic relationship where violence has occurred. It is the view of the AASW Qld and WRC that these tensions have been at the heart of some of the issues identified with the existing system, which in turn have meant that how rights are interpreted and whose rights are privileged has been a subjective decision on the part of the associated legal and judicial personnel.

The AASW Qld and WRC strongly agree with point 2.30 which refers to Article 19 of the CROC in relation to the rights and needs of children. To avoid ambiguity when tensions arise between the issue of safety, wellbeing and protection and 'rights of parents', we argue that to address this situation that all legislation be underpinned by the following key principles of;

- The best interests of the child are paramount
- that any form of violence against women is not acceptable as per the CEDAW
- the safety and protection of all victims of violence is the paramount consideration.
- That safety principles need to guide and shape any policy development, program design and program evaluations.

A key issue that arises from the conceptual framework relates to the point made under 2.44 “legal frameworks’ extends beyond law in the form of legislative instruments and includes education, information sharing and other related matters” (p. 83). This raises the importance of education and training of relevant personnel and agencies in relation to domestic and family violence and the complexities involved. The AASW Qld and WRC support the development and implementation of a comprehensive training strategy as part of a holistic approach to systems reform. Furthermore, we recommend that training encompasses all employees within the Human Services system and in ongoing and evaluated.

The AASW Qld and WRC agree with the three key principles of seamless, fair and accessible in terms of responses to domestic and family violence. As part of this, we highlight the importance of ensuring access to information and support for NESB and CaLD background women. We also highlight the point that accessible services means they are culturally appropriate and accessible to particular groups, such as CaLD and Aboriginal and Torres Strait Islander peoples.

We recommend that this becomes the underpinning conceptual framework that guides the whole family violence strategy. This would include that the core principles be articulated in all relevant associated legislation and policy documents.

3. Common Interpretative Framework

Proposal 3–1 *The Social Security Act 1991 (Cth) should be amended to provide that family violence is violent or threatening behaviour, or any other form of behaviour, that coerces and controls a family member, or causes that family member to be fearful. Such behaviour may include, but is not limited to:*

- (a) physical violence;*
 - (b) sexual assault and other sexually abusive behaviour;*
 - (c) economic abuse;*
 - (d) emotional or psychological abuse;*
 - (e) stalking;*
 - (f) kidnapping or deprivation of liberty;*
 - (g) damage to property, irrespective of whether the victim owns the property;*
 - (h) causing injury or death to an animal irrespective of whether the victim owns the animal;*
- and*
- (i) behaviour by the person using violence that causes a child to be exposed to the effects of behaviour referred to in (a)–(h) above*

Family violence is a complex issue manifesting itself through a variety of behaviours aimed at controlling one's partner through fear. Any definition of family violence needs to reflect the differing experiences of victims taking into account their specific circumstances of age, abilities, race, culture, lifestyles and gender. The proposal to adopt a broader definition of family, as articulated in the discussion paper *Family Violence – Commonwealth Laws 3-1*, is consistent with *Time for Action*, the Report of the National Council to Reduce Violence Against Women and their Children (2009), which states that behaviours associated with domestic violence include, emotional, verbal, social, economic, psychological, spiritual, cultural, sexual and physical abuse.

Currently, there is no uniform definition of domestic or family violence across state jurisdictions, although work is currently in progress to address this. The Queensland *Domestic & Family Violence Protection Bill 2011* has now been introduced into parliament, and when enacted, will provide similar definitions to both the family violence protection laws of New South Wales and Victoria.

The AASW Qld and WRC support the proposal outlined in 3.1 for development of an expanded definition of family violence and strongly recommend the articulation of a clear uniform definition of family violence that encompasses the continuum of violent behaviours that can manifest themselves within domestically violent relationships. These various forms of violence are part of a range of tactics used by the perpetrator to exercise power and control over their partner and children (AASW, 2010). The proposed definition of family violence as per Proposal 3-1 should be amended to include:

- **Socially isolating a person**

Social isolation is often a serious factor in family violence which may include the control of all social activity, deprivation of liberty, isolating their partner from family, friends and other supports or the deliberate creation of unreasonable dependence. Gurr (1996) states the risk and impact of violence is exacerbated when a women is socially isolated.

- **Denying cultural and/or religious autonomy**

The experiences of women from CaLD backgrounds as well as Aboriginal and Torres Strait Islander women needs to be encompassed within a broad definition of family violence to ensure they are appropriately recognised within Commonwealth Laws and Regulations. We support the inclusion of cultural abuse in the definition, which is particularly relevant when Australian men or Australian permanent residents perpetrate abuse towards women from CaLD backgrounds. Anecdotal experiences from women's domestic violence services,

identify situations such as: women not allowed to speak their own language at home with their children; not allowed to cook their own food; not allowed to practice their own rituals and/or spiritual beliefs or maintain contact with people from their own community. Such examples are particularly present in bi-cultural marriages where domestic and family violence occurs. Understanding the importance of the cultural dimensions that exist within domestic and family violent relationships are critical components to any comprehensive and inclusive definition of violence (AASW, 2010).

- **Threats to commit any of the behaviours mentioned or the threat to commission others to do so**

Fear is a key element in domestic violence and is often the most powerful way a perpetrator controls his victim. Violence does not need to occur to result in someone living in fear. Fear is created by threats of homicide /suicide, possession of weapons, (even if they are not used), destroying property, cruelty to pets - or any behaviour which can be used to intimidate and render the victim powerless. Many years of practice experience in this area of work has identified that psychological and emotional violence combined with threats can occur without any actual physical assaults being perpetrated leaving the victims often immobilised with fear. In addition, physical assault violence is used in conjunction with psychological and emotional violence and threats. Given the frequency of threats being used in domestically violence contexts it is critical any definitions incorporate this.

Recommendation:

The AASW Qld and WRC recommend that all Commonwealth Laws and Regulations be amended to provide a definition of family violence that includes all forms of violent or threatening behaviour, or any other form of behaviour, that coercively controls a family member, or causes that family member to be fearful. Such behaviour may include, but is not limited to:

- m) physical violence;
- n) sexual assault and other sexually abusive behaviour;
- o) economic abuse;
- p) emotional or psychological abuse;
- q) stalking;
- r) kidnapping or deprivation of liberty;
- s) damage to property, irrespective of whether the victim owns the property;
- t) causing injury or death to an animal irrespective of whether the victim owns the animal;

- u) Socially isolating a person;
- v) Denying cultural and/or religious autonomy; and
- w) threats to commit any of the above or threats to commission others to do so;
- x) behaviour by the person using violence that causes a child to be exposed to the effects of behaviour referred to in (a)–(k) above.

Proposal 3-2 *The Child Support (Assessment) Act 1989 (Cth) and the Child Support (Registration and Collection) Act 1988 (Cth) should be amended to provide a consistent definition of family violence as proposed in Proposal 3-1.*

Proposal 3-3 *A New Tax System (Family Assistance) Act 1999 (Cth) should be amended to provide consistent definition of family violence as proposed in Proposal 3-1.*

Proposal 3-4 *A New Tax System (Family Administration) Act 1999 (Cth) should be amended to provide a consistent definition of family violence as proposed in Proposal 3-1.*

Proposal 3-5 *The Fair Work Act 2009 (Cth) should be amended to provide for a consistent definition as proposed in Proposal 3-1.*

The AASW Qld and WRC recognise the importance of having a consistent definition of family violence across all Commonwealth Laws and Regulations.

Recommendation:

The AASW Qld and WRC support the above proposals using the amended definition of family violence incorporating points a) to l) and that this definition be articulated in all Commonwealth laws including:

- Child Support (Assessment) Act 1989
- Child Support (Registration and Collection) Act 1988
- A New Tax System (Family Assistance) (Administration) Act 1999
- Fair Work Act 2009

Proposal 3 – 6 *The following guidelines and material should be amended to provide for a consistent definition of family violence as proposed in Proposal 3-1:*

- *Department of Education, Employment and Workplace Relations and Job Services Australia Guidelines, Advices and Job Aids;*
- *Safe Work Australia Codes of Practice and other materials;*

- *Fair Work Australia material, and;*
- *Other similar material*

Recommendation:

The AASW Qld and WRC support the above proposal and recognise the importance of ensuring that a consistent definition of family violence which is enshrined in legislation is also then carried through to provide the framework for various policies, protocols, training materials and other materials.

Proposal 3-7 *The Superannuation Industry (Supervision) Regulations 1994 (Cth) and, where appropriate, all Australian Prudential Regulation Authority, Australian Taxation Office and superannuation fund material, should be amended to provide for a consistent definition of family violence as proposed in Proposal 3 -1.*

Proposal 3 -8 *The Migration Regulations 1994 (Cth) should be amended to provide for a consistent definition as proposed in Proposal 3-1.*

Recommendation:

The AASW Qld and WRC support the above proposals and recognise the importance of ensuring that a consistent definition of family violence which is enshrined in legislation is also then carried through to provide the framework for various regulations.

Proposal 3-9 *Department of Immigration and Citizenship's Procedures Advice Manual for decision makers should include examples to illustrate coercive and controlling conduct that may amount to family violence, including but not limited to:*

(a) the threat of removal; and

(b) violence perpetrated by a family member of the sponsor at the instigation, or through the coercion, of the sponsor.

The AASW Qld and WRC support Proposal 3-9 to include specific examples of coercive and controlling behaviours for illustrative purposes in the Citizenship's Procedures Advice Manual.

The coercive control that can be exercised over someone within a family violence context can be pervasive often regulating all aspects of someone's life. For women from a CaLD background this can be further exacerbated by issues of language barriers, isolation from

family, friends and community supports, unfamiliarity with Australian laws and systems and limited knowledge of their right to legal protection.

They may not only be threatened with removal but may also have vital information about their legal status and rights withheld from them or denied access to passports and other informant documentation.

We suggest that 'the definition to be included in the Department of Immigration and Citizenship's Procedures Advice Manual include examples of:

- (a) *the threat of removal;*
- (b) *the withholding of information on visa status, legal rights, passports and other important information;*
- (c) *violence perpetrated by a family member of the sponsor at the instigation, or through the coercion, of the sponsor.*

4. Screening, Information Sharing and Privacy

Proposal 4–1 *Information regarding screening about family violence by Child Support Agency and Family Assistance Office staff and Centrelink customer service advisers, social workers, Indigenous Service Officers and Multicultural Service Officers should be included in the Child Support Guide, the Family Assistance Guide and the Guide to Social Security Law.*

Proposal 4–2 *Child Support Agency and Family Assistance Office staff and Centrelink customer service advisers, social workers, Indigenous Service Officers and Multicultural Service Officers should routinely screen family violence when commencing the application process with a customer, immediately after that, and at defined intervals and trigger points (as identified in Chapters 5 and 9–11).*

Proposal 4–3 *Screening for family violence by Child Support Agency and Family Assistance Office staff and Centrelink customer service advisers, social workers, Indigenous Service Officers and Multicultural Service Officers should be conducted through different formats including through:*

- *electronic and paper claim forms and payment booklets;*
- *in person;*
- *posters and brochures;*

- *recorded scripts for call waiting;*
- *telephone prompts;*
- *websites; and*
- *specific publications for customer groups such as News for Seniors.*

The AASW Qld and WRC acknowledge the work already undertaken by the Australian Government to improve the efficiency and effectiveness of service delivery through the integration of the service systems of CSA, FAO and CRS Australia—Centrelink, and Medicare Australia, under the umbrella of Human Services. One of the key aims of this has been to provide seamlessness for customers and stakeholders who access services delivered by the Human Services portfolio (ALRC, 2011). Integration of service systems allows for a ‘*tell us once*’ approach for clients.

We believe the proposals outlined in Section 4 can build on the work of integration that has occurred and is of critical importance for victims of family violence. The manner in which domestic & family violence is identified, responded to and managed will have serious consequences for victims in terms of the risk and safety issues they are experiencing.

The AASW Qld and WRC have serious concerns regarding the Proposal 4-3 with specific regard to:

- a. Terminology “**screening**” as applied to domestic & family violence
- b. The need to differentiate between ‘screening’ and ‘risk assessment’
- c. Managing disclosures of family violence

a) Terminology

The terminology used for identifying domestic and family violence is problematic in a non-medical setting as the term ‘screening’ is derived from a biomedical model where screening is defined as the detection of a disease; treatment and resolution. It is our belief that such a relationship to domestic & family violence is not appropriate due to the work that has been done to shift the concepts surrounding domestic & family violence from a disease framework. In addition it assumes that once someone has screened negative to domestic & family violence that no other intervention is required. Taft (2002) argues eloquently against the use of screening tools and/or techniques with regard to domestic & family violence preferring the use of the term *direct inquiry* about domestic & family violence. We strongly recommend the ALRC rethink the use of the term ‘screening’ in preference to the use of the term ‘direct inquiry’ and/or ‘asking directly’.

The use of direct inquiry about domestic & family violence could then be incorporated at critical times during the assessment and review processes with a range of information available to all (including wall posters and other visual cues in waiting areas as suggested). Robinson & Maloney (2010) suggest that there are considerable dangers associated with the use of a screening instrument in isolation from empathic engagement with a worker. Furthermore, the decision to implement any screening process needs to be made in consideration of the costs versus the benefits. Training of staff is essential if they are to enquire about domestic and family violence effectively. This raises questions as to the appropriateness of expecting FAOs and CSOs to undertake routine direct inquiry. The outcomes from a disclosure as a result of a direct inquiry need to be made clear and be of potential benefit to the client. What are the implications for a client, should the direct inquiry outcome determine they are victims of domestic and family violence and the client does not agree? This needs to be worked through and a process in place that acknowledges for a range of reasons women do not identify with being a victim of domestic and family violence and sometimes this is a protective measure for her and the children.

b) Screening vs Risk Assessment

The ALRC discussion paper summary (p. 12) proposes that Centrelink adopts a “multi-faceted” approach to screening and risk assessment for domestic violence. We are concerned that there is no clear distinction made between them. These processes are quite different with regards to purpose and outcomes. Braaf and Sneddon (2007) suggest that “screening” is a process by which “identification” of victims of family violence occurs. Risk Assessment refers to the ongoing identification and assessment of the degrees of harm or injury likely to occur as a result of past, present or future violence. Each process has a different purpose with differing outcomes.

The use of risk assessment within a family violence intervention is a relatively new science and it is important to be clear about ‘what type of risk you are assessing for, and what change in intervention will occur as a result of the assessment. Abrams, Belknap & Melton (2000), argue that risk assessment should not be used to limit eligibility for services, but rather to identify when enhanced or expedited intervention is necessary.

Identifying family violence as a possible client concern can be achieved through ‘direct enquiry’ and this then should open internal pathways to appropriately qualified staff. Websdale (2000) cautions that a risk assessment tool should not be used as the sole basis for safety planning with women, but rather used in conjunction with other information.

We strongly supports the view that risk assessment and safety management should only conducted by professionally, trained staff who have the skills and experience to manage disclosures and undertake safety planning

c) Management of Disclosures

The AASW Qld and WRC believe the overarching practice framework for any family violence strategy must always have a strong focus on safety and harm minimisation. We believe the identification of and case management of risk indicators and safety management is best handled by social workers who have the expertise and experiencing of interviewing victims of family violence. Together with this, they would also need to have considerable knowledge of the dynamics of domestic & family violence. This then raises the issues associated with “triage” as the identification of safety issues at the first point of contact can be of significant importance and the pathways for timely and appropriate responses and interventions need to be clear for all front line staff.

Campbell et.al., (1999) caution on the secondary victimisation which can occur through responses to victims by individuals and institutions. The types of secondary victimisation that can occur include victim blaming, discounting or dismissing a victim’s account of what has occurred, inappropriate behaviour or language and not taking all possible steps to ensure their safety. The reduction of secondary victimisation can be achieved through training, monitoring of responses, timely referral both internal and external to appropriately qualified people, and evaluation of the family violence strategy which seeks feedback from victims who have been clients.

There are many people working in the system that advise and assist families as they progress through the system. In many cases, judgements and assumptions are made by those providing assistance at numerous stages during the process. In this way, they act as gatekeepers to the information/issues that may form the basis of a final decision or agreement.

Routine direct inquiry is problematic and potentially risky for victims of family violence. We would advocate an approach that uses the provision of information at all aspects of client engagement which could include printed forms, brochures, posters and websites. This would serve to inform victims of family violence as well as provide them with options which may be open to them for support. Information provided to clients who are or have experienced family violence includes:

- 1) information on the nature and dynamics of family violence, the impact on themselves and children;
- 2) their universal right to safety and affirmation that abuse and violence is not their fault;
- 3) options they may consider for the safety of themselves and their children;
- 4) information in a clearly understandable format on their entitlements and how to access them;
- 5) support options either as referral to Centrelink social workers or external support agencies.

Proposal 4-4 *In conducting screening for family violence, Child Support Agency and Family Assistance Office staff and Centrelink customer service advisers, social workers, Indigenous Service Officers and Multicultural Service Officers should take into consideration a customer's cultural and linguistic background as well as a person's capacity to understand, such as due to cognitive disability.*

Information on family violence needs to be provided in ways that is reflective of a person's background including their specific circumstances of age, abilities, race, culture and lifestyles. The information provided to people as described under c) Management of Disclosure (points 1-5) should be provided in a variety of languages, formats and targeted focus. Training should be provided to staff on family violence and its impact of people from diverse backgrounds, cultures, ages and lifestyles. Given the overrepresentation of Aboriginal and Torres Strait Islander women in family violence statistics, specific strategies should address their issues including the development of specific family violence resources, case management approaches, training and community engagement aimed at achieving safer outcome for women and children.

Question 4-1 *In addition to the initial point of contact with the customer, at what trigger points should Child Support Agency and Family Assistance Office staff and Centrelink customer service advisers, social workers, Indigenous Service Officers and Multicultural Service Officers screen for family violence?*

Domestic and Family violence is complex and unpredictable. A single incident of abuse or violence is never a reliable indicator of what is occurring within the relationship. Laing (2004) emphasises that conducting a risk assessment should not be seen as a single, static event but rather as an ongoing process. Many victims of family violence may first become clients of Centrelink and the Child Support Agency following separation. Campbell et al., (2003) report that separation from an abusive partner after cohabiting is associated with

increased risk of homicide, particularly when the perpetrator is highly controlling, *'It is also clear that extremely controlling abusers are particularly dangerous under conditions of estrangement'* (2003).

We note the planned Case Coordination approach developed within Centrelink to be piloted during 2011-2012 (Section 4.15). The Case Coordination pilot will aim to enable people, processes and systems 'to work in an integrated way and consistently identify customers with complex needs who will benefit from targeted or specialised services'. We support the establishment of a specialised family violence team within this Case Coordination Centrelink who could case manage the risk assessment and safety management process. The referral to the specialised family violence team should be at the discretion of the client who is provided with substantial information on the what this may mean for them in terms of support and safety. Once referred to this specialised team, they could case manage ongoing interactions between various sections of Centrelink and Child Support Agency and the client.

In response to 4-1 we recommend:

- 6) The establishment of specialised family violence case management teams within the Case Co-ordination pilots model;
- 7) The pilot models are in place for a duration of 2 years and are evaluated for effectiveness and capability to manage positive outcomes for victims of family violence;
- 8) that the specialised family violence case management teams include Aboriginal and Torres Strait Islander case workers;
- 9) that the specialised family violence case management teams include case worker from diverse community backgrounds; and
- 10) that intensive training on family violence is provide before the commencement of the case management model and regularly thereafter.

Proposal 4-5 *Child Support Agency and Family Assistance Office staff and Centrelink customer service advisers, social workers, Indigenous Service Officers and Multicultural Service Officers should receive regular and consistent training and support (including resource manuals and information cards) in:*

- *screening for family violence sensitively; and*
- *responding appropriately to disclosure of family violence, including by making referrals to Centrelink social workers.*

Proposal 4–6 *Training provided to Child Support Agency and Family Assistance Office staff, and Centrelink customer service advisers, social workers, Indigenous Service Officers and Multicultural Service Officers should include:*

- *the nature, features and dynamics of family violence, and its impact on victims, in particular those from high risk and vulnerable groups;*
- *recognition of the impact of family violence on particular customers such as Indigenous peoples; those from culturally and linguistically diverse backgrounds those from lesbian, gay, bisexual, trans and intersex communities; children and young people; older persons; and people with disability;*
- *training to ensure customers who disclose family violence, or fear for their safety, know about their rights and possible service responses, such as those listed in Proposal 4–8; and*
- *training in relation to responding appropriately to and interviewing victims of family violence. In particular, training for Centrelink customer service advisers and social workers should include information about the potential impact of family violence on a job seeker's barriers to employment.*

Further to the above, the AASW Qld and WRC recommend the training includes information on why and when victims made decision to stay or leave and why and when victims help seek. Information should also be provided during the training on helpful and unhelpful responses to disclosures. Training for staff involved in all aspects of the family violence strategy would be essential to achieving positive outcomes. This training could need to occur prior to the introduction of any new systems, procedures and process.

Training should to be compulsory for:

- All frontline staff
- Social Workers
- Family Violence Case Management Team
- Managers

The training would need to cover the topics as identified above as well providing people with a clear expectation of their role within the family violence strategy and the skills to provide the necessary responses expected of them.

We recommend the development and implementation of comprehensive training prior to the introduction of any new family violence strategy and after this that training on family violence be provided to staff on an ongoing basis.

Proposal 4–7 *The Department of Human Services should ensure that monitoring and evaluation of processes for screening for family violence is conducted regularly and the outcomes of such monitoring and evaluation are made public.*

The evaluation of family violence processes and responses is critical to ensure that positive outcomes are achieved for clients. We have already recommended the development of a pilot approach to the establishment of case management teams and would suggest this be then externally evaluated and the findings of the evaluation made public.

Proposal 4–8 *The Child Support Guide, the Family Assistance Guide and the Guide to Social Security Law should provide that Child Support Agency and Family Assistance Office staff and Centrelink customer service advisers, social workers, Indigenous Service Officers and Multicultural Service Officers should give all customers information about how family violence may be relevant to the child support, family assistance, social security and Job Services Australia systems. This should include, but is not limited to:*

- *exemptions;*
- *entitlements;*
- *information protection;*
- *support and services provided by the agencies;*
- *referrals; and*
- *income management*

The provision of information relative to family violence can be both beneficial and empowering to those who experience such abuse. However the provision of information can never compromise safety. We would suggest that all printed materials provided to clients contain the phone number of the national toll free help line 1800 RESPECT.

Proposal 4–9 *The Department of Human Services and other relevant departments and agencies should develop a protocol to ensure that disclosure of family violence by a customer prompts the following service responses:*

- *case management, including provision of information in Proposal 4–8, and additional services and resources where necessary; and*

- *the treatment of that information as highly confidential with restricted access.*

The safety of those experiencing family violence is paramount and the security of their information is critical to achieving this. The proposed development of a specialised family violence case management team would need to work within a case management framework that clearly articulates safety, confidentiality and client engagement and decision making.

Proposal 4–10 *The Guide to Family Assistance and the Child Support Guide should provide that where family violence is identified through the screening process, or otherwise, Centrelink, Child Support Agency and Family Assistance Office staff must refer the customer to a Centrelink social worker.*

We support the establishment of Family Violence Case Management Teams which would be the primary referral point for all identified family violence responses and interventions. This is outlined at 4-1.

Proposal 4–11 *Where family violence is identified through the screening process or otherwise, a ‘safety concern flag’ should be placed on the customer’s file.*

The AASW Qld and WRC support in principle the proposal to have a ‘safety concern flag’ placed on a customer’s file. We believe placement of a ‘safety concern flag’ on someone’s file needs to be either at their request or with their consent. They should have the purpose of the safety flag explained and what may result if there is a notification that their safety has been compromised. We believe that it is paramount that victims of family violence are informed or updated on any ongoing actions or consequences arising from having the safety concern flag on their file and the process they need to follow to have the safety concern flag removed once this is no longer needed.

We believe important issues to be considered prior to the introduction of a safety flag system include but are not limited to;

- A broad definition of what might constitute a ‘safety concern’ so that it is reflective of the individual safety concerns of all victims of family violence and is not left to the discretion of individual workers;
- What might trigger a ‘safety flag’ request;
- The purpose of having a ‘safety flag’ on someone’s file;

- The actions which follow if someone who has a 'safety flag' on their file has their safety compromised;
- How victims of family violence are kept informed of any actions arising out of having a 'safety flag' on their file;
- How victims of family violence can request to have 'safety flags' updated or removed;
- Training for staff on the broad issues of family violence risks and safety issues.

Proposal 4–12 *The 'safety concern flag' only (not the customer's entire file) should be subject to information sharing as discussed in Proposal 4–13.*

If a victim of family violence has been referred to the specialist family violence case management team for support, we believe that information should not be shared outside of this team without the expressed consent of the person. Their right to privacy, safety and autonomy should be upheld at all times.

Proposal 4–13 *If a 'safety concern flag' is developed in accordance with Proposal 4–11, the Department of Human Services and other relevant departments and agencies should develop inter-agency protocols for information sharing between agencies in relation to the 'safety concern flag'. Parties to such protocols should receive regular and consistent training to ensure that all arrangements are effectively implemented.*

We refer to 4-12

Proposal 4–14 *The Department of Human Services and other relevant departments and agencies should consider issues, including appropriate privacy safeguards, with respect to the personal information of individual customers who have disclosed family violence in the context of their information-sharing arrangements.*

We refer to 4-11

Proposal 4–15 *The Department of Human Services and other relevant departments and agencies should develop policies and statements relating to family violence and child protection, to ensure consistency in service responses. These policies should be published on the agencies' websites and be included in the information provided to customers in Proposal 4–8.*

We believe that a common definition of both family violence and child abuse need to be clearly articulated within legislation, regulation and corresponding policies and statements to ensure there is consistency in understanding and service responses.

5. Social Security—Overview and Overarching Issues

Proposal 5–1 *The Guide to Social Security Law should be amended to include:*

(a) the definition of family violence in Proposal 3–1; and

(b) the nature, features and dynamics of family violence including: while anyone may be a victim of family violence, or may use family violence, it is predominantly committed by men; it can occur in all sectors of society; it can involve exploitation of power imbalances; its incidence is underreported; and it has a detrimental impact on children.

In addition, the Guide to Social Security Law should refer to the particular impact of family violence on: Indigenous peoples; those from a culturally and linguistically diverse background; those from the lesbian, gay, bisexual, trans and intersex communities; older persons; and people with disability.

Providing a definition of family violence that is reflective of the lived experiences of women and children is a critical aspect of developing an inclusive and appropriate framework for legislative reform.

As previously stated in Chapter 3-1, we recommend that all relevant Commonwealth Laws and Regulations be amended to provide that family violence is violent or threatening behaviour, or any other form of behaviour, that coerces and controls a family member, or causes that family member to be fearful. Such behaviour may include, but is not limited to:

- a) physical violence;
- b) sexual assault and other sexually abusive behaviour;
- c) financial abuse;
- d) emotional or psychological abuse;
- e) stalking;
- f) kidnapping or deprivation of liberty;
- g) damage to property, irrespective of whether the victim owns the property;
- h) causing injury or death to an animal irrespective of whether the victim owns the animal;
- i) Socially isolating a person;
- j) Denying cultural and/or religious autonomy; and
- k) threats to commit any of the above or threats to commission others to do so;

- l) behaviour by the person using violence that causes a child to be exposed to the effects of behaviour referred to in (a)–(k) above.

The AASW Qld and WRC highlight the importance of Social Security Law having specific regard to economic abuse and suggest several examples are cited with the Act.

Brannigan (2004) asserts that financial abuse is a profoundly unrecognised phenomenon which is deeply hidden in societal expectations that couples equitably share income and resources for the good of the family. Forms of financial abuse can include denied access to bank accounts, lack of decision making on financial expenditure, denied money to buy food and clothing, medicine and pay bills. Women may be coerced into paying their partner's debts which they did not incur or having loans taken in their names which results in women being debt ridden long after the relationship has ended.

Proposal 5–2 *Centrelink customer service advisers, social workers and members of the Social Security Appeals Tribunal and Administrative Appeals Tribunal should receive consistent and regular training on the definition of family violence, including the nature, features and dynamics of family violence, and responding sensitively to victims of family violence.*

Comprehensive and appropriate training for all staff across the Social Security Appeals Tribunal and Administrative Appeals Tribunal, as well as staff within Centrelink, Child Support Agency and Family Assistance Office staff, and Centrelink customer service advisers, social workers, Indigenous Service Officers and Multicultural Service Officers should be compulsory. We recommend that such training includes information on:

- the nature, features and dynamics of family violence, and its impact on victims, in particular those from high risk and vulnerable groups;
- dynamics of financial abuse and ways this affects victims accessing financial assistance;
- the context in which violence occurs to dismiss the concepts of 'mutual battering';
- recognition of the impact of family violence on particular customers such as Indigenous peoples; those from culturally and linguistically diverse backgrounds; those from lesbian, gay, bisexual, trans and intersex communities; children and young people; older persons; and people who live with a disability;
- working from an inclusive framework and practice;

- ways to ensure customers who disclose family violence, or fear for their safety, know about their rights and possible service responses, such as those listed in Proposal 4–8;
- how to respond appropriately to victims of family violence. In particular, training should include information about the potential impact of family violence on a job seeker’s barriers to employment;
- training on when and why women / victims make decision to stay or leave an abusive relationships;
- the roles and responsibilities of everyone within the Social Security in ensuring the safety of victims and their children;
- understanding and interpreting procedures aimed at providing enhanced assistance to victims;
- impact of secondary victimisation; and
- identifying appropriate referral pathways.

Proposal 5–3 *The Guide to Social Security Law should be amended to provide that the following forms of information to support a claim of family violence may be used, including but not limited to:*

- *statements including statutory declarations;*
- *third party statements such as statutory declarations by witnesses, employers or family violence services;*
- *social worker’s reports;*
- *documentary records such as diary entries, or records of visits to services, such as health care providers;*
- *other agency information (such as held by the Child Support Agency);*
- *protection orders; and*
- *police reports and statements.*

The provision of what may be seen as ‘adequate’ documentation to support a claim of family violence can be problematic for some women. It would be feasible that on leaving or attempting to leave family violence, Centrelink may be the first agency to which a victim turns for support. Ensuring they will be financially viable is a key factor determining when women leave and how well they cope once they have left. Women should not be forced to report to other agencies, i.e. police, courts etc in order to obtain the necessary documentation.

The AASW Qld and WRC recommend that in those cases where assessment cannot occur with confidence, the matter should be referred to a Centrelink Social Worker or the Family Violence Case Management Team for consideration.

Proposal 5–4 *The Guide to Social Security Law should be amended to include guidance as to the weight to be given to different types of information provided to support a claim of family violence, in the context of a particular entitlement or benefit sought.*

While the AASW Qld and WRC acknowledge that inevitably different weight will be given to different types of information provided, we note that a hierarchy of ‘forms of information’ could result in unfair outcomes for the victim of family violence. For example, if that person had no third party corroboration and therefore their story was taken less seriously. Furthermore, if a person only had one of the types of supporting forms of information listed in Proposal 5-3, would that mean that their situation was viewed as less serious and therefore less deserving of consideration? If there is genuine, considered doubt as to the veracity of a person’s view of their situation, then they should be referred to a Centrelink Social Worker for an assessment as referred to in our response to Proposal 5-3 above.

Proposal 5–5 *Centrelink customer service advisers and social workers should receive consistent and regular training in relation to the types of information that a person may rely on in support of a claim of family violence.*

Training should be comprehensive and ongoing as outlined in 5.2.

Proposal 5–6 *The Guide to Social Security Law should be amended to provide that, where a person claims that they are experiencing family violence by a family member or partner, it is not appropriate to seek verification of family violence from that family member or partner.*

The AASW Qld and WRC support Proposal 5-6, and we note that the Guide should make it clear that in cases of young people seeking Youth Allowance at the independent rate on the basis of it being ‘unreasonable to live at home’ due to family violence, it is not appropriate for Centrelink to seek verification of this from the young person’s family member. Safety considerations should always take precedent in any interaction with young people who are experiencing family violence.

Proposal 5–7 *Centrelink customer service advisers and social workers should receive consistent and regular training in relation to circumstances when it is not appropriate to seek verification of family violence from a person’s partner or family member.*

The AASW Qld and WRC agree with Proposal 5-7 and recommend this point be included in training as outlined at 5.2.

Proposal 5–8 *Centrelink customer service advisers and social workers should be required to screen for family violence when negotiating and revising a person’s Employment Pathway Plan.*

The AASW Qld and WRC have made considerable comments at 4-3 regarding our concerns on the introduction of universal screening for family violence and request that our recommendations in Chapter 4-3 be considered in response to Proposal 5-8.

We believe that Centrelink should provide information on family violence to all customers and then facilitate a safe, supportive and inclusive practice for those victims of family violence who choose to disclose. With specific regard to Proposal 5-8, the system needs to be flexible enough to allow jobseekers to choose for themselves whether or not they wish family violence be taken into account when drawing up their EPP. While participation requirements will be too onerous for some victims of family violence, or simply more than they can deal with at the time, for others, the obligation to participate can provide them with an argument as to why they need to go out and interact with others and can therefore be beneficial. The client needs to be able to determine what is most appropriate for their particular circumstances.

Question 5–1 *At what other trigger points, if any, should Centrelink customer service advisers and social workers be required to screen for family violence?*

We again draw attention to the comments made at Proposal 4-3 regarding our concerns on the use of universal screening.

Proposal 5–9 *A Centrelink Deny Access Facility restricts access to a customer’s information to a limited number of Centrelink staff. The Guide to Social Security Law should be amended to provide that, where a customer discloses family violence, he or she should be referred to a Centrelink social worker to discuss a Deny Access Facility classification.*

Our view is that the advantages and disadvantages of the Deny Access Facility classification should be explained to the client and the person should be free to choose to access this at the time, or later, should their needs change. Clients of the Welfare Rights Centre have found that the DAF classification can hamper their dealings with Centrelink, causing frustrating delays in, for example, obtaining information. Clients would need to be given information on the process of having this facility removed from their files when they have re-established themselves and are at a point where safety concerns have reduced.

Question 5–2 *Should Centrelink place a customer who has disclosed family violence on the ‘Deny Access Facility’:*

(a) at the customer’s request; or

(b) only on the recommendation of a Centrelink social worker?

The AASW Qld and WRC strongly agree that a person should only be placed on the ‘Deny Access Facility’ at their request. The purpose of the deny access facility should be explained to persons who disclose family violence, as should the disadvantages of this facility. Clients of the Welfare Rights Centre have found that the DAF classification can hamper their dealings with Centrelink, causing frustrating delays in, for example, obtaining information. Whether or not to use this facility should be at the discretion of the client.

6. Social Security—Relationships

Proposal 6–1 *The Guide to Social Security Law should be amended to reflect the way in which family violence may affect the interpretation and application of the criteria in s 4(3) of the Social Security Act 1991 (Cth).*

The AASW Qld and WRC are concerned that victims of family violence may not always be adequately informed of their entitlements to social security. Information on eligibility and exemptions specifically in respect to benefits allowable to victims of family violence, need to be provided in a consistent and user friendly manner. The Guide to Social Security Law should also include examples showing the impact of family violence on each relationship ‘factor’ and also includes suggestions for questions to assist in eliciting this information. For example, in relation to finances, questions should consider the level of decision making victims of family violence have had on family resources and the way in which this has impacted on them.

Proposal 6–2 *Centrelink customer service advisers and social workers should receive consistent and regular training in relation to the way in which family violence may affect the interpretation and application of the criteria in s 4(3) of the Social Security Act 1991 (Cth).*

The AASW Qld and WRC note that Centrelink often operates in a ‘climate of disbelief’ which at times can be punitive and unsupportive. Income security is of pivotal importance for women leaving abusive relationships and gaining the right support from Centrelink is critical to this. Centrelink staff need regular training and supervision on the myriad of ways family violence impacts on the lives of women and their children, especially aspects of financial abuse which are rarely understood and acknowledged within Centrelink.

Proposal 6–3 *The Guide to Social Security Law should be amended expressly to include family violence as a circumstance where a person may be living separately and apart under one roof.*

We acknowledge the high incidence of financial abuse that occurs within family violence and the extreme poverty in which many victims and their children are forced to live. The way in which financial resources are exploited within family violence needs to be better understood to allow for the treatment of income as separate and not pooled as ‘household income’.

Branigan’s (2004) research highlights that 83% of women reported they were expected to take on the majority of financial responsibility for running the household with little or no access to their partner’s income. The implications of this on the women and their children need to be recognised, for example, one woman reported experiencing anaemia as she was forced to go continually without food.

Having access to financial resources is a critical factor in women’s decision making on leaving violent relationships.

“I planned to leave one day so began making arrangements. I started collecting the change from the grocery money and became adept at “running out of items” that need replacing. I would put money in a cavity in the linen closet, \$5 at a time. I felt like a fugitive and lived in constant anxiety.” (Victim quoted in “His Money or Our Money. 2004).

Proposal 6–4 *The Guide to Social Security Law should be amended to direct decision makers expressly to consider family violence as a circumstance that may amount to a ‘special reason’ under s 24 of the Social Security Act 1991 (Cth).*

The AASW Qld and WRC support Proposal 6-4.

Question 6–1 *With respect to the discretion under s 24 of the Social Security Act 1991*

(Cth):

- (a) is the discretion accessible to those experiencing family violence;*
- (b) what other ‘reasonable means of support’ would need to be exhausted before a person could access s 24; and*
- (c) in what ways, if any, could access to the discretion be improved for those experiencing family violence?*

The AASW and WRC are responding to this question on two levels: Practically – Are those who would benefit from the discretion able to access it?

Legally - Whether or not the discretion can correctly be applied to a person in a relationship who is experiencing family violence.

Practically:

The discretion under s24 is not necessarily accessible, in order to access this, a person either needs to be aware of the option (most unlikely for most Centrelink customers), or have this option explained to them by a Centrelink officer. The latter is unlikely to occur, due to the expert level of Social Security legal knowledge required and to the fact that Centrelink works from the starting point that a customer needs to ask or claim for something. This is why we believe that the Social Security Guide needs to direct decision making.

This issue underlines the fundamental problem with s24: benefitting from it requires expert knowledge. It also raises the question: how many decision makers would consider this option routinely in cases of family violence?

The other problem identified with the administration of s24 is that decision makers can become ‘stuck’ on the issue of whether or not the situation is “extreme” or “special”. (This problem was raised by WRC in their response to Issues Paper 39.)

Legally:

Section 24 provides for a person to be treated as a single person for a special, limited purpose. As the WRC noted in their submission to Issues Paper 39, family violence is rarely, if ever, used as a reason for applying the discretion.

We support the recommendation made by the WRC in their earlier submission to the ALRC, that section 24 be amended in order to provide for a victim of family violence to not be treated as a member of a couple. While from a hard-headed, pragmatic point of view, this discretion cannot be applied as some sort of “compensation” for the person experiencing family violence, there are situations where to apply the discretion would be desirable and fair. For example, in the case where a victim of family violence has no independent access to money, (due to the control of her partner) and is not able to receive a Social Security payment, due to her partner’s income being over the income limit and she wishes to save up some money in order to be able to leave the relationship.

We note that while the purpose of ensuring that the customer has sufficient / more funds would be directed towards facilitating the victim’s independence, there is a risk that the extra funds will instead be used by the perpetrator, who takes this away from the victim. In this way, the perpetrator is thereby actually rewarded for their actions. This risk is noted, as something to be aware of, not as a reason for not using s24 where it is appropriate.

In relation to point c), we suggest that once someone has disclosed family violence and been referred to a Social Worker– they should be told about s24 provision.

Proposal 6–5 *The Guide to Social Security Law should be amended expressly to refer to family violence, child abuse and neglect as a circumstance in which it may be ‘unreasonable to live at home’ under the provisions of ‘extreme family breakdown’—Social Security Act 1991 (Cth) ss 1067A(9)(a)(i), 1061PL(7)(a)(i); and ‘serious risk to physical or mental well-being’—Social Security Act 1991 (Cth) ss 1067A(9)(a)(ii), 1061PL(7)(a)(ii).*

The AASW Qld and WRC support Proposal 6-5. While the Social Security Law Guide 3.2.5.30 already mentions ‘violence’, family violence includes a much broader range of behaviours and spelling it out for decision makers can only serve to facilitate decision making. Experience has shown that decision makers are less inclined to grant Unreasonable To Live At Home in situations where the violence is other than physical.

Question 6–2 *Should the Social Security Act 1991 (Cth) also be amended expressly to refer to family violence, child abuse and neglect as an example of when it is ‘unreasonable to live at home’*

The AASW Qld and WRC agree with this. The WRC has had cases where unless the ‘violence’ is physical, the decision maker has not considered the situation sufficiently serious

to warrant the granting of UTLAH. WRC is currently appealing one of these because the point is already arguable, however if “family violence”, with its much broader definition, was specified in the Act, there would be no need for these young people to have to go through the appeal process and, most likely, fall through the cracks in the process.

Question 6–3 *Should ss 1067A(9)(a)(ii) and 1061PL(7)(a)(ii) of the Social Security Act 1991 (Cth) be amended:*

(a) expressly to take into account circumstances where there has been, or there is a risk of, family violence, child abuse, neglect; and

The AASW Qld and WRC support the inclusion of a broad definition of family violence as outlined in Proposal 3-1. Past experiences have shown that there is not a consistent understanding of family violence and how this impacts on people dependent on them with specific reference to children and young people, CaLD women, Aboriginal and Torres Strait Islander women and women with disabilities. Furthermore, there is a problem with the existing wording of the legislation, in that it refers to ‘family breakdown’, which overlooks the fact that families can stay intact, despite the persistence of damaging Family Violence, and therefore the young person may not qualify for Unreasonable To Live At Home.

(b) remove the requirement for the decision maker to be satisfied of ‘a serious risk to the person’s physical or mental well-being’?

The risk and harm posed to a young person’s well-being through the impact of family violence is well documented. We believe it is time to move on from the antiquated belief that children are tough and can adapt to anything. The research clearly shows us that children experience significant trauma as a result of family violence, and while some children are able to adapt to some extent, no child should not have to endure family violence as identified and supported in the national frameworks: Protecting Children is Everyone’s Business (2009) and the National Plan to Reduce Violence against Women (2009).

Proposal 6–6 *DEEWR and Centrelink should review their policies, practices and training to ensure that, in cases of family violence, Youth Allowance, Disability Support Pension and Pensioner Education Supplement, applicants do not bear sole responsibility for providing specific information about:*

(a) the financial circumstances of their parents; and

(b) the level of ‘continuous support’ available to them.

The AASW Qld and WRC support Proposal 6-6. Not only is it most unfair to expect the victims of family violence to have bear sole responsibility for having to establish their entitlement, it can also exacerbate the risks to them if they are required to seek information from their abusive parent/s/ partner/ family. We suggest that Centrelink use the extensive powers it already has to obtain information, (e.g. in cases of debt investigation), with a view to assisting a customer.

7: Social Security—Proof of Identity, Residence and Activity Tests

Proposal 7–1 *The Guide to Social Security Law should be amended expressly to include family violence as a reason for an indefinite exemption from the requirement to provide a partner’s tax file number.*

The AASW Qld and WRC support Proposal 7-1. The inclusion of a broad definition in Social Security Law will provide a wider explanation and understanding of family violence and they ways in which such violence is perpetrated against victims and the power and control that perpetrators have over their victims.

For many women leaving abuse can also mean they are separating themselves from their partner’s finances, of which they often have no knowledge. By Centrelink asking victims to provide information about their partner’s finances that may not be readily available to them, could seriously compromise their safety if they are required to seek this. Withholding payment from a victim of family violence on the grounds that they cannot provide information relating to their partner, including tax file numbers, can produce unjust outcomes for the victim as well as pose added risks. Withholding such vital information from the victim becomes another means of exerting control over them by the perpetrator.

Question 7–2 *Section 192 of the Social Security (Administration) Act 1999 (Cth) confers certain information-gathering powers on the Secretary of FaHCSIA. In practice, is s 192 of the Social Security (Administration) Act 1999 (Cth) invoked to require the production of tax file numbers or information for the purposes of proof of identity? If not, should s 192 be invoked in this manner in circumstances where a person fears for his or her safety?*

The AASW Qld and WRC do not support the invoking of s192. Centrelink does use this power to look at partner income for the purposes of checking a customer’s Family Tax Benefit entitlement. If this power was used to find a partner’s tax file number or to establish a person’s identity, this would save a great deal of unnecessary stress for the victim. For

example, in situations where the perpetrator partner refuses to provide their income details, Centrelink should use s192 to obtain this information from the Taxation department.

Question 7–3 *When a person does not have a current residential address, what processes are currently in place for processing social security applications?*

There are many occasions whereby a victim of family violence may not have a current address or an address they feel they can disclose without compromising their safety. In those instances it should be acceptable to agree to victims of family violence having their mail sent to community services C/- addresses, or Centrelink Social Workers C/- addresses.

Problems can arise with this system if Centrelink has difficulty contacting a customer. For example, the Welfare Rights Centre recently experienced a situation where a client's payment was suspended until such time as the customer could provide a verifiable address to Centrelink. This caused a great deal of distress and further victimised the woman who was a victim of family violence.

If victims of family violence are withholding their address for safety reasons, they should not be disadvantaged by this through the suspension of payments.

Proposal 7–2 Proposal 20–3 *proposes that the Migration Regulations 1994 (Cth) be amended to allow holders of Prospective Marriage (Subclass 300) visas to move onto another temporary visa in circumstances of family violence. If such an amendment is made, the Minister of FaHCSIA should make a Determination including this visa as a 'specified subclass of visa' that:*

- *meets the residence requirements for Special Benefit; and*
- *is exempted from the Newly Arrived Resident's Waiting Period for Special Benefit.*

It is our belief that access to the family violence exception be extended to Prospective Marriage (Subclass 300) Visa holders where reasonable evidence is presented to substantiate that claim. People who access Prospective Marriage (Subclass 300) Visas have relocated from their country of origin with the reasonable belief that they were coming to Australia to be married or to form and maintain a long term relationship. Those aspirations are shattered upon the realisation that the future partner turns out to be a perpetrator of violence and abuse. It seems reasonable to provide protection and a pathway to residency rather than to penalise the victim and deport them (AASW, 2011).

On the issue of evidentiary requirements in the form of Domestic Violence Protection Orders, this assumes that all victims would readily access the courts. Anecdotal evidence from the women's sector demonstrates that many women from CaLD backgrounds are very fearful of legal processes and courts. This often stems from previous experiences of oppression in country of origin and/or lack of understandings of civil and criminal matters. Additionally; the lack of support and knowledge of systems in Australia render women with limited to no resources and lead them to not taking action that involves legal processes. It is important therefore, that evidentiary requirements other than judicial evidence are accepted and processed as per the Migration Regulations (AASW, 2011).

Statutory Declarations are considered an alternative to judiciary evidence but this can also be problematic. Deferring victims of domestic and family violence who have already been assessed by 'Competent People' to have experienced domestic and family violence presents scenarios that need to be reviewed as a matter of urgency.

Question 7–4 *Should the Minister of FaHCSIA make a Determination including certain temporary visa holders—such as student, tourist and secondary holders of Subclass 457 visas—as a 'specified subclass of visa' that:*

- *meets the residence requirements for Special Benefit?*
- *is exempted from the Newly Arrived Resident's Waiting Period for Special Benefit?*

We propose a special category of Visa, enabling entitlement to Special Benefit, applies to those who due to family violence and the whole of their circumstances ought not to be expected to leave Australia. For example, this would be for a victim of family violence who was parenting children and needed to remain in Australia in order for the children to continue to have access to both parents or for the victim to have access to their children.

By way of example, a Welfare Rights Centre client in such a situation was not entitled to Special Benefit as she was a "non-protected Special Category Visa" holder. After leaving a violent relationship and subsequently losing her job, she was faced with the choice of returning to New Zealand or living in her car. She chose the latter, in order to be able to continue to see her children, who had remained in the care of the perpetrator. To extend this to tourists would not seem to be practicable or realistic, given that they are in Australia only for a short period and are expected to be self supporting during that period.

Question 7–5 *What alternatives to exemption from the requirement to be an Australian resident could be made to ensure that victims of family violence, who are not Australian residents, have access to income support to protect their safety?*

Refer to our response to Question 7-4

Question 7–6 *In what way, if any, should the Social Security Act 1991 (Cth) or the Guide to Social Security Law be amended to ensure that newly arrived residents with disability, who are victims of family violence, are able to access the Disability Support Pension? For example, should the qualifying residence period for Disability Support Pension be reduced to 104 weeks where a person is a victim of family violence?*

The above question raises several issues with respect to family violence. The client may be a person with a disability which has increased their vulnerability to violence, or they may be a person who has an acquired disability as the result of the violence they have endured. Our suggestion is that fundamental to all decision making is the safety and wellbeing of victims of violence. Therefore, when a person has reached Australian shores as a new resident, we have an obligation under the Human Rights Conventions we are signatory to, to provide the appropriate level of support. Victims of violence suffer enormous trauma and distress, to further re-victimise a person on the basis of disability and therefore, access to a disability pension is something that we do not support. The AASW Qld and WRC believe that this is an area that requires greater consultation, but that fundamentally, the overarching principles of our duty to care for victims of violence in Australia, remains paramount.

Proposal 7–3 *The Guide to Social Security Law should be amended expressly to include family violence as an example of a ‘substantial change in circumstances’ for the Newly Arrived Resident’s Waiting Period for Special Benefit for both sponsored and non-sponsored newly arrived residents.*

We agree with Proposal 7-3. The onset of family violence for immigrant women can often begin once they have arrived in Australia and are isolated from their family, friends and other supports. Anecdotal evidence from the multicultural women’s services show that many women are either forced to stay with their abusing partner or are often deterred from accessing emergency accommodation services owing to their lack of financial resources, including welfare payments and Medicare cards. The evidentiary requirements to demonstrate family violence is occurring needs to be reflective of the specific needs of immigrant women and children.

Question 7–7 *What changes, if any, are needed to improve the safety of victims of family violence who do not meet the Newly Arrived Resident’s Waiting Period for payments other than Special Benefit?*

Financial support is often a determining factor on whether a victim of family violence will leave or stay with their abuse. The barriers can encompass many factors, but securing financial support is critical to this. We believe the dollar-for-dollar reduction in Special Benefit for any money earned through paid work is unfair and cruel and contrary to the goal of assisting recipients achieve independence. This payment should have an earnings threshold, as per other payments. Such a change would assist people experiencing family violence to regain their independence.

Proposal 7–4 *Centrelink customer service advisers should receive consistent and regular training in the administration of the Job Seeker Classification Instrument including training in relation to:*

The impact of family violence on a person’s capacity to work will vary from individual to individual and may change with time. For some, the impact of family violence may mean that engaging in job seeking activities and/or paid work is not possible or reasonable to expect – at least for a period of time. For others, having participation requirements may provide the person with needed justifications as to why they have to go out and associate with other people from time to time, thus serving to mitigate against social isolation.

The AASW Qld and WRC believe that training for Centrelink customer service advisers should be regular and include:

- all aspects of the training topics already outlined at 4-6;
- the potential impact of family violence on a job seeker’s capacity to work and barriers to employment, for the purposes of income support; and
- information on support services both within Centrelink as well as external services.

Question 7–8 *In practice, to what extent can, or do, recommendations made by ESA or JCA assessors in relation to activity tests, participation requirements, Employment Pathway Plans and exemptions account for the needs and experiences of job seekers experiencing family violence?*

Our view is that while it is possible to get an exemption from participation for a personal or family crisis, specific reference to family violence should be included in the exemption criteria.

Proposal 7–5 *The Guide to Social Security Law should expressly direct Centrelink customer service advisers to consider family violence when tailoring a job seeker’s Employment Pathway Plan.*

We refer to Proposal 7-4, we note that the impact of family violence on a person’s capacity to work will vary from individual to individual and may change with time. For some, the impact of family violence may mean that engaging in job seeking activities and/or paid work is not possible or reasonable to expect – at least for a period of time. For others, having participation requirements may provide the person with needed justifications as to why they have to go out and associate with other people from time to time, thus serving to mitigate against social isolation.

Proposal 7–6 *Exemptions from activity tests, participation requirements and Employment Pathway Plans are available for a maximum of 13 or 16 weeks. The ALRC has heard concerns that exemption periods granted to victims of family violence do not always reflect the nature of family violence. DEEWR should review exemption periods to ensure a flexible response for victims of family violence—both principal carers and those who are not principal carers.*

The AASW Qld and WRC agree with the above and believe that giving victims 2 weeks exemption is totally inadequate when they may have a myriad of things going on for them. A longer minimum period, of 13 weeks, would be a more reasonable time period.

Question 7–12 *A 26 week exclusion period applies to a person who moves to an area of lower employment prospects. An exemption applies where the reason for moving is due to an ‘extreme circumstance’ such as family violence in the ‘original place of residence’. What changes, if any, are necessary to ensure that victims of family violence are aware of, and are making use of, the exemption available from the 26 week exclusion period? For example, is the term ‘original place of residence’ interpreted in a sufficiently broad manner to encapsulate all forms of family violence whether or not they occur within the ‘home’?*

Leaving a violent relationship does not always ensure safety as many victims are stalked, threatened and at times killed post separation. Many victims will move several times

seeking safety for themselves and their children. We suggest that a person at risk of having their payment suspended as per above, should be asked for an explanation of why they moved, prior to imposing the exclusion period. If the reason is family violence they should be informed that an exemption is possible and what they need to do to obtain one. Furthermore, Centrelink staff should take this opportunity to provide the individual with information about support services available to them.

Proposal 7–7 *The Guide to Social Security Law should expressly refer to family violence as a ‘reasonable excuse’ for the purposes of activity tests, participation requirements, Employment Pathway Plans and other administrative requirements.*

The AASW Qld and WRC agree that family violence is already considered a ‘reasonable excuse’, but experience shows that the impact of family violence is not always understood or appreciated by Centrelink decision makers. Therefore, we would recommend that training be provided to staff about the impact of family violence and the implications for victims.

8. Social Security—Payment Types and Methods, and Overpayment

Proposal 8–1 *The Social Security Act 1991 (Cth) establishes a seven day claim period for Crisis Payment. FaHCSIA should review the seven day claim period for Crisis Payment to ensure a flexible response for victims of family violence.*

The AASW Qld and WRC agree that the current arrangement of 7 days claim for a crisis payment should be reviewed with specific consideration for victims of family violence. Many victims are not aware that they can even apply for a crisis payment nor that they can receive this up to four times in a twelve month period. Information needs to be made available for victims of family violence which explains clearly what their entitlements are and when and how they can apply.

We propose that the claim period for a crisis payment be extended to 13 weeks.

Question 8–1 *Crisis Payment is available to social security recipients or to those who have applied, and qualify, for social security payments. However, Special Benefit is available to those who are not receiving, or eligible to receive, social security payments. What reforms, if*

any, are needed to ensure that Special Benefit is accessible to victims of family violence who are otherwise ineligible for Crisis Payment?

The AASW Qld and WRC believe that a Crisis Payment should also be available to victims of family violence would also qualify for a Special Benefit.

Proposal 8–2 *Crisis Payment for family violence currently turns on either the victim of family violence leaving the home or the person using family violence being removed from, or leaving, the home. The Social Security Act 1991 (Cth) should be amended to provide Crisis Payment to any person who is ‘subject to’ or ‘experiencing’ family violence.*

The AASW Qld and WRC support Proposal 8-2 and refer to the comments made at Proposal 6-3.

Proposal 8–3 *The Guide to Social Security Law provides that an urgent payment of a person’s social security payment may be made in ‘exceptional and unforeseen’ circumstances. As urgent payments may not be made because the family violence was ‘foreseeable’, the Guide to Social Security Law should be amended expressly to refer to family violence as a separate category of circumstance when urgent payments may be sought.*

The AASW Qld and WRC support Proposal 8-3 and agree that family violence should be considered as a separate category with criteria based against a person’s overall safety and wellbeing.

Proposal 8–4 *The Guide to Social Security Law should be amended to provide that urgent payments and advance payments may be made in circumstances of family violence in addition to Crisis Payment.*

The AASW Qld and WRC support Proposal 8-4 and highlight the fact that many victims of family violence are often in dire poverty upon leaving an abusive partner. Sharp’s (2008) study on the impact of financial abuse on women showed that 47% of the women were in paid employment before meeting their abusive partner and only 16% were in paid employment after leaving the violent relationship. Correspondingly only 18% of the women were receiving benefits prior to meeting their abusive partner while 84% were receiving benefits post separation. This research highlights the importance of this proposal.

Proposal 8–5 *The Guide to Social Security Law should be amended to provide that, where a delegate is determining a person’s ‘capability to consent’, the effect of family violence is also considered in relation to the person’s capability.*

The AASW Qld and WRC agree with Proposal 8-5 but suggest that this would need to consider whether the delegate is aware of the existence of family violence. Furthermore, it is important to consider that a person with limited capacity / capability to consent may also not be able to disclose family violence.

Question 8–2 *When a person cannot afford to repay a Social Security debt, the amount of repayment may be negotiated with Centrelink. In what way, if any, should flexible arrangements for repayment of a social security debt for victims of family violence be improved? For example, should victims of family violence be able to suspend payment of their debt for a defined period of time?*

The AASW Qld and WRC believe the issue of who is the debtor in such cases can exacerbate the difficulties faced by the victim. Welfare Rights Centre has examples of female victims of family violence having a Centrelink debt to repay, as a consequence of their receiving PPS when it should have been PPP, or from receiving PPP at a too high rate. Usually in such situations, the woman is aware of her obligations, but is unable to report accurately to Centrelink, either because her partner refuses to keep her accurately informed of his earnings, or because he coerces her into misinforming Centrelink. Either way, the victim is the debtor, compounding the difficulties she faces. In such couple situations, where arguably the perpetrator has benefitted from this arrangement, it would be more just for the debt to be divided between the parties, or to be recovered wholly from the perpetrator.

We believe in situations of coercion, the question of whether the victim is at all responsible needs to be addressed. “*Eventually I didn’t need to be told to lie, I just did*” (As per *Watson v Secretary, 2002*). This is a significant issue that needs to be addressed. See also amendments to s1237AAD

Proposal 8–6 *Section 1237AAD of the Social Security Act 1991 (Cth) provides that the Secretary of FaHCSIA may waive the right to recover a debt where special circumstances exist and the debtor or another person did not ‘knowingly’ make a false statement or ‘knowingly’ omit to comply with the Social Security Act. Section 1237AAD should be amended to provide that the Secretary may waive the right to recover all or part of a debt if*

the Secretary is satisfied that 'the debt did not result wholly or partly from the debtor or another person acting as an agent for the debtor'.

The AASW Qld and WRC note that this proposal is somewhat unclear. We are concerned with the lack of avenue for appeal of a debt for victims of family violence who “knowingly” misinformed Centrelink due to coercion from their violent partner, as referred to in our comments on Question 8-2 above.

The AASW Qld and WRC recommend that “knowingly” be removed as this section already states “...and it is desirable to waive”.

The Guide to Social Security Law should contain guidelines as to what “desirable” means. This would direct the decision maker to give significant weight to whether or not the person “knowingly” received a payment to which they were not entitled over other factors, without it excluding cases that might otherwise have overwhelming factors, such as family violence coercion, making it still desirable to waive.

Proposal 8–7 *The Guide to Social Security Law should be amended expressly to refer to family violence as a 'special circumstance' for the purposes of s 1237AAD of the Social Security Act 1991 (Cth).*

The AASW Qld and WRC agree with Proposal 8-7. This would help with the problem that family violence is often not considered ‘unusual, uncommon or exceptional’ by decision makers. Where family violence is a significant cause of how/why the debt occurred, it should be taken into account.

11. Child Support and Family Assistance—Intersections and Alignments

Proposal 11–1 *Exemption policy in relation to the requirement to take 'reasonable maintenance action' is included in the Family Assistance Guide and the Child Support Guide, and not in legislation. A New Tax System (Family Assistance) Act 1999 (Cth) should be amended to provide that a person who receives more than the base rate of Family Tax Benefit Part A may be exempted from the requirement to take 'reasonable maintenance action' on specified grounds, including family violence.*

The AASW Qld and WRC agree and support Proposal 11-1. The safety of those who experience violence is of paramount importance and this should not be compromised by policies and procedures which require them to address maintenance issues when in all probability this could be a very risky thing for them to do.

Proposal 11–2 *The Family Assistance Guide should be amended to provide additional information regarding:*

- (a) the duration, and process for determining the duration, of family violence exemptions from the ‘reasonable maintenance action’ requirement; and*
- (b) the exemption review process.*

We believe that the clearer and simpler the process is and the extent to which this is then articulated to people will greatly benefit all concerned.

Proposal 11–3 *The Centrelink e-Reference includes information and procedure regarding partial exemptions from the ‘reasonable maintenance action’ requirement. The Family Assistance Guide should be amended to make clear the availability of these partial exemptions.*

The AASW Qld and WRC agree support the Proposal 11-3 to change the Family Assistance Guide.

12. Family Assistance

Proposal 12–1 *The Family Assistance Guide should be amended to include:*

- (a) the definition of family violence in Proposal 3–1; and*
- (b) the nature, features and dynamics of family violence including: while anyone may be a victim of family violence, or may use family violence, it is predominantly committed by men; it can occur in all sectors of society; it can involve exploitation of power imbalances; its incidence is underreported; and it has a detrimental impact on children.*

In addition, the Family Assistance Guide should refer to the particular impact of family violence on: Indigenous peoples; those from a culturally and linguistically diverse background; those from the lesbian, gay, bisexual, trans and intersex communities; older persons; and people with disability.

The AASW Qld and WRC support Proposal 12-1 to include a revised definition of family violence in The Family Assistance Guide and further suggest that a standard definition of family violence be adopted across all law, regulations and publications relevant to human services.

Proposal 12–2 *The Family Assistance Guide should be amended expressly to include ‘family violence’ as a reason for an indefinite exemption from the requirement to provide a partner’s tax file number.*

The AASW Qld and WRC support Proposal 12-2 and make reference to our response at 7-1 and 7-7.

Proposal 12–3 *In relation to Child Care Benefit for care provided by an approved child care service, the Family Assistance Guide should list family violence as an example of ‘exceptional circumstances’ for the purposes of:*

(a) exceptions from the work/training/study test; and

(b) circumstances where more than 50 hours of weekly Child Care Benefit is available.

In relation to point a), family violence has a damaging effect on a person’s physical and emotional wellbeing. While society has had a growing awareness on the damaging impact of physical and emotional abuse what is sometimes overlooked is the destroying impact of financial abuse. We again draw attention to Sharp’s (2008) study on the impact of financial abuse on women showed that 47% of the women were in paid employment before meeting their abusive partner and only 16% were in paid employment after leaving the violence. The conclusions we can draw from this is that it is not only the separation itself that causes poverty but the impact of the abuse itself. Women leaving violence need access to financial support, paid work and/or ongoing education. However they need to be able to access these in a way which is support of their particular circumstances.

In relation to point b), access to paid child care is essential for victims of violence to deal with a range of issues post separation many of which are taxing on their resources and time.

Proposal 12–4 *A New Tax System (Family Assistance) Act 1999 (Cth) provides that increases in weekly Child Care Benefit hours and higher rates of Child Care Benefit are payable when a child is at risk of ‘serious abuse or neglect’. A New Tax System (Family Assistance) Act 1999 (Cth) should be amended to omit the word ‘serious’, so that such increases to Child Care Benefit are payable when a child is at risk of abuse or neglect.*

The AASW Qld and WRC support Proposal 12-4.

Proposal 12–5 *The Family Assistance Guide should be amended to provide definitions of abuse and neglect.*

The AASW and WRC agree that a definition of child abuse and neglect be included in the Guide document. What is problematic however is that each State and Territory has their own definitions of child abuse and neglect. Therefore, we would suggest that the Australian Institute of Family Studies definition be used as a peak body that researches this area.

Child maltreatment refers to any non-accidental behaviour by parents, caregivers, other adults or older adolescents that is outside the norms of conduct and entails a substantial risk of causing physical or emotional harm to a child or young person. Such behaviours may be intentional or unintentional and can include acts of omission (i.e., neglect) and commission (i.e., abuse) (Bromfield, 2005; Christoffel, et al., 1992). Child maltreatment is commonly divided into five main subtypes:

- physical abuse;
- emotional maltreatment;
- neglect;
- sexual abuse; and
- the witnessing of family violence (Price-Robertson & Bromfield, 2009).

13. Income Management—Social Security Law

Proposal 13–1 *The Social Security (Administration) Act 1999 (Cth) and the Guide to Social Security Law should be amended to ensure that a person or persons experiencing family violence are not subject to Compulsory Income Management.*

The AASW Qld and WRC support proposal 13-1 as the imposition of Compulsory Income Management (CIM) on persons experiencing family violence is a form of re-victimisation which carries the risk of putting the victim further in danger, due to either the lack of funds to take independent action or retribution from the perpetrator. Furthermore, compulsory income management possesses inherent tensions with regards to fundamental human rights which underpin the conceptual framework guiding the policy changes identified by the ALRC. Striving for social justice is a key value of social workers and our experience is that CIM in fact perpetuates social injustice.

Proposal 13–2 *In order to inform the development of a voluntary income management system, the Australian Government should commission an independent assessment of voluntary income management on people experiencing family violence, including the consideration of the Cape York Welfare Reform model of income management.*

The AASW Qld and WRC agree with Proposal 13-2 as limited voluntary income management is entirely different to compulsory income management and it does have the potential to provide support for those who want it. Any such system needs to be developed and implemented with great sensitivity to the particular circumstances of people experiencing family violence and only on a strong evidence base. Until such time as a thorough, independent assessment of the impact of current voluntary income management arrangements has been conducted, there should be no moves to extend this.

Proposal 13–3 *Based on the assessment of the Cape York Welfare Reform model of income management in Proposal 13–2, the Australian Government should amend the Social Security (Administration) Act 1999 (Cth) and the Guide to Social Security Law to create a more flexible Voluntary Income Management model.*

The effectiveness and consequences of the Cape York model of income management should be rigorously evaluated through the communities where this model has been introduced (Aurukun, Coen, Hope Vale and Mossman Gorge). Any further expansion of income management needs to be informed by such an evaluation and be underpinned by robust empirical data conducted by an independent research organisation. Findings of this research should be publicly available especially to welfare rights and advocacy organisations for further critique.

While in essence income management is voluntary, there are instances where this is not the case particularly where someone has been referred to the income case management team by, for example, the Department of Communities (Child Safety Services) in these communities. The unintended consequences of this require further evaluation.

We agree that child abuse, family violence and alcohol abuse within remote communities needs urgent attention, however, are not convinced that income management will effectively address this. Violence against women and children is a complex issue that is steeped in a long history of dispossession, oppression, coercion and disconnection from country and kin. Any sustainable and effective strategy needs to be holistic and take a ‘bottom up’ approach,

where it is developed by the communities, with the support and resources of government and other services.

Recommendation:

Therefore, our recommendation is that prior to further expanding and revising an income management model, research is needed to ensure that any model is based on a robust evidence base, that intended and unintended consequences are carefully considered and that any implementation occur at a pilot site with a rigorous evaluation process built in.

Question 13–2 *In what other ways, if any, could Commonwealth social security law and practice be improved to better protect the safety of people experiencing family violence?*

Victims of family violence need access to services and supports which are provided in a timely, consistent, coordinated and empowering manner. Their safety and that of their children is paramount. They need to have their safety concerns believed and validated through all system interventions. Importantly victims need to be treated with dignity and respect, provided with all the necessary information to allow them to make choices for themselves which can assist them to move on from violence and abuse. Therefore, the AASW Qld and WRC again highlight the importance of training at every level, for it is through an educated, well trained and skilled workforce that the various Government departments can appropriately respond to the needs of people who are experiencing family violence. This is at the core of any strategy to improve service delivery. Furthermore, as we have discussed, there needs to also be a shift from a culture of ‘disbelief’ of an individual’s experiences of family violence, to one of willingness to believe. This creates a more meaningful platform from which key Government departments such as Centrelink, can then engage with individuals.

Proposal 13–4 *Priority needs, for the purposes of s 123TH of the Social Security (Administration) Act 1999 (Cth) are goods and services that are not excluded for the welfare recipient to purchase. The definition of ‘priority needs’ in s 123TH and the Guide to Social Security Law should be amended to include travel or other crisis needs for people experiencing family violence.*

The AASW Qld and WRC support Proposal 13-4 and again draw attention to diverse needs of victims of violence and therefore, the importance of having access to a range of supports.

15. The Pre-Employment Stage

Question 15–1 *In what ways, if any, should the Australian Government include a requirement in requests for tender and contracts for employment services that JSA and DES providers demonstrate an understanding of, and systems and policies to address, the needs of job seekers experiencing family violence?*

The AASW Qld and WRC support the principle the employment services should have an understanding of and a response to family violence. This would most likely be unachievable unless the Australian Commonwealth provides the framework, training and resources for this to occur. Best Practice Standards would need to be further developed which includes an understanding of family violence and appropriate responses to it. Our view is that staff training should be compulsory utilising trainers with the appropriate qualifications and skills.

Question 15–3 *How does, or would, the existence of a Centrelink ‘Deny Access Facility’, or other similar safety measures, such as a ‘safety concern flag’, affect what information about job seekers DEEWR and JSA and DES providers can access?*

The AASW Qld and WRC believe that once a person has requested the Deny Access Facility for safety reasons, then their information cannot be accessed or shared with other agencies. To do so could negate the purpose of having the information secured, as well as compromise the person’s safety.

Proposal 15–1 *Centrelink, DEEWR, JSA, DES and IEP providers, and ESA and JCA assessors (through the Department of Human Services) should consider issues, including appropriate privacy safeguards, with respect to the personal information of individual job seekers who have disclosed family violence in the context of their information-sharing arrangements.*

Proposal 15–2 *The current circumstances in which a job seeker can change JSA or DES providers should be extended to circumstances where a job seeker who is experiencing family violence is registered with the same JSA or DES provider as the person using family violence.*

The safety of victims of family violence is paramount and needs to be considered as a priority. Many victims of abuse are concerned for their safety well beyond separation. The

opportunity to transfer to another employment service should be considered important and almost essential in cases of family violence.

Question 15–4 *Should JSA and DES providers routinely screen for family violence? If so:*

- *what should the focus of screening be;*
- *how, and in what manner and environment, should such screening be conducted;*
and
- *when should such screening be conducted?*

As outlined at proposal 4-1, the AASW Qld and WRC are not supportive of the notion of routine screening. Our concerns are outlined in 4-1, and we refer the reader back to this section. We believe that all aspects of Human Services, including employment services, should have readily available information for their clients about family violence that explains what family violence is and how it may impact them as well as providing information on their options, entitlements, exemptions and pathways to support.

Question 15–5 *Under the Job Seeker Classification Instrument Guidelines, if a job seeker discloses family violence, the job seeker should immediately be referred to a Centrelink Social Worker. What reforms, if any, are necessary to ensure this occurs in practice?*

The AASW Qld and WRC believe the person disclosing the violence should always be given choices. If someone does not want to be referred to a Centrelink Social Worker then we suggest that a referral pathway procedure be developed where staff are able to access relevant resources regarding other local services and provide this information to the individual, and where appropriate, facilitate the actual referral.

Proposal 15–3 *JSA and DES providers should introduce specialist systems and programs for job seekers experiencing family violence—for example, a targeted job placement program.*

The AASW Qld and WRC do not support Proposal 15-3. Separating job seekers who may be experiencing or have experienced family violence could result in them feeling stigmatised and further isolated. In Australia, it is estimated that one in four women will experience violence in an intimate relationship across their life span. The vast majority of women need support, understanding and the opportunity to move on with their lives toward autonomy, safety and security for themselves and their children. Our view is that there would be

negative unintended consequences of such a program that would potentially further victimise the women.

Proposal 15-4 *As far as possible or at the request of the job seeker, all Job Seeker Classification Instrument interviews should be conducted in:*

(a) person;

(b) private; and

(c) the presence of only the interviewer and the job seeker.

The AASW Qld and WRC support Proposal 15-4 as accepted safe practice of all job seekers and especially those who are experiencing family violence.

However, we have concerns in general about the JSCI process. Our experience and in particular, that of the WRC is that some people do not even realise they are being assessed formally, (i.e. being advised that the discussion with the worker has a formal purpose), and as a result might not understand the importance of disclosing issues. JSCIs can also take place over the phone and this is not likely to encourage disclosure, for example, clients of WRC have talked of the perpetrator of violence supervising all their telephone calls with Centrelink, which reduces any chances of disclosure or of help seeking.

Proposal 15-5 *DEEWR should amend the Job Seeker Classification Instrument to include 'family Violence' as a new and separate category of information.*

The AASW Qld and WRC support Proposal 15-5 that the JSCI includes considerations for questions on family violence, but this should not be considered as universal screening. Moreover, clients should be provided with information about their freedom of choice to answer these questions and the expected consequences if they do.

Question 15-7 *A job seeker is referred to an ESAt or JCA where the results of the Job Seeker Classification Instrument indicate 'significant barriers to work'. Should the disclosure of family violence by a job seeker automatically constitute a 'significant barrier to work' and lead to referral for an ESAt or JCA?*

The AASW Qld and WRC believe this option should always be discussed with the person to ensure that whether or not the family violence is deemed to constitute a 'significant barrier to work' is determined by the person concerned. Furthermore, the benefits and possible consequences of this option need to be discussed with the person. Importantly we highlight

the individual nature of each person's experiences and the importance of not having a 'one size fits all' model or perspective. Doing so can create a range of unintended consequences for the individual that may further cause distress.

Question 15–8 *Where a job seeker has disclosed family violence, should there be streaming of job seekers to ESAt and JCA assessors with specific qualifications or expertise with respect to family violence, where possible?*

If job seeker discloses family violence, they need to be provided have their disclosure taken seriously and offered referral to a range of appropriate and suitably qualified professional who can provide assistance to their needs.

Question 15–9 *When conducting an ESAt or JCA, how do assessors consider the impact of family violence on a job seeker's readiness to work? What changes, if any, could ensure that ESAts and JCAs capture and assess the circumstances of job seekers experiencing family violence?*

The AASW Qld and WRC believe that assessors firstly would need enhanced training regarding family violence to be able to assess a victim's readiness to work. As part of this, staff would need to understand the impact of abuse on the physical and psychological wellbeing of the individual, which includes a person's confidence, decision making and self esteem. Furthermore, understanding is needed to be able to assess what else is going on in the individual's life that may be taking precedence over all other considerations, for example, they may be moving house, involved in family court disputes, on-going counselling and other matters all of which will have a critical impact of 'where they are at' and their capacity, in terms of job seeking.

Proposal 15–6 *DEEWR and the Department of Human Services should require that all JSA, DES and IEP provider staff and ESAt and JCA assessors receive regular and consistent training in relation to:*

(a) the nature, features and dynamics of family violence, including: while anyone may be a victim of family violence, or may use family violence, it is predominantly committed by men; it can occur in all sectors of society; it can involve exploitation of power imbalances; its incidence is underreported; and it has a detrimental impact on children;

(b) recognition of the impact of family violence on particular job seekers such as:

- *Indigenous people;*

- *those from culturally and linguistically diverse backgrounds;*
- *those from lesbian, gay, bisexual, trans and intersex communities;*
- *children and young people;*
- *older persons; and*
- *people with disability*

(c) the potential impact of family violence on a job seeker's capacity to work and barriers to employment;

(d) appropriate referral processes; and

(e) the availability of support services.

The AASW Qld and WRC strongly support the importance of evidence-based, best practice training for staff within employment services. Our view is that this should be standardised and delivered by the family and domestic violence sector, rather than be provided internally to ensure consistency across the human services sector and quality by drawing on expert family violence training providers.

Question 15–11 *In what ways, if any, should the Australian Government include a requirement in requests for tender and contracts for employment services that IEP projects and services, or panel providers, demonstrate an understanding of, and systems and policies to address, the needs of Indigenous job seekers experiencing family violence?*

The AASW Qld and WRC fully support that all projects and services must be culturally inclusive. To achieve this requires the meaningful involvement of Aboriginal and Torres Strait Islander communities and workers in all reviews of Australian Government Laws, regulations, policies and practices.

Question 15–12 *In what ways, if any, should the JSA, DES, IEP or CDEP systems be reformed to assist Indigenous job seekers who are experiencing family violence?*

Please refer to our response to Question 15-11

Question 15–13 *In what ways, if any, should the JSA or DES systems be reformed to assist job seekers from culturally and linguistically diverse communities who are experiencing family violence?*

The AASW Qld and WRC support Proposal 15-13 and strongly suggest that professionals from Migrant Councils and other services be included in system reforms to gain the best possible outcome for victims of family violence from CaLD background.

Question 15–14 *In what ways, if any, should the JSA or DES systems be reformed to assist job seekers with disability who are experiencing family violence?*

As with the previous two questions, The AASW Qld and WRC support the involvement of the disability sector in reviews of systems to gain the best possible outcome for victims of family violence who may have a disability. We specifically bring to your attention to the organisation Women With Disabilities Australia (WWDA) who have produced considerable expertise on the issues of women with disabilities and domestic violence.

Conclusion

Preventing violence against women by men and other forms of domestic, family and intimate partner violence and child abuse and neglect requires a long term strategy to achieve the level of attitudinal, social, political and cultural change required. The AASW and WRC again commend the ALRC for undertaking this significant review into family violence in Australia with the view to developing a more effective and holistic policy framework to achieve a greater level of integration. Fundamental to successfully achieving this is critically drawing on the existing evidence of 'what works' and contributing to this body of evidence through a commitment to ongoing evaluation and research of policies, programs, and initiatives developed. It is only in this way that we can monitor and review the effectiveness of initiatives to determine progress. Furthermore, the voices of victims have to remain paramount throughout. To this end, we reiterate our recommendation that changes to the Commonwealth Laws and policy framework be trialled in a number of pilot sites, that are then evaluated at the conclusion of 12 months.

The AASW and WRC are committed to working with the Australian Government in relation to family violence and child abuse and welcomes the opportunity to participate in any further consultation process.

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