

Full Stop Australia

Submission on the draft Family Law Amendment Bill 2023 (the exposure draft)

Safety. Justice. Now.

27 February 2023

“The family court was one of the most traumatising experiences of my life. And I’ve been in domestic violence. The family court not only allowed my ex to use them to abuse me more, but the court itself facilitated that abuse...” - Victim-survivor



Full Stop Australia acknowledges the Traditional Custodians of Country throughout Australia, and their continuing connection to land, sea and community. We pay our respects to them and their cultures, and to Elders, past, present and emerging.

About Full Stop Australia

Full Stop Australia is an accredited, nationally focused, not-for-profit organisation which has been working in the field of sexual, domestic, and family violence since 1971. We offer expert and confidential telephone, online and face-to-face counselling to people of all genders who have been impacted by sexual, domestic, or family violence, and their friends, colleagues and family members supporting them. We also provide best practice training and professional services to organisations in the government, non-government, and corporate sectors to equip them to better prevent and respond to gender-based violence, and advocate with governments, the media, and the community for better laws and policies to address violence and abuse.

Full Stop Australia, as a national service, draws upon the experiences of our counsellors supporting people impacted by sexual, domestic and family violence in different jurisdictions, as well as our clients and other survivor advocates who are part of our [National Survivor Advocate Program](#), to advocate for victim-focused laws and consistent approaches to family, domestic and sexual violence nationally.

It is very common for victims to seek support from us whilst also engaging with the family law system, and we are therefore well placed to provide an authoritative voice on systemic concerns and experiences from the victim-survivor perspective.

To ensure our position paper is victim-survivor centred and informed, we sought the views of victim-survivors in our nation-wide advocate program and the organisation's trauma specialist counsellors, through a survey in December 2022 and January 2023. Their responses have helped inform our position and are included in this submission.

Summary of Recommendations:

Family Law Amendment Bill Exposure Draft 2023

1. Full Stop Australia strongly supports the landmark decision to remove the presumption of equal shared parental responsibility and its links to equal or substantial and significant time in Schedule 1 Part 2.
2. Full Stop Australia supports Schedule 3, and the definition of family being broadened to include a more expansive understanding of 'family' reflecting Aboriginal and Torres Strait Islander culture.
3. Full Stop Australia supports Schedule 4 Part 1 and the requirement for Independent Child Lawyers to meet with child/ren.
4. Full Stop Australia supports Schedule 4 Part 2 and the changes to make it easier for the Court to appoint an Independent Children's Lawyer in international child abduction matters.
5. Full Stop Australia supports the government intent to improve responses to litigation/ system's abuse. However, we suggest the following changes including:
 - a) That section 102QAC be amended to explicitly state that actual 'harm' is not required to be proved by the other party to satisfy the section.
 - b) That the definition of system's abuse in section 102QAC (3) be broadened to recognise other forms of systems abuse, in addition to court applications in the Federal Circuit and Family Court of Australia. E.g. vindictive reports to child protection authorities, multiple reviews of child support payment assessments, and cross applications for civil protection orders in the state or territory jurisdiction.
 - c) In circumstances where a harmful/ vexatious order has been made and a further court application is then made by the other party, that the victim-survivor be notified of the application and notified of its dismissal. However, in circumstances where the Court determines that the application has merit, the matter be adjourned to allow opportunity for the victim-survivor to be heard on the application.
6. Full Stop Australia proposes the following changes to the overarching purpose of the family law practice and procedure provisions at section 95:
 - a) That section 95 (1) be amended to include safety so that it reads "The overarching purpose of the family law practice and procedure provisions is to facilitate the **safe and** just resolution of disputes".
 - b) That the consideration in section 95 (1)(c) be moved to make the first consideration in that section (section 95 (1)(a)) to make safety the first overarching consideration.
 - c) That sections 95(2) - (4) be removed to decrease the emphasis on efficiency, as these provisions could be used unreasonably to pressure

victim-survivors to settle cases, where it may not be safe or in the best interests of children. In particular, the proposed section 95 (4) regarding costs is considered dangerous in that it could be used to pressure victim-survivors to unreasonably settle in circumstances where it may not be safe or in the best interests of children.

- d) That safety be defined to include physical, sexual, emotional, and psychological safety.
7. Full Stop Australia proposes that section 60B(a) be amended to ensure the safety of children and other family members is prioritised, as follows:

“to ensure that the **safety and** best interests of children are met”
8. In relation to Schedule 6, the admissibility of evidence of protected confidence, Full Stop Australia proposes a similar approach be adopted to sexual violence counselling privilege legislation in NSW and Queensland. E.g. including a broader definition of ‘counsellor’ and procedural provisions where the Court determines whether certain information is inadmissible, without the other party or their lawyer viewing the material.
9. Full Stop Australia proposes that section 60CC (2) (d) be amended to remove the phrase “to seek support to assist them with caring” as the policy intent is unclear and may result in unintended consequences.
10. Full Stop Australia proposes that section 60 (3) (a) be amended to ensure that the consideration of cultural connection is specifically subject to safety.
11. Full Stop Australia proposes further amendments to section 121 to achieve the right balance between both protecting the privacy of children and family law litigants, whilst allowing victim-survivors to speak out about systemic issues and concerns to increase oversight and accountability.

Other improvements:

12. Full Stop Australia proposes the introduction of specialised best interests’ principles for cases involving family violence and abuse. Specifically, that, in the consideration of the appropriate parenting orders to be made in the context of family violence and abuse allegations, the Court be required to consider the following matters:¹
 - a. the nature and seriousness of the family violence and abuse used in the family, including the use of coercive control;
 - b. the nature of pre-separation relationships in the family and the impact of family violence and abuse and coercive control on those individuals and their relationships;

¹ This provision was developed by the Women’s Legal Service QLD and appeared in their submission to the Finances and Public Administration Committee, in its Inquiry into “Domestic Violence in Australia”, July 2014. The provision utilised and built on some aspects of the New Zealand Family Law legislation at that time.

- c. how recently the family violence and abuse and coercive control occurred;
 - d. the likelihood of further family violence and abuse and coercive control occurring;
 - e. the manner in which the child was subjected to or exposed to family violence and abuse or coercive control;
 - f. the physical and/or emotional harm caused to the child by the violence and abuse and coercive control;
 - g. the physical and/or emotional harm caused to a member of the child's family by the violence and abuse and coercive control;
 - h. any views expressed by the child on the matter;
 - i. whether the other party believes the child would be safe if certain parenting orders are made; and
 - j. any steps undertaken by the violent or abusive party to prevent further family violence and abuse from occurring.
- 13.** More broadly, Full Stop Australia proposes a specific legislative pathway through *the Family Law Act 1975 (Cth)* for violence and abuse matters that includes the following:
- a) That the safety and the protection of adult and child victim-survivors from harm be prioritised.
 - b) That a consideration for an ongoing relationship with the parent found to be using violence or abuse be part of the general considerations and not given weight above other considerations relating to safety.
 - c) That the history of parenting in the relationship be specifically considered. E.g., a parent's demonstrated parental responsibility towards the child.
 - d) That the child and adult victim-survivor's need to recover from trauma be specifically mentioned and accommodated.
 - e) That legislative guidance be introduced to assist the Court to identify the "person in most need of protection" in circumstances where there are competing claims of violence and abuse, similar to the provision contained in Section 22A of the *Queensland Domestic and Family Violence (Combatting Coercive Control) and other Legislation Amendment Bill 2022*.
 - f) That shared parenting is not considered in the best interest of children where there is violence and abuse, including coercive control, unless there are compelling reasons to make such orders.
- 14.** Full Stop Australia proposes the use evidence-based family violence risk assessments (including specialised coercive control reports) to assist in the Court's decision-making about risk and safety.

15. Full Stop Australia recommends that the system be built with safety by design principles underpinned by an understanding of family violence dynamics which recognises the impact of coercive control and power differentials that will not simply resolve post-separation or through improved communication.
16. Full Stop Australia recommends the development of innovative responses to extremely high risk and potentially lethal family violence, including immediate no contact and moving away orders.
17. Full Stop Australia recommends that the Lighthouse Pilot be built upon to establish urgent and swift access to the Court for cases involving a risk of serious or lethal family violence to support safe outcomes.
18. Full Stop Australia recommends that the system be amended to provide for early determination about the existence of family violence an abuse and the making of interim orders to address immediate risk and safety issues.
19. Full Stop Australia recommends that the Court develop processes to better consider patterns of family violence and abuse over time and over the course of successive relationships, by considering previous and relevant family court files that involve each of the parties to the present dispute.
20. Full Stop Australia recommends that the safety of the child/ren be prioritised over the rights of a particular parent to have contact with their child/ren. Where criminal law matters are being decided, relevant case management protocols/ rules should be developed that clearly state relevant criminal charges, especially those relating to family violence and/or abuse, be responded to as a significant risk factor in family law proceedings.
21. Full Stop Australia recommends earlier and more robust interventions to stop litigation and system's abuse, including through the following:
 - a) The consideration and response to litigation and system's abuse as part of a broader pattern of coercive control.
 - b) The development of better responses to litigation and system's abuse, including a screening tool specific to identifying litigation/ system' abuse (or risk thereof), specialised processes, and interventions that assist the court to intervene early to protect victim-survivors in high-risk matters involving system's abuse (or risk thereof).
 - c) That a specialised response to litigation/ system's abuse be developed to include the early identification of matters and fast tracking these through the court to an urgent final hearing, thereby reducing the number of court episodes and opportunities for abuse to reoccur.
 - d) That specialised training be developed for the judiciary to equip them to better identify and respond to litigation abuse is a safety-focused, trauma-informed way.
 - e) That higher professional standards for legal practitioners be enforced to explicitly prohibit litigation in circumstances where the client is using

litigation for a collateral purpose of furthering their abuse and/or exerting power and control over their ex-partner and/or children.

22. Full Stop Australia recommends the *Family Law Act 1975 (Cth)* be amended by codifying the approach of the WA Court of Appeal in *Barron v Walsh* towards systems abuse, directing the Court to:
 - a) Determine the intention behind the court process or activity (noting a collateral purpose for litigation² is not appropriate and is an abuse of process).
 - b) Consider the conduct as a whole to assist in the determination.
23. Full Stop Australia recommends that a system's approach be adopted so that the family law system is alert to, able to identify and respond consistently to, system's abuse (and potential abuse) including in family dispute resolution processes.
24. Full Stop Australia recommends a national, wide ranging and independent inquiry be set up, led by recognised experts in child sexual abuse and family violence and with recognised skills and experience from a victim's perspective to consider systemic responses to child sexual abuse by the family law system, inclusive of the investigation and non-investigation by other state based agencies, such as child safety and police services, and consider if there is a reluctance to investigate when there are family law proceedings or a risk thereof, consider the "investigation gap" in family law and make recommendations about how to address this, consider the approach and attitudes of family law professionals to allegations of child sexual abuse, the interrelationship with family violence and coercive control, the Magellan model and whether it is still fit for purpose and any other relevant issues and make recommendations for change.
25. Full Stop Australia recommends training should be undertaken by all relevant family law professionals on the latest research into child sexual abuse dynamics, including perpetrator profiles from relevant and established experts in the CSA field including the latest work by Associate Professor Michael Salter that identifies the specific coercive control tactics of this cohort of abusers.
26. Full Stop Australia supports the recommendation concerning children's involvement in family law proceedings contained in the Family Law Council's report³ into Families with Complex Needs - Intersection of Child Protection and Family Law.

² For example, engaging in family court litigation to reduce child support, to financially ruin or punish your spouse is a collateral purpose. If lawyers are aware of such intentions, they should not be acting in these circumstances.

³ [Family-with-Complex-Needs-Intersection-of-Family-Law-and-Child-Protection-Systems-Final-Report-Terms-3-4-5.DOCX \(live.com\)](#)

- 27.** Full Stop Australia recommends that there be system's improvement to better recognise the complexity of hearing children's voices in circumstances where there is a history of trauma, violence, and abuse. There needs to be an improvement in the quality of person undertaking the assessment of the child to ensure their professional approach is not geared towards pathologising women and children. All family report writers should be subject to a high-quality clinical governance framework. This means the professional undertakes high quality supervision and are part of broader network of other highly qualified professionals to ensure they are being exposed to broad contemporary research and best practice strategies. A panel approach, similar to peer review in academia should be considered, to ensure the assessments are not so subjective and reflect up to date standards and best practice.
- 28.** Full Stop Australia recommends policy responses prioritise full compliance with child support legislation and recognise non-payment as both financial abuse of the child and the adult family violence victim.
- 29.** Full Stop Australia recommends a fulsome, national, wide ranging and independent inquiry be conducted by relevant experts into the links between child support and post separation child arrangements, and to make recommendation for policy and legislative change to afford greater equity and priority to the protection of children from poverty and exposure to financial abuse.
- 30.** Full Stop Australia recommends the Australian Tax Office be afforded greater resources to hold perpetrators to account in their non-payment of child support and in the recovery of debts and noncompliance.
- 31.** Full Stop Australia recommends victim-survivors be assisted to achieve economic justice post separation by better recognising the impacts of family violence in Part VIII–Property, spousal maintenance and maintenance agreements.
- 32.** Full Stop Australia recommends increased funding for family and sexual violence support services to facilitate safe processes and outcomes for families navigating the family law system in the context of family violence and abuse.
- 33.** Full Stop Australia recommends the funding of specialist family violence programs for fathering where there is family violence and link this directly to ongoing time with children and their safety and provide support to mothers whose parenting may have been impacted by violence.
- 34.** Full Stop Australia recommends a review Legal Aid funding guidelines in family law to overcome gender bias and ensure the guidelines proactively support family violence and abuse victims to achieve safety and just outcomes.

35. Full Stop Australia supports the recommendation from the Family Law Council's report⁴ into Families with Complex Needs - *Intersection of Child Protection and Family Law concerning family safety services*.
36. Full Stop Australia recommends the recommendation of the Queensland Domestic and Family Violence Death Review and Advisory Board be implemented to "develop a national, transparent approach to family violence deaths in the family law system inclusive of a systemic case review process to understand systemic issues and make recommendations for change."
37. Full Stop Australia recommends the establishment of a court advisory committee with broad community, academic, professional, and lived experience representation to assist and guide court responses and to promote system integration.
38. Full Stop Australia recommends a continuation of an increase the family, domestic and sexual violence specialisation of all personnel in the family law system through targeted recruitment processes, specialist training, wellbeing support, ongoing performance review, and accountability mechanisms.
39. Continue to build on the recommendations for the development of tailored services for Aboriginal and Torres Strait Islander families made by the Family Law Council in their reports in 2012 and 2016.
40. Continue to build on the recommendations for the development of tailored services for Migrant and Refugee families by the Family Law Council in their 2016 report.
41. Full Stop Australia supports the Family Law Council recommendation "to provide evidence and a better structured system in a more child-focused way, the Australian Government should consider establishing a client-centred integrated service model to trial collaborative case management approaches to families with complex needs, to be piloted initially in one court registry and evaluated pending further roll out. Part of that trial should include the development of effective information sharing protocols."
42. Full Stop supports a referral to the Family Law Council to conduct a review of the family law system's approach to LGBTIQ plus families and make recommendations where necessary for enhanced responses.
43. Reviewing the national standards for family disputes resolution (and private and court mediation) in matters involving substantive allegations of family violence and abuse to ensure risk and safety is prioritised and assessments regarding suitability to proceed, are monitored and reviewed.

⁴ [Family-with-Complex-Needs-Intersection-of-Family-Law-and-Child-Protection-Systems-Final-Report-Terms-3-4-5.DOCX \(live.com\)](#)

44. Developing in collaboration with family violence experts, a specialised approach to family dispute resolution that prioritises safety but specifically considers the dynamics of family violence, to allow some families access to non-court options, when it is safe to do so.
45. Investigating whether an inquisitorial approach to family law matters which includes trauma informed case management court approaches, is more suitable for resolving parenting matters under the *Family Law Act 1975 (Cth)*.
46. Ongoing training be provided to family law professionals about family and sexual violence from trainers with a trauma and family violence informed and victim centred approach.

The historical context and the need for change

The latest data from the Federal Circuit and Family Court of Australia (“FCFCOA”) is evidence that family violence and abuse is the core business of the court with 80% of court cases involving allegations of family violence and 70% involving allegations of, or risk of, child abuse.

The **presumption of equal shared parental responsibility** (ESPR) and the links to **equal time and shared parenting** were introduced in 2006 on the back of a campaign driven by men’s rights advocacy that questioned the reality and gendered nature of family violence, and at a time when the full extent of family violence in the system was unknown.

The changes introduced by the Gillard Government in 2012 went a small way to improving safe outcomes but never ameliorated the full extent and impact of the changes made in 2006.

Why the law is unsafe?

The presumption of equal shared parental responsibility and its mandatory requirement to consider equal or substantial and significant time and other shared parenting outcomes is a powerful legal tool. Despite the requirement to make decisions in the best interests of children and the availability of exemptions to the presumption, the provisions give power to the perpetrator, establishing a status quo or ‘norm’ of shared decision making and shared care that can be difficult for the victim-survivor to overcome.

When shared parenting exists in the context of family violence, it provides multiple opportunities for the perpetrator to engage in ongoing coercive control under the guise of following court orders. In a system with such high levels of family violence, the existence and application of the presumption is extremely dangerous, especially when adult victim-survivors and their children are before the courts at the point of separation - the very time they are most in danger of escalating or fatal violence.

When asked about the presumption of equal shared parental responsibility, victim-survivors told Full Stop Australia:

“It (the presumption of equal shared parental responsibility) is based on the assumption that both parents have the child’s interests at heart. For coercive

controllers, the child is an object that can be used to manipulate and control the mother (or other people targeted, in my case it was my perpetrator targeting my first husband, the father of my perpetrator's stepson). In my experience, they pretend they are for the best interests of the child, but the behaviours don't match the talk. So providing equal shared parental responsibility gives the perpetrator a smorgasbord of opportunities (school, medical, dental, holidays) to manipulate, abuse and antagonise the victim - to the detriment of the kids. It continues the tension, walking on eggshells, stopping the victim to heal. It allows the abuse to continue until the child is 18, forcing the victim into continual negotiation and contact. Coercive controllers (and those with NPD) need continual drama, they can't cope with calm, so it gives them ample opportunities to create conflict. The best way for a victim to escape a coercive controller, is through "no contact". This was the only way I successfully escaped (it took 7 attempts). Shared PR would have been an absolute disaster for me, I was terrified the judge would give him shared parental responsibility."

"In theory I do agree with (a presumption of equal shared parental responsibility for both parents) however seeing how it has been applied in practice it must be changed. The first consideration must be if family violence or coercive control is present."

"There are many reasons why this presumption is rebuttable, and many reasons why it should not be applied as a starting point. The onus should not be on survivors to prove their own abuse to a high enough standard to satisfy the court."

"I think violence and safety have to be primary consideration. It needs to be a child centred and safety centred approach, not a parent centred."

"I vehemently disagree with this. **It should be what is best for the child that is not necessarily 50-50.** I believe that arrangement is simply to appease parents without really considering the child."

"My issue is that people misread (the presumption) this as meaning 50:50 custody when it does not. It means that you have equal responsibility for major life choices such as surgery for example, it does not mean 50:50 custody. Even then, I have had to get Court Orders to allow my children to see a psychologist because the equal shared parental responsibility means he has to consent, and he withdrew it."

"My ex has shown he won't communicate me, the acknowledged primary carer, and in fact goes out of his way to counter parent rather than coparent. It terrifies me has equal parenting responsibility or major life decisions for our son, as he refuses to talk with me, let alone agree with me."

"Unfortunately, there needs to be solid proof of family violence to take the presumption away and even so the courts are more concerned about the right

a child has to have a relationship with the other parent OVER their right to be and feel safe.”

When asked about the presumption of equal shared parental responsibility, one Full Stop Australia Trauma Specialist Counsellor commented:

“Some children have had most care with one parent for significant time and to change this would be unsettling. Needs to look at historically what the parenting arrangement was and work from this base for normality and stability for children. Some parents don't have the skills or the capacity for shared care. It's not the amount of time with a parent that is important but more the quality of the time, the parenting and the relationship.”

The law is not fit for purpose for cases involving family violence.

Overall, and despite an increased knowledge of family violence dynamics, the existence of the presumption and links to equal or substantial and significant time and shared care has contributed to perverse outcomes in the system⁵, including, but not limited to the following:

- a. The language of 'equality' and 'sharing' speaks the language of perpetrators who can twist their meaning and use it for the purpose of gaining access to the family to engage in ongoing coercion.
- b. Perpetrators are incentivised to 'pursue their rights' to equal time through the courts, which causes unnecessary grief and opportunities for further abuse.
- c. An observed 'hardening' of the system towards victim-survivors who raise concerns about violence and abuse which results in some victim-survivors being 'punished' for raising their concerns in court. E.g. some mothers are found to be emotionally abusive as a direct result of raising concerns of violence/ abuse and can consequently lose time with their child/ren.
- d. A misguided 'future focus' where family violence and abuse concerns are dismissed as 'historical', resulting in them being attributed less weight in professional advice and decision making.
- e. Added complication to the law, resulting in an increase in expense and anguish.

These laws are not fit for purpose in matters involving family violence and abuse and must be changed to make adult and child victim-survivor safety the primary focus of legislative, policy and service system responses. Speaking to this, victim-survivors spoke to their experiences, stating:

“For myself, continuing trauma from family violence that developed into PTSD. Because this dragged on for years it had a very negative impact on me and resulted in multiple hospitalisations and I even lost my job due to extended

⁵ The family law system is wider than the family court and includes all areas where family law arrangements are resolved including negotiated outcomes, negotiated with assistance from solicitors, legal aid, family dispute resolution services. Indeed, most decision making occurs in these other forums rather than court.

absence from work due to stress. My child has experienced behavioural difficulties after the commencement of 50:50 care. The child's father denies any issues with behaviour exist and has refused to allow the child to attend a child councillor at Relationships Australia."

"My former partner has repeatedly engaged in the following behaviours: - degenerating, disrupting, and mischaracterising me, questioning my capacity as a mother, partner, and general decent human being. He did all of these things both during and after the pregnancy. - failing to contribute financially while hiding his true wealth and enjoying a parasitic lifestyle at my expense. - misusing the caveat process to illegitimately lodge a caveat on my home thereby depriving our son of access to a new safe home. - engaging in and prolonging expensive family law proceedings while acting at all times with utter insincerity. That is, failing to meet any requirement set of him by the court other than that which would cause proceedings to continue thereby costing me my savings. In doing these things, he has prevented me from being able to provide a home where me and our son can live independently and securely. - grabbing and pushing me around with our son in my arms. - shouting and going into rages when he experiences some sort of discomfort. This occurred in front of our son. - engaging in risky behaviour including dangerous driving with our son present and then raging at me when I complained. - entering private spaces where I was breastfeeding our son and raging at me using a low voice so as to avoid detection. All other aspects of his affect communicated intense rage. - causing me extreme distress in the days following our son's birth - using court ordered child contact via zoom to make degenerating remarks about me to our son. Remaining fixated on continuing zoom contact despite our son's extreme and repeated distress responses during same. And many other things... all the time... even still now (four years post separation)."

"My then 6-year-old son witnessed violence and was subjected to verbal abuse. My daughter was subjected to violence in utero and impacted by the PTSD I experienced."

"My son saw suicide attempts and was involved in physical altercations with his dad (between ages of 2 and 4!). He also saw coercive control at play daily and learned to be terrified of his father, just like his mother was."

"I was told I would never get sole parental responsibility and no time order. I was told that I had to allow my daughter to see her father unsupervised despite the lawyers knowing the risks to her safety and that she had a disability. The family report writer wrongly wrote that I may be influencing my daughters view on her father despite her psychologist and psychiatrist and GP speaking to my daughter independent of me and having a good understanding of my daughters fears and why she had formed these views on her own about her father. Yet the court reported never picked up the phone or refer to any of the affidavit material relating to our daughters' disabilities. The court reporter simply write fire that she cannot comment on how our daughters' disabilities

may affect her views on her father. Lawyers need to have some training on family violence and be trauma informed as the trauma they cause clients / victims has long lasting impacts.”

““There's no evidence of it". It happens behind closed doors. It went on for 16 years and intensified after we escaped. I have been told it will have no bearing on the case unless he attacks/stalks/threatens me or my daughter. It will be too late then.”

“That I would need to provide evidence and that often family violence was not taken into consideration in Family Law matter proceedings.”

“Trauma informed and more about safety. The offending parent should have more responsibility in proving they are a safe parent for children to be with rather than non-offending parent proving the other parent is unsafe.”

Full Stop’s Position on the Government’s Exposure Draft Bill:

1. We strongly support the landmark decision to remove the presumption of equal shared parental responsibility and its links to equal or substantial and significant time in Schedule 1 Part 2.
2. We support (Schedule 3), and the definition of family being broadened to include a more expansive understanding of ‘family’ reflecting Aboriginal and Torres Strait Islander culture.
3. We support (Schedule 4 Part 1) and the requirement for Independent Child Lawyers to meet with child/ren.
4. We support (Schedule 4 Part 2) and the changes to make it easier for the Court to appoint an Independent Children’s Lawyer in international child abduction matters.
5. We support the government intent to improve responses to litigation/ system’s abuse. However, we suggest the following changes including:
 - a. That Section 102QAC be amended to explicitly state that ‘harm’ is not required to be proved by the other party to satisfy the section.
 - b. That the definition of system’s abuse in section 102QAC (3) be broadened from only recognising court applications to include other systems. E.g., vindictive reports to child protection authorities, and multiple reviews of child support payment assessments.
 - c. In circumstances where a harmful/vexatious order has been made and a further court application is then made by the other party, that the victim-survivor be notified of the application and notified of its dismissal. If, however, the Court adopts a position that the application has merit, the

matter should be adjourned to allow opportunity for the victim-survivor to be heard on the application.

6. We propose the following changes to section 95, the overarching purpose of the family law practice and procedure provisions.
 - a. That section 95 (1) be amended to include safety so that it reads ‘the overarching purpose of the family law practice and procedure provision should be to facilitate the safe and just resolution of disputes.
 - b. That the consideration in section 95 (1)(c) be moved to make the first consideration in that section (section 95 (1)(a)) to make safety the first overarching purpose.
 - c. That section 95(2) - (4) be removed to decrease the emphasis on efficiency, as these provisions could be used unreasonably to pressure victim-survivors to settle cases, where it may not be safe or in the best interests of children. In particular, the proposed section 95 (4) regarding costs is dangerous and will be used against victim-survivors to pressure them to unreasonably settle in circumstances where it may not be safe or in the best interests of children.
 - d. That safety be defined to include physical, sexual, emotional, and psychological safety.
7. We propose that Section 60B(a) be amended to ensure the safety of children and other family members are prioritised, as follows:
 - “to ensure that the **safety and** best interests of children are met”
8. In relation to Schedule 6, the admissibility of evidence of protected confidence, we suggest a similar approach be adopted to sexual violence counselling privilege legislation in NSW and Queensland. E.g., Include a broader definition of ‘counsellor’ and procedural provisions where the Court decides if certain information is inadmissible, without the other party or their lawyer viewing the material.
9. That section 60CC (2) (d) be amended by removing the *phrase “to seek support to assist them with caring”* as the policy intent is unclear and will result in unintended consequences.
10. *That section 60 (3) (a) be amended to ensure that the consideration of cultural connection is specifically subject to safety.*
11. *We support further amendments to section 121 to achieve the right balance between both protecting the privacy of children and family law litigants, whilst allowing victim-survivors to speak out about systemic issues and concerns to increase oversight and accountability.*

What can else needs to be done?

I. Develop and introduce specialised best interests' principles for cases involving family violence and abuse.

That, in the consideration of what parenting orders are to be made in the context of family violence and abuse allegations, and in addition to the items discussed above the Court be required to consider the following matters when there is family violence or abuse:⁶

- the nature and seriousness of the family violence and abuse used in the family, including the use of coercive control;
- the nature of pre-separation relationships in the family and the impact of the family violence and abuse and coercive control on those individuals and their relationships;
- how recently the family violence and abuse and coercive control occurred;
- the likelihood of further family violence and abuse and coercive control occurring;
- the manner in which the child was subjected to or exposed to family violence and abuse or coercive control;
- the physical and/or emotional harm caused to the child by the violence and abuse and coercive control;
- the physical and/or emotional harm caused to a member of the child's family by the violence and abuse and coercive control;
- any views expressed by the child on the matter;
- whether the other party believes the child would be safe if certain parenting orders are made; and
- any steps undertaken by the violent or abusive party to prevent further family violence and abuse from occurring.

Reinforcing this importance, victim-survivors share their experiences of the family court system when considering matters involving family violence:

"The presence of DV needs to be ascertained on entry into the family court system and the level of risk should be risk assessed. Where there are issues of DV raised, both parties should be interviewed by an experienced DV psychologist, as many times as is necessary, to determine if DV is present and who is the perpetrator and the victim. This evidence should then be passed to the judge at the first hearing to make a determination of the presence of DV and make interim orders. Where DV is present, there should be an alternate pathway that prevents the abuser from taking advantage of the adversarial

⁶ This provision was developed by the Women's Legal Service QLD and appeared in their submission to the Finances and Public Administration Committee, in its Inquiry into "Domestic Violence in Australia", July 2014. The provision utilised and built on some aspects of the New Zealand Family Law legislation at that time.

*nature of the court. The court should make it contingent that the abuser attend behaviour change program in order to regain access to their children, of which access should be withheld until they are able to demonstrate that they are a safe person for their children to be around. The presence of DV should also trigger retraining orders to be put in place over the victim/s. It is far too difficult to obtain a restraining order and I had to endure years of stalking before I was able to obtain one when he made threats against both my own and our child's life. Even then I was told it was too dangerous to get the restraining order over our child as it would likely trigger him to carry out his threats. This was terrifying. **Because the family court process is drawn out and provided me with little protection, I ended up agreeing to arrangements that were not good for our child out of fear for our safety.** There is little protection provided for victims."*

"More so when he files an application in the family court and held me there for 3 years seeking to obtain full custody of our daughter as a way to control me."

"13 years later and still going on. She is psychologically abusive, financially abusive, emotionally abusive, verbally abusive and uses my children as weapons and neglects them and their needs. They live in squalor and poverty."

"He transferred the behaviour directly to my daughter who was 4.5 yrs old at the time. She has suffered for years now but the courts do not listen to children until they are 13 years old."

"In terms of final orders. The perpetrator dragged the matter out until it became obvious that the case was unlikely to resolve in his favour. If he continued, he would also have been likely to be liable for the ICL's costs. Under these circumstances, he agreed to a no contact order despite having initiated proceedings and having refused to resolve the matter prior to this. Also, in terms of interim orders I agreed to zoom contact. This was before I understood just how incredibly distressing zoom calls had the potential to be for me and our son. I was astonished by just how bizarre and disturbing the perpetrator's behaviour was and how immensely disruptive and distressing those calls were."

"Clients report their fear of ongoing abuse, neglect, weaponising of children, change in behaviour after spending time with the perpetrator." – Full Stop Australia Counsellor

II. Develop, more broadly, a specific legislative pathway through the Family Law Act 1975 (Cth) for violence and abuse with the following features:

- That the safety and the protection of adult and child victim-survivors from harm be prioritised.
- That a consideration for an ongoing relationship with the other parent be part of the general considerations and not given weight above other considerations.

- That the history of parenting in the relationship be specifically considered. E.g., a parent's demonstrated parental responsibility towards the child.
- That the child and adult victim-survivor's need to recover from trauma be specifically mentioned and accommodated.
- Legislative guidance be introduced to assist the Court to identify the "person in most need of protection" when there are competing claims of violence and abuse, similar to the provision contained in Section 22A of the Queensland *Domestic and Family Violence (Combatting Coercive Control) and other Legislation Amendment Bill 2022*.
- That shared parenting is not considered in the best interest of children where there is violence and abuse, including coercive control, unless there are compelling reasons to make such orders.

"The children's daily routines and needs were not considered. The children's relationship with their father is based on fear and they are conditioned to please him as a form of self-safety".

"The children were over 21 (when I separated). I stayed in the relationship because he made veiled threats to harm the boys when they were young - in order to control me. It worked. I knew he would get co-custody and i would not risk having him abuse (or threaten to) to control me. He is heartless."

"Children's right to safety needs to be above the right of a parent to see a child. Children need a voice. Children don't need to be pawns in adult disputes. Safety should override all other issues."

Continuing, a Full Stop Australia Trauma Specialist counsellor revealed the impact on victim-survivors, stating:

"Huge financial impact paying lawyers, distress and worry knowing their children are not safe, one victim/survivor had to attend supervised visits 3 x week and wait outside for her young children (in case children were distressed - court asked for this), not able to work due to attending these, 5 year old son punched her in the face after one such visit to father, agency did not attend to her . One client was awarded full care when perp decided to walk away from proceedings after fighting her for full care in a long period in court, huge distress to victim/survivor and financial cost- so she has had full care - but periodically turns up wanting access blaming her , she still lives in fear, is not able to get AVO easily and knows he has access to best lawyers to defend against this. One client was Sexually assaulted by perp and gave birth to a child as a result. when baby was one year old -no contact he went for shared care and got it - to her and her family's distress. Court did not believe she had been sexually assaulted. Starting with supervised visits at a centre, perp continued to frighten her when she arrived and left, followed them in car. Eventually had to hand over at police station – still huge trauma reaction to see him there."

III. Other improvements to safety

- Use evidence-based family violence risk assessments (including specialised coercive control reports) to assist the Court's decision-making about risk and safety.
- Build the system from the perspective of family violence safety and an understanding of family violence dynamics rather than an assumption that these are merely two parties in 'conflict' and that this conflict will resolve after separation or through 'better communication'.

"My daughter has disclosed the abuse in detail to a child psychologist, family therapist, court report writer, social worker through contact supervision organisation...to no avail. They are still going to force contact."- Victim-survivor

"For parenting, the longer you get into separation the less impact what happened in your relationship has. If a perpetrator can show good behaviour for 6 months, regardless of what happened prior, they'll get more of what they want."- Victim-survivor

- Develop innovative responses to extremely high risk and potentially lethal family violence including immediate no contact and moving away orders.

"I signed an agreement (for contact) even though he was deemed a serious risk to myself and our child; I thought that if I continued to trial and he didn't get the outcome he wanted that he would carry through on his threats which included public support of the actions taken towards Rosy Batty and Hannah Clarke." -Victim-survivor

"High risk of lethality due to strangulation, dangerous driving and suicide threats by perp. Child sexual abuse and grooming of children. Abuse should mean no contact so children can heal in safety and security away from further abuse. Especially when perp denies responsibility, has no insight and blames adult victim, this creates high risk of homicide for children as shown by previous perp revenge killing cases, where there were murders of children, both in Australia and overseas." – Victim-survivor

- Build on the Lighthouse Project to establish urgent and swift access to the Court for cases involving a risk of serious or lethal family violence to support safe outcomes in such matters.
- Make early determinations about the existence of family violence and make interim orders which address on the immediate risk and safety issues that are identified.

"I do think (family violence) was considered (by my solicitor), however there are few avenues to bring up the situation in the family court particularly where there isn't a history to physical violence. The judge won't make an assessment

on the presence of family violence until trial and it can take years to get to that point, so there is no protection in the meantime.” – Victim-survivor

“These matters are not adequately considered when providing interim orders. Safety planning does not form a part of interim order creation in situations where there is family violence. I think this is due to judges not making decisions on whether family violence is actually occurring until there can be a trial and evidence can be tested. Therefore, everything is considered an 'allegation'.” – Victim-survivor

- Embed family violence specialist social workers in the FCFCOA to assist with court triage and risk assessment (as recommended by the Family Law Council in 2016).
- Develop more urgent and practical ways for family violence victims to physically move away from the perpetrator, particularly in circumstances of highly dangerous and potentially lethal relationships.

“This man continued to come to my home and sexually assault me for years after we separated.”- Victim-survivor

“The children would continue to be exposed to abuse, control, manipulation, and neglect. The victim survivor felt as though they can’t get away from the perpetrator due to shared custody of the children.”- Full Stop Australia Counsellor

- That the court develop processes to better be able to consider patterns of family violence and abuse over time and over the course of successive relationships, by considering previous and relevant family court files that involve one of the parties to the current dispute.

*“My son is safe!! My eldest son (being a step-son) has nothing to do with my ex. I got a good outcome. My son, who is 10, will have to come to terms with not seeing his dad (as his dad is not complying with what he agreed to in the orders) and possible future issues around abandonment. But this is better than my son being manipulated and abused himself or witnessing the abuse of my ex’s new girlfriend and her kids. **Which will happen, my ex has a 30-year pattern of CC and DFV, he did the same to the first wife and kids, I was his second, the third (a finance) left him after 18mths, he’s on his fourth now. Patterns repeat.**”- Victim-survivor*

- The safety of children needs to be prioritised over the ‘rights of the perpetrator’. Where criminal law matters are being decided, relevant case management protocols/rules should be developed that clearly state relevant criminal charges, especially those relating to family violence and/or abuse, should be responded to as a significant risk factor in family law proceedings.

“Whilst the charges were before the criminal court nothing could be decided or discussed during the family court matter. He had the same lawyers for both the criminal and family matters.” – Victim-survivor

IV. Overarching legislative objective

We have already stated that any overarching objective of the Family Law Act 1975 should be safety and the current over emphasis in the Exposure Draft on quickness and efficiency may increase the pressure on victim-survivors to settle in circumstances, where it may not be safe or in the best interests of children. Please see relevant comment below supporting this position from a victim-survivor.

“We are in the Family Court system and have had directions hearings. So, they have been brief and about next steps. Magistrates, Registrars, and our docket Judge all make comments about how it is better for us to reach an agreement and I just want to scream that I am trying my best, but I am dealing with a controlling man and agreement requires both parties! These comments I am sure are designed to remind people of the time and cost but in these situations, it makes you feel guilty or bad, but you have no ability to explain.” – Victim-survivor

V. Develop earlier and more robust interventions to stop litigation and system’s abuse.⁷

- The FCFCOA (along with courts in different jurisdictions) can struggle with identifying issues of litigation/ system’s abuse as the perpetrator’s use of litigation can be viewed as a “legitimate means to exert their rights”. There is an urgent need for the FCFCOA to become domestic violence informed and trauma aware. It is not enough to become trauma informed as this does not sufficiently address perpetrator tactics of abuse, including their use of systems and image management.

“The litigation was expensive but worth it. Drawn out and enabled my abuser to perpetrate more lies, accusations and manipulations. I spent over \$200k in 18 months, something not everyone could afford.”- Victim-survivor

“Very expensive, I spent over \$100k in legal fees only to settle in the end as I was terrified of him and what he might do to us.”- Victim-survivor

These include the following:

- Consider and respond to litigation and system’s abuse as part of a broader pattern of coercive control.

⁷ This section draws on ideas, recommendations and information contained in ‘The justice gap for women: The impact on victims of partner violence’ - first appeared in *Precedent*, the journal of the Australian Lawyers Alliance, issue 170, published in June 2022 (Sydney, Australia, ISSN 1449-7719), pp 20-25.

- Develop better responses to litigation and system’s abuse, including a screening tool specific to identifying litigation/ system’ abuse (or risk thereof), specialised processes, and interventions that assist the court to intervene early to protect victim-survivors in high-risk matters involving system’s abuse (or risk thereof). Any response should consider the perpetrator’s use of systems broader than the family law system.
- Develop a specialised response to litigation/ system’s abuse which includes the early identification of matters and fast tracking these through the court process to an urgent final hearing, thereby reducing the number of court episodes and opportunities for abuse to occur.
- Specialised training for the judiciary to better identify and respond to litigation abuse.
- The enforcement of higher professional standards for legal practitioners being enforced, which explicitly prohibits litigation in circumstances where the client is using litigation for a collateral purpose of furthering their abuse and/or exerting power and control over their ex-partner and/or children.
- The amendment of the *Family Law Act 1975* (Cth) to codify the approach of the WA Court of Appeal in *Barron v Walsh* to systems abuse. The court in this case made a determination about the intention behind the otherwise lawful action, and considered the conduct ‘as a whole’ to make findings that the party had engaged in system’s abuse and that this was part of the domestic violence being perpetrated.⁸ If the courts look for patterns of behaviour (broader than just the litigation before the family court) this will assist the court to identify an alternative motive for the litigation.
- Amend the *Family Law Act 1975* (Cth) by codifying the approach of the WA Court of Appeal in *Barron v Walsh* to systems abuse, by directing the Court to:
 - I. Determine the intention behind the court process or activity (noting a collateral purpose for litigation⁹ is not appropriate and is an abuse of process)
 - II. Consider the conduct as a whole to assist in the determination.

“It took 18 months for financial settlement and just under 3 years for parenting orders. He used every institution and opportunity to make things difficult for me. He breached the FVO and was given 12 mths good behaviour bond. He manipulated, blocked, stymied, threatened: the sale of 2 x investment units, the future of the business (which I 1/2 owned), the insurance on my car, the mediation and counselling processes, delayed financial settlement by 6

⁸ [Systems abuse - National Domestic and Family Violence Bench Book \(aija.org.au\)](#)

⁹ For example, engaging in family court litigation to reduce child support, to financially ruin or punish your spouse is a collateral purpose. If lawyers are aware of such intentions they should not be acting in these circumstances.

months, badmouthed me to real estate agents, banks etc stalked me on the house cameras (I was in the family home, and accidentally switched them back on). Numerous calls to police about breaching FVO. The FVO is really important.” – Victim-survivor

“I spent two years in the family court. Overall, it takes way too long and provides too many opportunities for an abuser to continue their abuse in the form of 'systems abuse' which is what I experienced.” – Victim-survivor

“But to the perpetrator (particularly someone with NPD), people are targets/tools, this was not about his son (otherwise he would have complied with agreed interim orders to get therapy) it was about intimidating me and wearing down my finances to make me concede/give up. He used the system to attempt this.” – Victim-survivor

- That a system’s approach is adopted so that the family law system is alert to, able to identify and respond consistently to, system’s abuse (and potential abuse) including in family dispute resolution processes.

*“The FDR was put forward by my ex prior to the trial, for performance value and to look good for the judge. My position from the March 2020 was - there are significant risks with the perpetrator's behaviour, so he needs to get treatment from a *clinical* psych and have supervised contact, until the psych can assure me that he is safe, then no unsupervised contact. This is not unreasonable. He refused to agree (nor take responsibility for his abuse) and so FDR failed. It was a waste of time and money.”*

“The physical side was ok - we were in separate rooms (For the FDR). But the whole Family Law process is built on the assumption that both parties are 'rational' humans motivated to negotiate for the best outcomes for the child. My ex's motivation was not this, it was to burn through my funds (this FDR cost me \$5-10 k) and intimidate me. If he had any intention to see his son, he would have already been doing the psych work (because he had already agreed to it in the interim orders) and the supervised visits, which he was not. So it was simply yet another a tool he could use against me. As a victim of CC and DV, with PTSD, this stuff just adds to the huge trauma of the court process, and the hundreds of hours of preparation burden falls on the victim and reliving the abuse!”

“The perpetrator used the Child Support Agency and the threat of losing my home to continue the control.” – Victim-survivor

“Ater protracted family court proceedings and extremely distressing child contact arrangements which ultimately yielded no contact orders, now the perpetrator's family seek to drag me and my son through same. This is in spite of my extensive efforts to accommodate their requests.” – Victim-survivor

“It took 18 months for financial settlement and just under 3 years for parenting orders. He used every institution and opportunity to make things difficult for

me. He breached the FVO and was given 12 mths good behaviour bond. He manipulated, blocked, stymied, threatened: the sale of 2 x investment units, the future of the business (which I 1/2 owned), the insurance on my car, the mediation and counselling processes, delayed financial settlement by 6 months, badmouthed me to real estate agents, banks etc stalked me on the house cameras (I was in the family home, and accidentally switched them back on). Numerous calls to police about breaching FVO. The FVO is really important.” – Victim-survivor

“Perpetrators continue to use the orders as a justification for ongoing contact and abuse of the other parent. (the system) allows perpetrators to use the orders and arrangements and threats to make trouble to grind the other party into the ground.”- Full Stop Australia Counsellor

Clients are subject to ongoing abuse (coercive control, financial abuse, stalking). Clients feel as though they are still in the relationship due to ongoing contact with the perp via children. Clients report ongoing abuse of the children, but they are helpless due to family court order.” – Full Stop Australia Counsellor

VI. Improved identification and responses to coercive control and identifying the person in most need of protection.

As stated previously we support a more expansive definition of coercive control (inclusive of considering patterns of behaviour and the relationship as a whole) needs to be developed and included in the legislation to promote understanding in the community, separated couples and by court users, the legal and social welfare professionals, and the judiciary.

It is now well accepted that coercive control is a highly dangerous activity and can be a key factor in intimate partner homicide. The introduction of an expanded coercive control definition will assist to shift professional understandings about domestic and family violence dynamics from viewing domestic and family violence as a one-off incident or a series of one-off incidents, mainly physical in nature. The introduction of a provision that assists the court to identify the person in most need of protection when there are competing allegations of family violence will also improve responses to coercive control, including perpetrator tactics of image management and system’s abuse and help improve understanding of risk and perpetrator dangerousness.

Scottish Women’s Aid in their paper, “What is coercive control?¹⁰” defined it as follows:

“Coercive control is a purposeful and sustained pattern of behaviour whereby one person within the relationship (most usually a man) seeks to exert power, control or coercion over another. A range of tactics are used such as isolating the partner from sources of support and social interaction, exploiting their resources (financial and emotional), depriving them of the means needed for

¹⁰ [What is coercive control \(womensaid.scot\)](https://www.womensaid.scot.nhs.uk/what-is-coercive-control/)

independence, resistance and escape and regulating their everyday behaviour (Dobash & Dobash, 1993, 2004; Stark, 2006; Johnson, 2006; Hester, 2009)."

- Expand the definition of coercive control to include "a pattern of abuse" that may occur over time.¹¹
- Introduce specialised training for family law professionals on coercive control.
- Introduce a provision to assist the court to determine the person most in need of protection when there are mutual allegations of violence, similar to Section 22A of the *Queensland Domestic and Family Violence (Combatting Coercive Control) and other Legislation Amendment Bill 2022*.

"Most of the client's report their experiences were minimised, ignored, and made to look like liars. They feel the perpetrator got away with 'murder' and they did not get justice for their abuse." – Full Stop Australia Counsellor

"Their experiences (victims of DFV) don't seem to be fully understand re impact and ramification on emotional safety along with physical safety of women and children". – Full Stop Australia Counsellor

"Often the coercive control is difficult for them to pinpoint or articulate and this does not transfer well to a law system" – Full Stop Australia Counsellor

"Adversarial system does not address perpetrators using the Family Law processes to continue their abuse and control. in many cases facilitates it. Male perpetrators often have more time and resources to devote to legal services; women must attend to safety of selves and children and use legal aid. Family Law Court judges - particularly circuit magistrates - may not be educated re DV." – Full Stop Australia Counsellor

"My experience was that there was no real understanding of coercive control and the danger involved for the survivor when there was no previous physical violence." – Full Stop Australia Counsellor

"The worst aspect I have heard about is re father's (DV perpetrator's) access to children who do not want to go to the father and are scared of going - obvious ongoing impacts on children during access not considered by the court, having to hand over children to supervised visits through an agency children distressed and disrupted each time. If mother refuses to hand over to father (court ordered) for safety concerns, she runs the risk of losing the children altogether to the father's care by being deemed not able to co-operate enough for a co-parenting situation." – Full Stop Australia Counsellor

"Their experiences of abuse were denied by the perpetrator, minimised, and not taken with the seriousness the abuse deserved. The victim survivor felt

¹¹ See definition in *Domestic and Family Violence (Combatting Coercive Control) and other Legislation Amendment Bill 2022*.

there was no point in reporting serious assaults (including sexual assault by the perpetrator).” – Full Stop Australia Counsellor

VII. Child Sexual Abuse (CSA)

In the report by the Whitlam Institute¹² it was noted: A significant study of family law cases has concluded that it *is statistically improbable* for the court to make so few findings of child sexual abuse and it is highly likely that the court is *making incorrect findings* and failing to protect children (Webb, Moloney, Smyth and Murphy, 2021).

We support the Whitlam Institute’s Recommendation 10 as follows:

It is recommended that child safety must be prioritised above any other consideration in cases involving a risk of child sexual abuse. Court orders facilitating supervised contact with known child sex offenders should be disallowed. Child sexual abuse allegations raised in family courts must be investigated by recognised child protection experts with clinical experience in the field. Legal decisions must be risk adverse and prioritise child safety.

*“Many times - victims must compartmentalise and dissociate from this to be able to cope with sending them. Children have come back showing signs of sexual assault (and no direct disclosure) but when reported by mother they report court sees this as “vexatious”. **Several mothers I have worked with have stopped reporting due to this and being warned by their lawyers not to make Child Protection reports anymore as it will do their case harm and they may lose the kids.**” – Full Stop Australia Counsellor*

“Concerns for child abuse are overridden by FL Court; favours 50/50 contact. Child Protection, police often reluctant to act on Child Protection concerns if there is a family court order in place.” – Full Stop Australia Counsellor

However, we believe more needs to be done on this issue. Specifically:

- We recommend a national, wide-ranging and independent inquiry led by recognised experts in child sexual abuse and family violence and with recognised skills and experience from a victim’s perspective consider systemic responses to child sexual abuse by the family law system, inclusive of the investigation and non-investigation by other state based agencies, such as child safety and police services, and consider if there is a reluctance to investigate when there are family law proceedings or a risk thereof, the “investigation gap” in family law and make recommendations about how to address this, consider the approach/ attitudes of family law professionals to allegations of child sexual abuse, the interrelationship with family violence and coercive control, the Magellan model and whether it is still fit for purpose and any other relevant issues and make recommendations for change.

¹² *They Thought it was Safe But it Wasn’t: Recognising Children’s Rights as a Means of Securing Children’s Safety in Family Law*”

Professionals make statements to clients who are adult survivors of child sexual abuse that they imagine their child is being abused because of their own experience, not the reality. Clients framed as having mental health issues (inferring their concerns of child sexual abuse of their children is not a reality).”
– Full Stop Australia Counsellor

“Recently, I spoke with a client who is concerned about CSA of their child but due to family court orders, the caller has to send the child to their father. If they withheld the child, they will be in breach of family court orders. The client was concerned about concerns raised by their child.” – Full Stop Australia Counsellor

“There have been instances where the court was decisive and gave orders that protected the children from the perp. At other times, the response was poor and children continued to be exposed to abuse.” – Full Stop Australia Counsellor

“Relies on hasty reports from FL counsellors that do not have sufficient time/resources/expertise.” – Full Stop Australia Counsellor

“Do not believe, take into account unless conviction or FACS substantiation - also if a perp has sexually abused one child in the family and this is substantiated but no conviction, it seems they are still allowed access of some kind to the other children in the family.” – Full Stop Australia Counsellor

- In the meantime, all relevant experts should obtain training on the latest research into child sexual abuse dynamics, including perpetrator profiles from relevant and established experts in the child sexual abuse field including the latest work by Associate Professor Michael Salter that identifies the specific coercive control tactics of this cohort of abusers.

VIII. Child involvement in decision making.

- We support the recommendation concerning children’s involvement in family law proceedings contained in the Family Law Council’s report¹³ into Families with Complex Needs – Intersection of Child Protection and Family Law:

Council notes stakeholder concerns to ensure that greater respect is accorded to children’s views when assessing and responding to risk, and that children’s experiences of family law processes are used to inform the development of policy and service responses to families with complex needs. Council recommends:

1) The Australian Government establish a young person advisory panel to assist in the design of child-focused family law services that build on an understanding of children’s and young people’s views and experiences of the family law system’s services.

¹³ [Family-with-Complex-Needs-Intersection-of-Family-Law-and-Child-Protection-Systems-Final-Report-Terms-3-4-5.DOCX \(live.com\)](#)

2) *The Australian Government consult with children and young people as key stakeholders in developing guidelines for judges who may choose to meet with children in family law proceedings*

This recommendation was also supported by Recommendation 50 in the ALRC report and by the Whitlam Institute Report.¹⁴

- In the meantime, the system needs to better recognise the complexity of hearing children’s voices in circumstances where there is a history of trauma, violence, and abuse. There needs to be an improvement in the quality of person undertaking the assessment of the child to ensure their professional approach is not geared towards pathologising women and children. All family report writers should be subject to a high-quality clinical governance framework. This means the professional undertakes high quality supervision and are part of broader network of other highly qualified professionals to ensure they are being exposed to broad contemporary research and best practice strategies. A panel approach, similar to peer review in academia should be considered, to ensure the assessments are not so subjective and reflect up to date standards and best practice.¹⁵

“The courts fixate on “child has right to relationship with both parents” regardless of abuse. They do not listen to children no matter how clearly or loudly they express their very clear desire to not see the abuser again. They FORCE CONTACT in every circumstance. Children are not heard in court. It is heartbreaking.” – Victim-survivor

“Our son is too young to contribute explicitly, but he made his wishes quite clear by his reactions to his father’s appalling behaviour during the zoom calls. Our son fought his heart out to get away from his father’s abuse.”

“My daughter’s strong views have been utterly ignored.” – Victim-survivor

“There was a children’s lawyer but he never met the children or got their input. He also didn’t read any reports or orders.” – Victim-survivor

Economic justice

IX. Alleviate child poverty

If child support is paid on time and in full, then it reduces child poverty by 21%¹⁶.

¹⁴ Recommendation 12 [apo-nid318020.pdf](#)

¹⁵ Full Stop recognising the significant work that has been undertaken by FCFCOA to improve the quality and consistency of family reports by employed staff of the Court.

¹⁶ Skinner, C, Cook, K, Sinclair, S (2017) The potential of child support to reduce lone mother poverty: comparing population survey data in Australia and the UK, *Journal of Poverty and Social Justice*, vol 25 no 1, 79-94, DOI: 10.1332/175982717X14860543256937

- Policy responses should prioritise full compliance with child support legislation and recognise non-payment as both financial abuse of the child and the adult family violence victim.
- Child support as a driver of children’s disputes/ litigation in the context of family violence should be better recognised and responded to. Changes introduced in 2006 inextricably linked child support and time with children in a way that previously had not. As noted in the report by Dr Anne Summers these *changes to the Child Support legislation between 2006 and 2008, made various changes to the payment formula, including from parental income to a ‘cost of children’ model, **have decreased child support payments for many single mothers***¹⁷.
- Full Stop Australia recommends a fulsome, national, wide ranging and independent inquiry be conducted by relevant experts into the links between child support and post separation child arrangements, and to make recommendation for policy and legislative change to afford greater equity and priority to the protection of children from poverty and exposure to financial abuse.
- The Australian Tax Office should be afforded greater resources to hold perpetrators to account in their non-payment of child support and in the recovery of debts and noncompliance.

“Fathers use the child support system to further control the family.” – Full Stop Australia Counsellor

“Perpetrators seeking child contact to reduce child support is mentioned regularly by the survivors I have worked with and then the perpetrator reduces contact once the child support liability is completed.” – Full Stop Australia Counsellor

“Some perpetrators are very open with this tactic (use of child support) as they are parent focused (self-absorbed) instead of being child focused.” – Full Stop Australia Counsellor

X. Property division

The policy underlying any changes to these provisions should be informed by the outcomes of the study by Dr Anne Summers on single motherhood, domestic violence, and poverty, [Domestic violence and its consequences in Australia today \(violenceorpoverty.com\)](http://violenceorpoverty.com)

The key findings from this research included:

- The long-term consequences of living with family violence were identified in the research. It found that poverty did not cause domestic violence, but poverty resulted from leaving domestic violence relationships.

¹⁷ [Domestic violence and its consequences in Australia today \(violenceorpoverty.com\)](http://violenceorpoverty.com) page 18.

- 275,000 Australian women had suffered physical and/or sexual violence from a current partner and while 90,000 of them wanted to leave, they felt unable to do so, with a quarter of them saying the main reason was lack of money or financial support.
- A further 82,000 temporarily separated but returned, again with 15 per cent of them saying they had no money or nowhere to go.
- 185,700 women with children aged under 18 were living as single mothers after leaving violent relationships. **They represent 60 per cent of all single mothers, a far higher rate of violence than for any other group of Australian women.** (The average rate is 1 in 6 women, or 17.3 per cent). It is important to note that these women were married or in de facto relationships when the violence occurred and are single now because of the violence.
- **67 per cent of these now single mothers had children in their care at the time of the violence** and 88,000 women said their children saw or heard the violence.
- **Women who leave violent relationships suffer a drop in income of as much as 45 per cent.**
- Although 60 per cent of the women who left are employed, their earnings are insufficient to support their families and 50 per cent of them rely on government payments as their main source of income. The ABS data shows that 48 per cent of these single mothers' income was in the lowest quintile, meaning they earned \$460 or less a week in household income. **All this means that thousands of women and children who have escaped from violent families have been forced by the government to live in policy-induced poverty.**
- The data shows many could not pay their bills or heat their houses or register their cars. More than 17,000 women went without meals.
- The mothers who fled violent relationships have relatively high levels of education, with 73 per cent having a post-school qualification (compared with 61 per cent of the overall population of women).
- Only 27 per cent of these mothers who had fled violence were employed full-time, with 33 per cent working part-time and 7 per cent unemployed. One-third of them were not in the labour force.
- After separation the Partner Violence mothers experienced a 'very significantly higher' drop in income of 34 per cent, compared with the 20 per cent drop for non-Partner Violence mothers. **The inescapable conclusion is 'that Partner Violence is a key contributor to significant material disadvantage for those affected'.**
- Before separation, mothers who experienced Partner Violence have about the same incomes as mothers who did not experience Partner Violence, **but after separation the Partner Violence mothers experienced a 'very significantly**

higher' drop in income of 34 per cent, compared with the 20 per cent drop for non-Partner Violence mothers. In dollar terms, the drop for Partner Violence mothers was from \$54,648 to \$35,921 a year.

The devastating economic consequences of living with and leaving family violence on victims and their children are now beyond debate. Therefore, family violence should be specifically included as a factor relevant in family property division to better recognise the short and long-term impacts of family violence on women's economic outcomes post-separation, including the impact on current financial position and on future needs. We further note the findings of AIFS in their evaluation¹⁸ of the small property pilot that, "The analyses also show that the division of net assets granted in PPP500 matters was similar for women with or without allegations of family violence, with an average division of 53% where there was an allegation of family violence, compared with 52% where there was no allegation of family violence."

The current laws are not appropriately reflecting the true impacts of family violence on victim-survivors and a changed approach needs to occur.

"It also doesn't recognise that victims have often been isolated from the workforce and are having to re-establish lives (after leaving their homes, communities etc), find new homes, keep children safe, deal with psychological injury and return to work - when the perpetrator's lives are not impacted in the same way - they often stay in the house, keep their community/friends, maintain their income and jobs. And their family court burden is much lighter for the perpetrators. Many women I know in coercive control situations, do not have the money to engage with the family court so have no choice but to give the kids to the perpetrator - resulting in disastrous consequences for the kids. The National Plan for ending violence against women aims to end DV in one generation - they have no chance with a family court system that gives kids back to perpetrators and excludes huge numbers of women and kids in coercive control situations as they cannot afford to be part of the system." – Victim-survivor

"Enormous (financial impact), I have spent over \$100k on legal fees. I also lost my job due to the stress of the situation and ongoing family violence." – Victim-survivor

"It has cost me about \$140 000, for both financial and parenting orders. I work part-time because I needed to devote substantial time to court work and my own and my kids psychological healing - affidavits, negotiations, financial stuff, dealing with his FVO breaches, dealing with his manipulations, therapy sessions etc. I simply could not cope working full time. Effectively is it a \$60k per year of lost of income, and the implications for super. Also, I had

¹⁸ [Evaluation of the Small Claims Property Pilot – Priority Property Pools Under \\$500,000 \(PPP500\) | Australian Institute of Family Studies \(aifs.gov.au\)](https://aifs.gov.au/evaluation-of-the-small-claims-property-pilot-priority-property-pools-under-$500,000-ppp500)

to refinance property to access equity to be able to pay lawyers". – Victim-survivor

"My ex-husband weaponised the system to the extent that my son and I were left with virtually nothing as he had spent all family money gambling to the tune of over \$1 million. As there was supposedly nothing left, we received 100% of nothing. He has holidayed overseas, skied in Aspen, snowboarded in Japan and spent over \$600,000 on his credit card. That was our family money. Gone." – Victim-survivor

"We live in poverty, fear, dread. I have not bought anything but the essentials since this began. We have no capacity to save any money to better our situation. He is trying to destroy us." – Victim-survivor

"Hugely expensive. I must have spent over \$90k on family lawyers, commercial lawyers etc. and ended up losing everything anyway." – Victim-survivor

"I spent \$60 000 in legal fees, plus thousands of dollars in counselling for me and my daughter" – Victim-survivor

"My lawyers fees were in excess of \$250,000. My ex-husband represented himself. This meant that my lawyers had to do everything in order to ensure things were done properly. My ex-husband's financial abuse has left me almost bankrupt, and there is no question that he weaponised the family court system" – Victim-survivor

"Costs of engaging services is prohibitive. access to alternate pathways is not transparent enough services lack intersectional awareness, wasting financial resources" – Victim-survivor

"Significant financial impact. I came to the partnership with assets and he only had debts. My assets were tied up completely for 18 months (he refused to sell our house whilst also refusing to pay for its upkeep or mortgage) and for the first few weeks post separation I had a nil bank account." – Victim-survivor

"It was a massive financial burden living rurally and having to travel hours with a toddler/child to the supervised visitation centre with no financial help from anyone."

- Full Stop Australia supports the first part of the ALRC Report Recommendation 11

The Family Law Act 1975 (Cth) should be amended to: specify the steps that a court will take when considering whether to make an order to alter the interests of the parties to the relationship in any property.

- Full Stop Australia disagrees with Recommendation 12.

The Family Law Act 1975 (Cth) should be amended to include a presumption of equality of contributions during the relationship.

This will become the end point for many women in family violence and will result in many more willing to accept 50:50 despite disproportionate unpaid caring responsibilities and other contributions. Full Stop Australia is aware of the impact of presumptions at law from our experience in the children's section and it is very likely, despite the communication about this issue being about contributions, the general community will not understand what this means and think that 50:50 is the end point.

In addition, Full Stop Australia is aware of research, noted in the ALRC report that there has already been a reduction in the mother's share of property by 7% as a result of the shared parenting laws and that previously in the 1990s they received a much larger adjustment for their caring responsibilities post-separation.¹⁹

"I had substantial personal wealth when I met him, 30 years later I walked away with less money than I went into the marriage with. GO figure!" – Victim-survivor

"Absolutely - huge financial impact. Still had to pay him out even though he contributed nothing." – Victim-survivor

"The impacts of family violence are long lasting, and, for numerous and intersecting reasons, survivors are less able to recover financially." – Victim-survivor

"My former partner would not cooperate with any settlement but agreed to 50:50." – Victim-survivor

"My ex-husband weaponised the system to the extent that my son and I were left with virtually nothing as he had spent all family money gambling to the tune of over \$1 million. As there was supposedly nothing left, we received 100% of nothing. He has holidayed overseas, skied in Aspen, snowboarded in Japan and spent over \$600,000 on his credit card. That was our family money. Gone." – Victim-survivor

"There's no consideration at all at present, apart to even things up when obvious abuse has occurred (eg if he withdraws large sums post separation, you should eventually get the same amount if used as a bargaining chip for other things he wants)." – Victim-survivor

"Some perpetrators seek to regularly use the legal system (litigation harassment) to continue to engage and exert control of the other parent which can be very costly in terms of legal defence." – Full Stop Australia Counsellor

"Yes (there should be better accommodation of the impacts of family violence in property outcomes), especially where the perpetrator coerced the victim to give up work/business and their experiences of financial control. Caring for

¹⁹ ALRC at paragraph 7.34.

children especially for women is a full-time job and should be viewed as a contribution to the family.” – Full Stop Australia Counsellor

“Family violence is an economic issue that should be equated into the factoring.” – Full Stop Australia Counsellor

XI. Support specialist family violence and sexual violence programs.

- Fund increased family and sexual violence support services to facilitate safe processes and outcomes for families navigating the family law system in the context of family violence and abuse.
- Develop and fund specialist family violence programs for fathering where there is family violence and link this directly to ongoing time with children and their safety and provide support to mothers whose parenting may have been impacted by violence.

*“...Where DV is detected, forcing abusers to address their abusive behaviour via behaviour change programs should form part of and link directly to them reconnecting with the children. As it is their own behaviour that is the issue. Family court should be acknowledging this and assisting with behaviour change; instead they create new avenues to prolong and intensify the abuse.”
– Victim-survivor*

XII. Better legal aid resourcing and address gender bias

- Full Stop supports a review being undertaken of Legal Aid funding guidelines in family law to overcome gender bias²⁰ and ensure the guidelines proactively support family violence and abuse victims to achieve safety and just outcomes. There have been longstanding issues about the determination of what constitutes a “substantial dispute” to obtain legal aid funding with victims of violence having to, for example, stop contact to satisfy the definition. This can have negative implications for how they are ‘viewed’ by judges and family law professionals if court proceedings are later commenced.

“Devastating. I was not eligible for legal aid. I’m a single mum. Caring for children with a disability. I used all my savings on lawyers (\$50,000) then I had no choice but to self-represent to ensure our safety” – Victim-survivor

“I was basically told by the community legal aid firms that I had to fill out the forms myself, pay a fee and go to court. I am an American migrant who moved here over 15 years ago to be with my husband and completely unfamiliar with the court systems here and still to this day do not understand why women who have been abused as I have, including financially are told to do it themselves and “good luck” because they are not fully funded to be able

²⁰ ‘The justice gap for women: The impact on victims of partner violence’ - first appeared in *Precedent*, the journal of the Australian Lawyers Alliance, issue 170, published in June 2022 (Sydney, Australia, ISSN 1449-7719), pp 20-25.

to assist abused women in this most needed way, which to me is completely inexcusable, unacceptable and unethical, not to mention NO HELP AT ALL in protecting women like me who are being abused, especially financially abused and this needs to change immediately to protect women who are being abused and many of them killed by their partners as I could have been.'
– Victim-survivor

XIII. Integrate systems.

- Greater integration is required between the FCFCOA with state based domestic, family and sexual violence courts, high risk teams and integrated community responses.
- Full Stop Australia supports the recommendation from the Family Law Council's report²¹ into Families with Complex Needs - Intersection of Child Protection and Family Law concerning family safety services, outlined below:

Reflecting the recent AIFS research and information provided to Council during Stage 1, many of those who engaged with the second stage of Council's reference emphasised the importance of increased collaboration with state and territory family violence services. Council's work identified a number of options for achieving this so as to strengthen responsive capacity within the family law system. These include:

- *funding family violence services that provide embedded services in state and territory courts to continue to support clients with family violence issues when they move to the family law system to seek parenting or other orders;*
- *embedding workers from specialist family violence services in the family courts and Family Relationship Centres; and*
- *creating a dedicated family safety service within the family law system.*

Council urges the Australian Government to consider implementing a combination of these options as a way of incorporating the expertise of the family violence services sector into the family law system to improve responses to client families where there are issues of family violence or other safety concerns for children.

Accountability and improvement

- Full Stop Australia supports the recommendation of the Queensland Domestic and Family Violence Death Review and Advisory Board that we “develop a national, transparent approach to family violence deaths in the family law system

²¹ [Family-with-Complex-Needs-Intersection-of-Family-Law-and-Child-Protection-Systems-Final-Report-Terms-3-4-5.DOCX \(live.com\)](#)

inclusive of a systemic case review process to understand systemic issues and make recommendations for change.²²

- Full Stop Australia recommends a court committee be established with broad community, academic, professional, and lived experience representation to assist and guide court responses and to promote system integration.
- Full Stop Australia recommends an increase in family, domestic and sexual violence specialisation of all personnel in the family law system through targeted recruitment processes, specialist training, wellbeing support, ongoing performance review, and accountability mechanisms.

“Awful, they (family dispute resolution practitioners) tried to get me to agree to things I didn't want to as I didn't feel safe, and it was extremely distressing. There was one practitioner telling the other one to stop while he kept hammering me and I was just in tears. It was traumatic.” – Victim-survivor

XIV. Aboriginal and Torres Strait Islander families

Continue to build on the recommendations for the development of tailored services for Aboriginal and Torres Strait Islander families made by the Family Law Council in their reports in 2012 and 2016.²³

XV. Migrant and Refugee Families

Continue to build on the recommendations for the development of tailored services for Migrant and Refugee families by the Family Law Council in their 2016 report.

XVI. Complex families (issues of disability and other issues)

Full Stop Australia supports the Family Law Council recommendation²⁴ “to provide evidence and a better structured system in a more child-focused way, the Australian Government should consider establishing a client-centred integrated service model to trial collaborative case management approaches to families with complex needs, to be piloted initially in one court registry and evaluated pending further roll out. Part of that trial should include the development of effective information sharing protocols.”

XVII. LGBTIQ + families

²² Consistent with Recommendation 4 of the Queensland Domestic and Family Violence Death Review and Advisory Board [Domestic and Family Violence Death Review and Advisory Board Annual Report 2018-19 \(courts.qld.gov.au\)](https://www.courts.qld.gov.au)

²³ [Improving-the-Family-Law-System-for-Aboriginal-and-Torres-Strait-Islander-Clients.pdf \(jccd.org.au\)](#)
[Family-with-Complex-Needs-Intersection-of-Family-Law-and-Child-Protection-Systems-Final-Report-Terms-3-4-5.DOCX \(live.com\)](#)

²⁴ [Family-with-Complex-Needs-Intersection-of-Family-Law-and-Child-Protection-Systems-Final-Report-Terms-3-4-5.DOCX \(live.com\)](#)

Full Stop supports a referral to the Family Law Council to conduct a review of the family law system's approach to LGBTIQ plus families and make recommendations where necessary for enhanced responses.

"I had one judge who could recognise and understood domestic violence, coercive control and did not discriminate because I am trans. Then I got transferred to a new judge and he did not listen to me, did not understand domestic violence and allowed her to threaten me physically in court. The court appointed psychiatrist refused to call me he (I am a trans man) and then wrote a report ignoring the abuse and denying my experience. She saw me for a total of 1 hour and yelled at my now husband. She allowed my ex to stand outside the building for the entire assessment and then said I was lying. Even though there was significant evidence proving otherwise. The judge then ignored the 5 or so reports saying my ex was abusive and gave her primary custody based on the one report from a psychiatrist. When my ex breached orders (withheld my children for over 4 months), he told her she was doing a good job and told me off for coming back to court about the breach." – Victim-survivor

XVIII. Mediation and FDR

Victim-survivor feedback provided to Full Stop Australia makes it clear that family law matters are proceeding to family dispute resolution and mediation in a way that discounts the impacts and trauma of family violence on victims.

We therefore recommend a review of the national standards for FDR and family mediation, including court mediation to assess the suitability of parties to develop better and more nuanced approaches to these assessments, including considerations about what requirements are needed to improve the processes and better assessments about whether the processes are being used as a form of 'system's abuse'.

In addition, and in collaboration with family violence experts, we recommend the development of a specialised approach to family dispute resolution that prioritises safety but specifically considers the dynamics of family violence, to allow some families access to non-court options, when it is safe to do so.

"(The experience of the mediation) was dreadful. They all agreed family therapy, supervised contact etc failed and added intense stress and trauma to my daughter. So, they have insisted on intensive family therapy to force contact!" – Victim-survivor

"Perp and lawyer tried to force unaided dispute resolution through relationships Australia, without lawyers helping me, on finances (and children) while not providing full financial disclosure. Putting me in unequal situation, did not agree to proceed with it." – Victim-survivor

"I did feel my experiences were considered in all prior meetings with the mediator. However, in the actual mediation session, when I laid out all of my

concerns about past and ongoing abuse, the mediator waved them away and told me “the kids will be fine”. – Victim-survivor

“I made them aware of the situation and one practitioner took this information into account, this was the one that did the entry interview, and the second ignored both me and the other practitioner when they told him to stop pushing for things that were not safe. The FDR was selected by my ex and its clear he had a single goal in mind without any regard of my safety concerns.” – Victim-survivor

Court mediation

“We were forced by the courts into FDR mediation when the courts merged in 21. This is despite having a certificate 60 I filed when he commenced legal proceeding indicating that mediation was attempted but not continued because of family violence and it being unsafe. I filed 2 notices of risks throughout the proceeding I had evidence of police and DCJ reports and yet I was made to take part in court mediation. I am still traumatised by the ICL behaviour and conduct in that mediation.” – Victim-survivor

“The ICL was well aware of the risk to our safety and the courts too, but I was still made to attend mediation despite pleading with the judge that it would not be safe to do so.” – Victim-survivor

“People understood, or nodded, but ultimately, they have very little power and/or understanding. It seems they just want to do what they can to reach an agreement and get you out of the Court system.” – Victim-survivor

“The physical side was ok - we were in separate rooms. But the whole Family Law process is built on the assumption that both parties are 'rational' humans motivated to negotiate for the best outcomes for the child. My ex's motivation was not this, it was to burn through my funds (this FDR cost me \$5-10 k) and intimidate me.” – Victim-survivor

Private mediation

“Complete waste of time and money. It cost me thousands and I went with two laps tops and brief cases of evidence and my Prime Brisbane lawyer wouldn't put forward any of it. His answer was the other lawyer was sticking to his lies and we would address it at trial. No effort was made to identify and address issues. By just after lunch the lawyers decided we were not getting anywhere so called an end to mediation. I was appalled. I thought this was where we were to all come together and get defined points of dispute and then work towards resolving them. No, it was just a shuttle auction my continued reducing offers as he would not budge above nothing. They wanted trial and they wanted to break me financially before trial. I was offered \$25,000 for a pool of well over \$1.5M and due to my useless Legal Aid lawyer and barrister I was forced to take \$70k or be unrepresented by a barrister and risk getting nothing but my ex's legal costs. Legal Aid didn't

want to know anything about their public funded lawyer to representing me not doing anything for me.” – Victim-survivor

“Awful, they tried to get me to agree to things I didn't want to as I didn't feel safe, and it was extremely distressing. There was one practitioner telling the other one to stop while he kept hammering me and I was just in tears. It was traumatic.” – Victim-survivor

FDR professionals' attitudes to violence

I had shuttle mediation. This at least made mediation possible for me. However, I did not feel the mediators heard my concerns or represented them to my former partner. Under pressure from the mediators, I agreed to an arrangement which I was not comfortable with at all. I felt that the mediators put incredible pressure on me to allow my former partner much more time with the kids than I was comfortable with. Even though my former partner was not asking for any time with the kids at all.

“Enabled the perpetuation of lies and abuse. For that to come to the forefront, you'd have to go to a final hearing, and that takes years and even more hundreds of thousands of dollars. Very few get that far, so the abuser gets away with it.” – Victim-survivor

“Forcing me to do mediation both times they did was extremely traumatising. And on one occasion she had my daughter there and had to hand her over, and then stalked us for the next few hours. I was terrified and my daughter saw her mum following us.” – Victim-survivor

“The FDR was put forward by my ex prior to the trial, for performance value and to look good for the judge. My position from the March 2020 was - there are significant risks with the perpetrator's behaviour, so he needs to get treatment from a *clinical* psych and have supervised contact, until the psych can assure me that he is safe, then no unsupervised contact. This is not unreasonable. He refused to agree (nor take responsibility for his abuse) and so FDR failed. It was a waste of time and money.” – Victim-survivor

“It was a traumatic and devaluing process. The mediator in my opinion should have been reported, also advice I was given by lawyers, but I didn't have the capacity to keep standing up against the constant abusive system which involves people with very little training in family violence and coercive control.” – Victim-survivor

XIX. Court process

As recommended by the Family Law Council²⁵, Full Stop Australia supports an exploration of the viability and benefits of a Counsel Assisting model to assist the FCFCOA in cases

²⁵ [Family-with-Complex-Needs-Intersection-of-Family-Law-and-Child-Protection-Systems-Final-Report-Terms-3-4-5.DOCX \(live.com\)](#)

where one or both parties is self-represented and issues of family violence or other safety concerns for children have been identified.

Full Stop Australia supports the adoption of an inquisitorial approach to family law litigation and implementing trauma informed case management approaches.

“Traumatic and something I would never wish upon my worst enemy I still have nightmares from my experience. My days her too was traumatised by the actions and behaviour of the court appointed expert for the family report interview.” – Victim-survivor

“Horrendous. Heartbreaking. Utterly traumatising for victim survivors.” – Victim-survivor

“I spent two years in the family court. Overall, it takes way too long and provides too many opportunities for an abuser to continue their abuse in the form of 'systems abuse' which is what i experienced.” – Victim-survivor

“Expectations of belief of DV or let alone any ethical, compassionate, or fair behaviour are extremely low. Makes me anxious to enter court to resolve finances because of cost and court believing perp over me and the children regarding abuse. Feel I will be blamed, shamed, and not believed.” – Victim-survivor

“Even though we had a safe outcome, it was not because our experiences had been validated. It was because the perpetrator did not want to incur the ICL's costs and agreed to no contact.” – Victim-survivor

“It was dependent on individuals understanding, most of who don't. Thankfully I had a Magistrate who understood family violence. She was appointed at the last minute and thankfully replaced the former one who understood nothing about family violence. My legal team also had a solid understanding. But the courts system does not. Including the Court Appointed experts.” – Victim-survivor

“I was constantly told that “That's a matter for trial”, however After 2 1/2 years, the matter did not go to trial due to my lawyers' fees, being in excess of \$250,000, so I was advised to settle.” – Victim-survivor

“I actually have a tattoo with the date the final orders were made to remind me of the fact that I didn't give up despite the protracted 3-year court proceedings. We are finally safe where the police and others were unable to assist us to feel and be safe. For our daughter who has a disability, she has changed for a young girl who was so scared to leave her house as she was fearful her father would show up and scare her as je would. To a young girl who is social again and feels safe. Men or women for that matter should never be allowed to use the courts to facilitate system abuse and coercive control of their victims. It shouldn't have taken 3 years to get these orders.

The family law system is broken, and I count myself as one of the lucky ones to have obtained the orders we did to ensure our safety.” – Victim-survivor

“We are absolutely devastated. We have both been traumatised by the process and that will become much, much worse once intensive family therapy begins, and contact is forced. It is hopeless for us.” – Victim-survivor

“It was extremely triggering for myself and my son. My PTSD was triggered constantly and my son would have regular nightmares.” – Victim-survivor

“Ongoing trauma, volatility for my son and me. His father often disappoints and upsets my son, 5, but usually this forgotten over a day or two before he has to see him again. I worry about how this will play out as he gets older and more time with his father is forced. He is being used as a chess piece for my ex to get to me too.” – Victim-survivor

“My ex was dangerous, controlling, emotionally and physically abusive. He has emotional dysregulation. I am very worried I'm not there to protect my son.” – Victim-survivor

“The cross-examination process was awful. The system is setup to treat the victim like a witness, so it is hostile, aggressive and designed to undermine and destroy someone who is already suffering (PTSD). It forces the victim to relive the abuse - through the affidavit process and at cross examination.” – Victim-survivor

“The family court system is appalling. I am a well-educated, intelligent woman I cannot describe the frustration and heartbreak the family court system inflicted on myself and my son. We now have next to nothing due to the abuse and use of the family court system by my ex-husband. There were no consequences for his non-compliance with the court orders. He was even given leeway as he was representing himself. His blatant lies were never challenged which resulted in him, walking away with everything we had. I will never understand why. We had to return to court time after time due to his non-compliance, which ended up costing me a fortune.” – Victim-survivor

“Frightening. A platform from which perpetrators can wield a uniquely devastating and comprehensive form control over adult and child survivors.” – Victim-survivor

“Awful. Traumatic. Re-traumatising. I had my trial over Teams, so I was sitting with a support friend in my barrister's office. I had a few PTSD episodes at work (while presenting training over Teams) so I was very nervous I would have another panic attack. He got a 102NA Grant so his fees were paid for - I had to pay about \$25k for the prep, trial and barrister. This was hugely unfair. He earns \$150k per year, not means tested. I earn 2/3 of that and was isolated from the workforce for 4 years by him, so I am trying to re-establish my work, raise my kids, deal with court, deal with PTSD and he gets the grant. Which then meant he had no incentive to consent to orders

pre-trial, even though the evidence was overwhelming. It was like every solicitor, barrister and my ex was incentivised to continue with the trial - at the my financial and mental health expense, even though the evidence was so strong. The barrister set out to destroy my character (I testified first). I testified for about 4 hours and was not finished the close of the day. She tried to denigrate my parenting, my choices, my note taking, she was rude and condescending. It took me everything to stay calm. Utterly compounding my trauma. I have had to rely on a great psychologist and a very understanding boss. This process is cruel.” – Victim-survivor

“The family violence and coercive control was no considered at all. In any way. We have not been heard.” – Victim-survivor

“Absolutely not considered (family violence/ coercive control). The female Judge said the abuse I suffered was not significant and not to be considered.” – Victim-survivor

“Absolutely I have concerns for my child! Those concerns have been raised and ignored by many so called professionals. Mandatory reports have been made to DCJ. Everything has been ignored.” – Victim-survivor

“He is emotionally and psychologically abusive and he disparages me to them. He is very quick to anger which has resulted in him shaking the kids.” – Victim-survivor

“Our child has stated to me that he speaks about me negatively while they are in earshot, there are ongoing signs of neglect like dirty clothing, not bathing etc. Child has told me recently they do not have their own bed at dad’s house and sleeps in his bed.” – Victim-survivor

“The family court was one of the most traumatising experiences of my life. And I’ve been in domestic violence. The family court not only allowed my ex to use them to abuse me more, but the court itself facilitated that abuse. If judges, and court workers including lawyers were trauma informed and aware of domestic violence, coercive control etc. They might begin to understand that most of their cases ARE domestic violence and false allegations are almost not existent.” – Victim-survivor

“My experience has been that they just want you out of the Family Court as judges are overloaded (which I understand). The problem with this is there is no understanding of the person you are dealing with nor the situation you are navigating.” – Victim-survivor

(xix) Professional behaviours, attitudes and responses to family violence and coercive control

Full Stop Australia supports ongoing training of family law professionals about family and sexual violence from experts with recognised skills and experience and that can provide the training from a victim’s perspective.

"My own law firm dismissed abuse as historical despite ongoing post-separation abuse, litigation abuse, stalking of children at school. Disbelief by own barrister for FVO, condescending, judgemental and hit me hard on the back. Male lawyer did nothing, I felt worthless and ashamed of that incident, making trauma worse, and at all times when dealing with my own law firm and perp's lawyers who engaged in misconduct and should be disbarred." - Victim-survivor

"We had some discussion with our couple's counsellor, but they never even mentioned or seemingly knew about coercive control - PATHETIC!" – Victim-survivor

"I was told I would never get sole parental responsibility and no time order. I was told that I had to allow my daughter to see her father unsupervised despite the lawyers knowing the risks to her safety and that she had a disability. The family report writer wrongly wrote that I may be influencing my daughters view on her father despite her psychologist and psychiatrist and GP speaking to my daughter independent of me and having a good understanding of my daughters fears and why she had formed these views on her own about her father. Yet the court reported never picked up the phone or refer to any of the affidavit material relating to our daughters' disabilities. The court reporter simply write fire that she cannot comment on how our daughters' disabilities may affect her views on her father. Lawyers need to have some training on family violence and be trauma informed as the trauma they cause clients / victims has long lasting impacts." – Victim-survivor

"The single expert told me I was being dramatic when I spoke of my ex sexually assaulting me. She laughed. She called me she throughout my interview. I was once chased by my ex in the court room and the judge's associates laughed about it in my face. I was ignored by the judge because one assessor said I was speaking in hyperbole about my abuse and the reason she knew I was because my ex cried when confronted about it. The expert described me in a way that was clear she was not describing me but another patient and no one would listen to me say that. I paid \$6000 for her report. The judge said my abuse was not a concern and my ex was a lovely person." – Victim-survivor

"Questioning my integrity, suggesting I was exaggerating the risk, insinuating I was alienating my daughter from her father." – Victim-survivor

"I was advised not to make the abuse an issue as my ex-partner could then claim he has no ongoing relationship and therefore have no financial responsibility for my son." – Victim-survivor

"Those employed in the legal system need to be trained in trauma informed practise, DFV and coercive control. At this point most are clueless." – Victim-survivor

"I am so glad someone is asking these very difficult questions. There is currently no hope for safety for women and children escaping domestic violence. We are not heard and are silenced by family court! Support services can offer nothing but platitudes because they are all aware that the system supports abusers. No contact, no time should be the first consideration when coercive control/DV is indicated. Supervised contact should be the next consideration and then ongoing until the mother and child agree it is no longer necessary. Abusers should be charged for the abuse! ADVO's should automatically be granted to victim survivors (mother and children!) Children should not be sent to abusers to be at their mercy. A review process must be in place to assess the LIFELONG damage abusers do when children are returned to them. Children should never be removed from their mother's care. We must end the cycle of violence!" – Victim-survivor