



PRIORITISING SAFETY AT HOME

**2017 SURVEY RESULTS
ABOUT DOMESTIC VIOLENCE
AND RENTING IN NSW**

A report by Women's Legal Service NSW

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INTRODUCTION

Women's Legal Service NSW ('WLS') is a community legal centre that aims to achieve access to justice and a just legal system for women in NSW. WLS provides a range of free legal services in the areas of domestic and family violence, sexual assault, family law, care and protection, victims support and discrimination and employment. Through our legal advice clinics, strategic casework and litigation, community education and engagement WLS is able to identify areas for law and policy reform.

BACKGROUND

WLS, along with many others, has long been advocating for stronger protections for survivors¹ of domestic violence who are renting in NSW. This includes advocating for protections for domestic violence survivors during the development of the 2010 *Residential Tenancies Act (NSW)* and advocating for better protections in several housing inquiries since. The five-year statutory review of the *Residential Tenancies Act 2010 (NSW)* provides a significant opportunity for change.

¹ WLS acknowledges that some people prefer to identify as victims of violence and others as survivors of violence. When WLS uses these terms they are intended to mean victims and survivors.

The review began in October 2015 and the *Residential Tenancies Act 2010 Statutory Review report* was tabled in Parliament on 23 June 2016. The report acknowledges "the new provisions of the 2010 Act have provided little real protection to victims of domestic violence and require reform."²

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Residential Tenancies Act 2010 Statutory Review report (2016)

Listening to the voices of domestic violence survivors and their advocates, the NSW Government made several important recommendations. These include:

- to allow victims of domestic violence to end their tenancy immediately without penalty by serving a notice of termination on the landlord and any other co-tenants. The notice must include evidence of domestic violence such as a provisional, interim or final apprehended violence order (AVO) or a family law injunction;
- to hold perpetrators of violence responsible for any damage they cause to the property;

² NSW Fair Trading, *Residential Tenancies Act 2010 Statutory Review*, June 2016, p29

- and to prohibit the listing of a tenant on a tenancy database where a tenant's breach or debt is due to domestic violence.³

NSW Government announces new protections to “allow tenants to terminate residential tenancy agreements immediately by providing evidence of domestic violence through a provisional, interim or final AVO, or court order.”

NSW Government media release, 5 July 2016

Enabling a domestic violence survivor to end their tenancy immediately without having to pay a break fee will help keep survivors and their families safe. It means many domestic violence survivors will no longer be burdened with a debt they cannot afford to pay or be listed on a tenancy database that makes it almost impossible for them to find a new safe place to live. However this reform will not protect those who face barriers obtaining an AVO or an injunction.

THE CASE FOR ACCEPTING OTHER EVIDENCE OF DOMESTIC VIOLENCE WHEN ENDING A LEASE EARLY

To further understand the experiences of domestic violence survivors who are renting in NSW, WLS conducted an online survey.

SURVEY⁴

The online survey was open between the 13 March 2017 – 18 April 2017. The survey asked domestic violence survivors who are renting in NSW a series of questions relating to domestic violence, reporting of such violence and renting. The survey was distributed throughout WLS networks. There were 66 responses.

The purpose of the survey is to hear directly from victims/survivors in 2017.

In responding to the survey respondents implored that: “action needs to be taken”. This report is intended to honour the voices of survivors.

³ NSW Fair Trading, *Residential Tenancies Act 2010 Statutory Review*, June 2016, Recommendation 20

⁴ Particular thanks to the many survivors who responded to the survey and generously shared their experiences.

LEAVING HOME DUE TO VIOLENCE

Survey respondents were asked if they ever had to leave their home quickly due to violence. Ninety-eight per cent of survey respondents answered 'yes'.



Had to leave their rental home because of DV

REPORTING VIOLENCE TO POLICE

Survey respondents were asked if they reported the violence to police. Over 50% of survey respondents said they did not report the violence to police.



Did NOT report the violence to Police

Of the 31 people who reported to police, when asked what, if any, action the police took:

- 18 stated an apprehended violence order was applied for and/or the perpetrator was arrested.
- 7 stated no action was taken or an AVO was not applied for.

Of those who reported to police but stated no AVO application was made by police, one woman fled with her children to a refuge, and another left her tenancy immediately due to safety concerns for her children and herself.

Respondents were asked when they reported to police. Of the 31 people who responded they reported the violence to police, 19 responded with a time. Twenty-six per cent reported in 2017, 42% reported between 2013-2016 and 32% reported before 2013. While we acknowledge, as some respondents also do, that there have been improvements to policing of domestic violence over time, it is also important to acknowledge that first impressions last.

In WLS' experience if victims of violence have not had a positive experience with police they are often reluctant to report future violence to police. This is also reflected in other research discussed later in this report.

REASONS FOR NOT REPORTING TO POLICE

When survey respondents said they had not reported domestic violence to police they were asked to give reasons. Reasons for not reporting to police include:

- Fear, including threats to life and retribution (51%)
- Did not think police could help/previously reported to police and no action taken/previously treated disrespectfully by police (26%)
- Felt ashamed or feared judgment (11%)
- Did not want to give evidence in court (9%)
- Small town (6%)
- Fear of homelessness (3%)
- Lack of suitable support which made the domestic violence situation worse (3%)
- Scared would not be believed (3%)
- Fear of pressure from extended family (3%)
- Scared about visa implications (3%)

WHO DO DV SURVIVORS REPORT THE VIOLENCE TO?

In response to a question asking survivors to list all the people to whom they had reported the domestic violence, reports were made as follows:

- Doctor (38%)
- Domestic violence service worker (26%)
- Psychologist (23%)
- Community worker/community access worker (21%)
- Social worker (17%)
- Homelessness worker (15%)
- Child protection worker (14%)
- School counsellor or principal (6%)
- Nurse (5%)
- Disability advocate (3%)
- "Other" (14%) - includes counsellor, support worker, social housing company, lawyer, rental agent
- Reported only to family and/or friends (26%)
- Reported to no one (5%)

“Leaving is hard. Often you only have minutes to make the decision and hours to act, often less. Anecdotal evidence from family/friends should be sufficient in cases where women have to leave quickly due to DV.”

Survey respondent

Case study⁵

Susan – not her real name – reported the violence to police. Susan said there was no AVO application made by police. Susan described the police arriving at her home at night and the police telling the alleged perpetrator to leave the property and sleep in his car, which he did outside her home. The alleged perpetrator broke into her home early the next morning and Susan locked herself in the bathroom, terrified, and called the police again. The alleged perpetrator broke into the bathroom using a butter knife. When police arrived they said the alleged perpetrator was able to access the home because he had been staying there. Susan had been in a relationship with the alleged perpetrator. While he occasionally stayed at Susan's house, he was not a tenant and he was not living there. The police said there were insufficient grounds for an AVO. Seeing Susan's distress after telling her this the police asked the alleged perpetrator to collect his things and leave. Due to safety concerns Susan fled her home with her children. Susan had to pay out the remaining amount on the lease as she was unable to terminate the lease early.

Susan's story highlights that police may not always take appropriate action in cases of

domestic violence. The survey results indicate that if victims of violence have not had a positive experience with police they are often reluctant to report future violence to police. This highlights the importance of accepting other forms of evidence of domestic violence in circumstances of seeking an immediate termination of tenancy without penalty due to domestic violence.

FAMILY LAW INJUNCTIONS

Survey respondents were asked if they had applied for an injunction in the Family Court or the Federal Circuit Court. Of those who responded to the question several said they did not understand the question or thought protection orders could only be made in the Local Court.

OTHER RESEARCH

While acknowledging that the NSW Police Force are working hard to respond to domestic violence, barriers still exist preventing all survivors of such violence from reporting to police.

⁵ This case study from the survey has been used with consent.

Additionally, not all reports to police result in action taken, such as an apprehended violence order ('AVO') being taken out for a victim's protection or breaches of AVOs receiving an adequate response.⁶

Significantly, data included in the NSW Domestic Violence Death Review Team's Annual Report 2013-2015 found that between 2008-2012 only 15% of domestic violence victims who were killed by their abuser were protected by an AVO at the time of their homicide, with a further 15% having previously been protected by an AVO against their abuser but not at the time of the homicide.⁷

In 2013 the NSW Bureau of Crime Statistics and Research (BoCSaR) conducted a survey with 300 victims of domestic violence who accessed a domestic violence service to see how many victims reported the violence to police and to identify barriers to reporting to police. Just under half of the victims did not report the most recent incident of violence to police (48%) and where there had been multiple incidents of violence over one third had never reported to police (37%).⁸

⁶ See, for example, Goodman-Delahunty J & Crehan AC, 'Enhancing Police Responses to Domestic Violence Incidents: Reports From Client Advocates in New South Wales,' *Violence Against Women* 2016 July 22(8) p1007-26

⁷ *NSW Domestic Violence Death Review Team Annual Report 2013-15*, p49.

⁸ Emma Birdsey and Lucy Snowball, *Reporting Violence to Police: A survey of victims attending domestic violence services*, NSW Bureau of Crime Statistics and Research Issues paper No 9, October 2013, p 4-5.



Did not report the violence to Police

"The top three reasons for not reporting to police were fear of revenge/further violence (14%), embarrassment/shame (12%), or the incident was too trivial/unimportant (12%). The primary barrier to reporting, according to those interviewed, is that police either do not understand or are not proactive in handling DV (17%)."⁹

Comparing the 2017 survey results with the 2013 BoCSaR study the barriers and reasons for not reporting to police are very similar with the main issues continuing to be fear, belief police cannot help and shame.

Similarly, the 2016 *Women in NSW report* produced by Women NSW states that "less than half of female physical assault victims (44%) reported their victimisation to police".¹⁰

⁹ *Ibid* at 1.

¹⁰ Women NSW, *Women in NSW Report Series 2016*, p3.

CONCLUSION

The survey conducted by WLS clearly highlights that not all victims of domestic violence report the violence to police. This is consistent with the 2013 BoCSaR study and other research commissioned by NSW government departments referred to in this paper. Further, many victims of domestic violence are unaware of how to access family law injunctions. Time and money are also significant barriers to accessing a family law injunction. The survey also indicates to whom victims of domestic violence do report the violence. This includes their doctor, domestic violence worker, psychologist, community (access) worker, social worker, homelessness worker, child protection worker, school counsellor or principal, nurse or disability advocate. The results of this survey provide strong support for the expansion of evidence of domestic violence to end a tenancy without penalty to also include evidence from the list of workers outlined above. This recommendation is further supported by 88 organisations including peak bodies, legal organisations, disability and human rights groups, and health, community, housing and women's organisations.¹¹ WLS recommends the evidence of domestic violence from the list of people above be in the form of a statutory declaration. The list of workers largely draws on the list of people who under the *Migration Regulations*¹² can provide evidence for an

applicant for permanent residency who has experienced family violence.

When ending their tenancy without penalty due to domestic violence, victims should be able to rely on evidence of domestic violence from their:

- Doctor
- Domestic violence worker
- Psychologist
- Community (access) worker
- Social worker
- Homelessness worker
- Child protection worker
- School counsellor or principal
- Nurse
- Disability advocate

Now is the time to act to ensure more domestic violence survivors are able to keep themselves and their children safe.

This law change will be life-saving.

Survey respondent

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¹¹ [Open letter](#) to Minister Kean and Minister Goward, 15 June 2017

¹² Migration Regulations 1994 - Specification of Evidentiary Requirements - IMMI 12/116 at: <https://www.legislation.gov.au/Details/F2012L02237>

Community workers/community access workers, homelessness workers and disability advocates have been added to the list.