



**Submission to the Australian Human Rights Commission
Children's Commissioner's Inquiry into the impacts of
domestic and family violence on children**

June 2015

Domestic Violence NSW Inc. (DVNSW) is the statewide peak body for specialist domestic and family violence services within NSW. DVNSW provides a representative and advocacy function for specialist domestic violence and family services and the women, children and communities they support, and is committed to facilitating and supporting ongoing improvement and good practice within specialist domestic and family violence services.

Summary:

As the NSW peak body for specialist domestic and family violence (DFV) services, DVNSW has had the opportunity to work with a range of specialist and mainstream non-government organisations and government agencies supporting women as victim-survivors of intimate partner violence as well as child survivors of family and domestic violence. We do not profess to be experts in the field of service provision, nor are we funded to work directly with adult or child victim-survivors, however our key role is to advocate for evidence-based best practice and policy responses to women and children impacted by domestic and family violence. We contribute at a state policy level and work from the perspective that a gendered analysis of DFV based on human rights and social justice principles should be central to all domestic and family violence responses for women and their children.

This submission incorporates recommendations made to previous inquiries, roundtables and networks in which DVNSW has participated. A number of these approaches were identified when DVNSW participated in the Children's Commissioner's Sydney Roundtable on 29 May 2015. This submission should be considered as supplementary to the verbal submissions made in that forum. Given that the Family Court of Australia has significant intersections with domestic and family violence and has direct impacts and implications for children Hazell Cowen, the Specialist Family Court Support Worker at Domestic Violence Service Management has prepared a specific response to the Children's Commissioner's call for comments which is also included in this submission.

Core principles for working with children and adults impacted by domestic and family violence

Domestic Violence NSW works from the premise that the essential principles at the core of effective responses to children impacted by domestic and family violence include and prioritise:

- Trauma-specialist approaches for both adult and child victim-survivors.
- Specialist child support workers who are skilled and experienced in working with children as clients in their own right.
- The safety and confidentiality of children and young people and their mother.
- Victim-survivor centred approaches that ensure informed consent is at the core of work practices and are responsive to the diverse needs of both adult and child survivors.
- Integrated, coordinated, cross-agency approaches that operate in the best interests of both adult and child survivors.
- Strengths-based approaches that respect and empower victim-survivors and their children.
- Recognition that domestic and family violence is a violation of human rights, a crime against the individual and impacts broadly on communities and the whole of society. Domestic and family violence is not just an individual or private problem.
- Recognition that domestic and family violence primarily impacts on women and their children.
- Flexible approaches that celebrate and include diversity and are committed to promoting access to and equity of services for all women, children, young people and communities impacted by DFV.
- Recognition that additional disadvantage and barriers are experienced by particular groups and that these communities are more vulnerable because they are less likely to seek help, identify family and domestic violence in their relationships, or may perceive that their needs might not be met by mainstream services or dealt with sensitively and in confidence.

The range of types of support that women and their children require when leaving a domestic and family violence situation require professional, tailored responses that prioritise trauma-specialist, culturally-safe and client-centred approaches; there is no “one size fits all” solution. Approaches which support and empower a woman escaping violence whilst also responding to the needs

of their children often require sophisticated case planning and review, safety planning and specialist skills.

DVNSW co-chairs the NSW Women's Alliance, a network of statewide and peak bodies working in sexual assault and domestic and family violence from feminist, human rights based, social justice perspectives.

Early in 2015, the NSW Women's Alliance prepared *A Safer State*, a blueprint for intergenerational change outlining a multi-pronged approach to service delivery, funding, policy development and investment.¹ These recommendations included a number of approaches relevant to the current Children's Commissioner inquiry. We have summarised the relevant recommendations and grouped them in three broad categories.

1. Strong high-level messages from communities and government:

- The NSW Premier to drive a strong, sustained, coordinated prevention message that speaks to the diversity of communities affected by sexual assault and domestic and family violence and specifically acknowledges the impacts of violence on children and young people.
- A NSW Minister for the Prevention of Sexual Assault and Domestic and Family Violence and for the NSW Government to build on the research and examples of good practice identified through the Women NSW-commissioned AIFS Prevention studies.
- Development of a NSW Framework for responding to and preventing sexual assault which includes the impacts of sexual violence on children and young people and intergenerational trauma.
- Embedded, systematic opportunities for sexual assault and domestic and family violence peak organisations to work meaningfully with government to co-design reforms.
- Political and community leaders to demonstrate leadership and commitment by filming messages unequivocally condemning violence against a diverse range of women and children and making a clear public statement that violence against women and children is serious, a crime, a violation of human rights and will not be tolerated.
- Implementation of a long-term cross-departmental NSW Aboriginal Family Violence Strategy driven by Aboriginal communities. The Family Violence Strategy must intersect with a strong, well-resourced Aboriginal Family Violence Network to develop consistent and evidence-based best practice initiatives.

¹ The full report can be downloaded www.asaferstate.org.au

2. Prevention and Early Intervention:

- The adoption of a coordinated, long-term NSW Domestic and Family Violence Prevention Plan including strategies that respond to diverse communities affected by sexual assault and domestic and family violence and strategies specifically addressing the diverse needs of children.
- Prioritisation of State and Federal Prevention Programs and research, including a commitment to ANROWS and Our Watch for the lifespan of the National Plan to Reduce Violence against Women and their Children.
- Interagency and intersectoral collaboration to ensure relevant strategic planning around program funding for Men and Boys' Violence Prevention, including NGO representation at all levels of design and evaluation.
- A regular review of the NSW Men's Behaviour Change minimum standards including accreditation and regular auditing for Men's Behaviour Change Programs (MBCPs) and expansion to include standards for one-on-one behaviour change counselling and programs. Review annually, and adapt as new research emerges. Accredited MBCPs to be funded adequately to ensure NGOs are able to deliver best practice and implement latest research recommendations, particularly in relation to the impacts of domestic and family violence on children.
- Embedding of evidence-based respectful relationship education that focuses on promoting gender equality and violence prevention. Evaluated respectful relationship education needs to target all sections of community and all ages, not only throughout the NSW school curriculum, but also in conjunction with sporting, recreation and community organisations.
- Development and investment in a NSW specific program based on the principles of Victoria's Gender and Disability Workforce Development Program, specifically education programs for women with disability about the nature of violence.
- Ongoing training to police, prosecutors, judicial officers, court staff, legal practitioners and other justice workers on risk assessment and management, the nature and dynamics of sexual assault and domestic and family violence and victims' experiences.

3. A well-resourced, sustainable service & support system that can respond effectively to women, children and communities impacted by DFV:

- A minimum investment of \$100 million over the next 3 years in NSW's specialist domestic and family violence sector.
- Urgent expansion of funding for accessible, specialist, targeted, culturally safe, client-centered services that meet the health, housing, justice and legal needs of all women, children, young people and high risk communities including but not limited to:

Aboriginal and Torres Strait Islander women

Young women

Older women

Women with disabilities

Culturally and linguistically diverse and migrant women

Women living in regional, rural and remote areas

Women in prison and women exiting custody and

Lesbian, gay, bisexual, trans*, intersex and queer people

- Investment in the statewide roll out of *Safer Pathway* (a component of *It Stops Here*) with adequate resourcing of all service providers to provide immediate and long-term, trauma-specialist support to women and their children experiencing domestic and family violence.
- Increased protections and support for women and children escaping abusive relationships whose private tenancies or mortgages are compromised.
- Investment in a statewide expansion of the *Staying Home Leaving Violence* program to ensure coverage across NSW.
- Adoption of the Shelter NSW target; “*within 10 years making 100,000 more rental properties available to low income household at affordable rents*”.
- Increased appropriate support options for LGBTIQ people impacted by sexual assault and/or domestic and family violence
- Increased legal assistance funding, including specialist women's legal services and other legal services that provide gender and culturally safe trauma-specialist sexual assault and domestic and family violence expertise.
- All agencies working with women and children impacted by sexual assault and/or domestic and family violence to be resourced and supported to work in trauma-specialist, culturally safe, client-centred and gendered frameworks.

- That the NSW Domestic Violence Death Review Team meet and publicly report regularly. Where recommendations of the Committee are not implemented, the NSW Government give reasons for not doing so. The recommendations should inform reforms in NSW intersecting with sexual assault and domestic and family violence including child protection.
- Conduct research into the effectiveness of trauma-specialist psychosocial interventions for women who experience violence. Use of this research should inform subsequent policy and practice particularly in relation to the impacts of trauma and violence on children and young people.

2013 AIFS Report findings

DVNSW and a number of our member services and partners worked closely with the Australian Institute for Family Studies research team on their 2013 research into domestic and family violence (DFV) prevention, early intervention and response for children aged 0–8 years.²

The research found that there was:

- *“a significant need for **better integration of services for children, including better communication and integration between family violence services and other systems including the child protection system, the state-based justice system, family support systems such as those that deliver maternal and child health services, and the education system.**”*
- *“a clear and **coherent policy framework** to support understanding and practice of DFV response, prevention and early intervention [sic] NSW would better enable discrete service sectors to work towards common goals and ensure children’s needs are met across the various sectors.”*
- *“a strong rationale for **investment in the development, further research and evaluation of existing programs** for primary school-aged children focusing on respectful relationships and the deconstruction of gender norms.”*
- *“a need for **further evaluation of primary school-based primary prevention programs.** Furthermore, there is a need for an **overarching primary prevention framework** to articulate aims and approaches for these programs.”*
- *“a need for further research and **evaluation of existing early***

² https://www.women.nsw.gov.au/_data/assets/file/0014/300623/PDF-6_Final_Report_Children_affected.pdf

intervention practice models for children aged 0–8 years. Our service mapping indicated that there is a service gap in early intervention programs aimed at pregnant women and early parenthood, though these groups are identified in the literature as being at higher risk of violence.”

- *“the need for a **multi-dimensional approach to understanding and responding to DFV.**”*
- *“a need for further development and evaluation of **programs that work therapeutically with the non-offending caregiver and child.**”*
- *“a broad need for **more specialised children’s DFV services (therapeutic and post-crisis response) and sector capacity building in the education and health professions.**”*

Whilst the research looked primarily at young children and the programs and policy approaches to working with children aged 0-8 in relation to domestic and family violence, the principles are also relevant to older children and young people, particularly in their identification of gaps in the service system, long term investment and evaluation of evidence-based approaches.

Submission from Hazell Cowan, Specialist Family Court Support Worker, Domestic Violence Service Management.

I am writing this submission based on experience gained through my role as Coordinator for a Women's Support Service in the past 2 years. I give support, information and referrals to women and children who are going through the Family Law process, with a focus on women and children experiencing Domestic and Family Violence (DFV). I am based in the Family Court of Australia. Prior to this, for 8 years I worked in Crisis Accommodation alongside women and children escaping DFV as a Domestic Violence Specialist Caseworker.

I have witnessed first-hand the unbelievable stress of the Family Law process for both men and women. For the purpose of this submission I am speaking of the impacts to children through the effects on women only, as my service is specialist women’s support. I therefore write of their experiences. There are very few lesbian couples attending the court for parenting orders.

For women who have experienced, or are still experiencing some form of abuse from their children’s father, the Family Court becomes a very fearful

environment through which a perpetrator of DFV may continue to exert control. Many women, confronted with their ex-partner, relive past experience through the court process. Some of the outcomes, which often force children into relationships with a parent who has abused their primary carer mother can do long term psychological damage to both the women and most importantly, the children. We cannot look at the impact of DFV on children and dismiss the impact on the mother, as the well-being of the mother impacts her parental capabilities. This has a profound effect on the children if she is their primary carer.

Children become victims of DFV through abuse directed at them or exposure to DFV perpetrated against their mother. They are also at greater risk of child sexual abuse. The impact this can have on children is enormous, which becomes a greater problem for them and society when they are an adolescent and an adult.

My concerns around the Family Court process are for the children who are having contact with the perpetrator of DFV through orders made by Court. The primary considerations for the Family and Federal Circuit courts are safety of children and what is in the best interests of the child. I speak to many women who are greatly concerned for their children's safety, and who are disillusioned and made angry by the 'system'.

Concerns are for cases when DFV has been brought up in Court, they may have even left their partners and living in a refuge, there may be an pending application for an AVO or assault charge but the court has not stopped contact or has made orders for the children to have unsupervised contact with the father. When a woman is asked to communicate with a person who has been abusive towards her "in the best interest of the child" it is hard for her to put aside her fear and anxiety, which ultimately has an effect on the child.

The Legal profession can access education about DFV but because it is a very complex matter some do not understand the full effect it has on the victims. Many practitioners do not seem to be aware of, or use, the DFV Best Practice Principles of the Court. If they do understand the complexities and impacts DFV has on children, solicitors may take a different approach to how they deliver their evidence to the Court to get better and safer outcomes for children.

Independent Children's Lawyers (ICLs) can be appointed by the court. They are there to gather evidence and information about the child through subpoenaed documents. They can also speak to children if it is deemed appropriate. They make recommendations to the Court about access and contact, and counselling for children. However if the ICL is not educated around the issues of DFV this can lead to inappropriate orders. They can also

recommend an expert witness report, which is done by a psychiatrist interviewing the family, which sometimes can also lead to its own problems if there has been allegations of sexual abuse and the psychiatrist interviews the children with the alleged perpetrator.

Many of the women at the Family Court with whom I've had contact, and who have experienced DFV have spoken about their children's behaviour after they have had contact visits with their father. Some of their behaviours they report witnessing are:

- Aggression
- Withdrawal
- Anxiety
- Low self esteem
- Personality changes
- Behavioural problems at school/daycare, refusing to go to school/daycare
- Refusing to speak
- Emotional instability
- Bed wetting
- Swearing or using inappropriate language
- Self-harm or discussion of self-harming
- Discussion of suicide
- Inappropriate sexual behaviour

These behaviours can lead to dysfunction in adulthood if not addressed early.

Some families come through the Court system with child protection issues brought to the awareness of authorities, such as Family and Community Services, through exposure to DFV. In some cases there has been sexual abuse disclosed to a family member and has been investigated by relevant authorities, but the investigations have been closed because of lack of evidence. The child is then ordered to have contact with the alleged abuser. Then, if women in these circumstances continue to advocate strongly against contact with a view to trying to protect her children, she is viewed adversely by the Court. On the other hand, if she does not report this, (because she is afraid to as she fears the Court's response) and it is addressed in her final

hearing, she is asked why she did not report this and stop contact if she had concerns.

Women are in many cases instructed by child protection authorities not to have contact with the father of the children because of DFV under the threat of having their children removed. Then the Family Law court may make an order for the perpetrator to have access to the children. It is very distressing for a woman in this situation to have this decision made for her children, and puts the mother in a precarious position of either complying with Child Protection and breaking Family Law orders or complying with Family Law orders and ignoring Child Protection and has serious safety issues for the children.

There is no cohesion between State and Federal Law when it comes to Protection Orders for women and children. When an ADVO is made in court to protect a woman and her children it can be changed when it gets to the Family Court so that the perpetrator can have access to the children. The State (local) Police are also not able to intervene when it comes to a breach of Family Law Court orders.

The impacts of the Family Law process on children who have been victims of DFV are detrimental to their well being. The process can take a long time and in some cases can be ongoing for years. There are discrepancies between Child Protection, State and Federal Law when it comes to keeping our children safe and free from abuse. When DFV and Family Law intersect, there can be so much going on in a child's life that the process itself can cause ongoing trauma for them.

Conclusions:

Governments and policy makers have enough evidence to begin tackling the problem of domestic and family violence and to use tested approaches that can be tailored to address specific communities. The perpetual problem of short-term federal and state government funding cycles which fail to address the core causal factors of gender-based domestic and family violence and the continuum of violence against women and girls remains an issue in Australia. With adequate resourcing and clear, consistent messaging across the legal and justice, specialist and mainstream support, housing, health and education sectors we could prevent another generation of children growing up in abusive homes. Given the current focus by the media and the public on the impacts of DFV we have a unique opportunity to challenge the underlying violence-supportive attitudes and create a more positive future.