

Response to the Draft National Plan to End Violence against Women and Children

2022-2032

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About Women's Legal Service NSW

Women's Legal Service NSW (**WLS NSW**) is a specialist accredited women-led community legal centre that aims to achieve access to justice and a just legal system for women in NSW. We seek to promote women's human rights, redress inequalities experienced by women and to foster legal and social change through strategic legal services, community development, community legal education and law and policy reform work. We prioritise women who are disadvantaged by their cultural, social and economic circumstances. We provide specialist legal services relating to domestic and family violence, sexual assault, family law, discrimination, victims support, care and protection, human rights and access to justice.

Since 1995 WLS NSW has provided a state-wide First Nations Women's Legal Program (**FNWLP**). This program delivers a culturally safe legal service to First Nations women, including regular engagement with communities across NSW. We provide a First Nations legal advice line, casework services including a specialised family law service to assist First Nations women access the family law courts, participate in law reform and policy work, and provide community legal education programs and conferences that are topical and relevant for First Nations women.

An Aboriginal Women's Consultation Network supports and enhances the work of the FNWLP. It meets quarterly to ensure that we deliver a culturally safe service. The members include regional community representatives and the FNWLP staff. There is a representative from the Aboriginal Women's Consultation Network on the WLS NSW Board.

Acknowledgments

We acknowledge the Traditional Owners of the lands on which we work across NSW and on which we live. We pay respect to Elders past, present and emerging. Is, was and always will be Aboriginal land.

We acknowledge the many women who have experienced sexual and domestic abuse with whom we work and whose voices and experiences inform our advocacy in the hope for positive change.

Use of language

Gendered language

We acknowledge that anyone can experience sexual, domestic and family violence and abuse. However, research and our experience over more than thirty-five years clearly highlights that sexual, domestic and family violence and abuse is predominantly perpetrated by men against women and children. Our language in this submission is gendered to reflect this. We also acknowledge that LGBTQIA+ populations experience such violence and abuse at disproportionately high rates.

Early support

The term "early support" is used instead of "early intervention". "Early support" is intended to mean the provision of strengths based, client-centred, trauma informed, culturally safe support at the earliest opportunity when an issue is identified. Concerns have been raised by community members about the connotations associated with the term "intervention" for Aboriginal and Torres Strait Islander people. The term "support" is preferred as it suggests a more collaborative strengths-based approach.

Introductory comments

1. Women's Legal Service NSW (**WLS NSW**) welcomes the release of the *Draft National Plan to End Violence against Women and Children 2022-2032 (Draft National Plan)* for consultation. We have participated in a range of important discussions which have aimed to inform the development of the National Plan, including National Plan roundtables facilitated by the Monash Gender and Family Violence Prevention Centre and as delegates at the Women's Safety Summit. We have also participated in consultations about the evaluation of the Fourth Action Plan of the National Plan to Reduce Violence Against Women and their Children 2010 – 2022 and the evaluation of the National Plan to Reduce Violence Against Women and their Children 2010 – 2022. We have warmly welcomed participation in these important processes and are committed to ending violence against women and children.
2. We believe learnings about what worked well and what could be improved in the implementation of the First National Plan 2010-2022 and associated Action Plans is crucial to informing the next National Plan. We note the Draft National Plan makes reference to the KPMG *Interim Report – Evaluation of the National Plan 2012-2021 and the Fourth Action Plan* which is unpublished. This report and the final report must be published.
3. We note the criticism that there was insufficient transparency, performance measurement and accountability in the implementation of the first National Plan and related Action Plans. We recognise efforts to address this through the establishment of an independent Domestic Violence Commission. It is vital that the Commission be independent from Government.
4. We refer to UN Women's *Handbook for National Action Plans of Violence against Women* which outlines a number of key elements essential for effective evaluation and monitoring of the implementation of National Plans:
 - 4.1 *indicators and targets* (which must be time bound and measurable)
 - 4.2 *an institutional mechanism to monitor implementation;*
 - 4.3 *meaningful participation of civil society and other stakeholders;*
 - 4.4 *evaluation of practice and systems; and*
 - 4.5 *accountable reporting procedures*¹
5. In *Setting the Standard – International Good Practice to inform an Australian National Plan of Action to Eliminate Violence Against Women* Amnesty International recommends a National Plan of Action:

*should set specific targets in a specific time frame, and should identify resources and delegate responsibilities.*²
6. The failure to include the First Action Plan within the Draft National Plan with specific, time bound indicators and measurements is very disappointing. It is imperative that the National Plan includes an Action Plan with indicators and measurements as well as identifying which government departments and agencies are responsible for implementation.

¹ UN Women (2012) *Handbook for National Action Plans of Violence against Women*, p69 (75), p6 (12).

² Amnesty International (2008) *Setting the Standard – International Good Practice to inform an Australian National Plan of Action to Eliminate Violence Against Women*, p20.

7. We further note the report on the National Plan consultations facilitated by Monash Gender and Family Violence Prevention Centre is yet to be published. It is essential this report is published to help inform the development of the new National Plan.
8. We acknowledge the very high and disproportionate rates of violence perpetrated against First Nations women and children and the complex trauma First Nations people experience, including trans-generational and community trauma arising from the ongoing trauma experienced as a result of colonisation, dispossession and the Stolen Generations. First Nations trauma includes the loss of identity, belonging, love, legacy, community and country and the ongoing forced removal of children from their families and communities. Laws, policies and systems have long failed and continue to fail First Nations people in Australia. We support the development of a specific Aboriginal and Torres Strait Islander Action Plan which is co-designed by First Nations communities with broad representation from across different jurisdictions (of states and territories and metropolitan, rural, regional and remote) of First Nations sexual, domestic and family violence experts. Further, the Action Plan must be supported and endorsed by First Nations communities.
9. We acknowledge and support the following aspects of the Draft National Plan: that it recognises the gendered drivers of violence against women and children and refers to a human rights framework; that it includes recovery, in addition to prevention, early support, and response; that it attempts an intersectional approach; and that it recognises the need for different National Strategies to be connected and mutually reinforcing. It has a lofty vision.
10. However, the National Plan needs to be strengthened in several ways.
11. The safety of survivors who are predominantly women and children must be more clearly prioritised across each of the pillars.
12. The National Plan needs to outline how the gendered drivers of violence will be addressed, including work required to challenge and transform societal and cultural systems that enable gendered violence to occur.
13. There needs to be a clear articulation of systems reform to ensure accessible, culturally safe, integrated, co-ordinated systems response to sexual, domestic, and family violence and abuse.
14. Structural drivers of violence against women must be addressed. Some examples include access to safe and affordable housing, access to proper income support and child support, access to support for women on temporary visas experiencing violence, safe and secure work, access to safe and supportive processes and outcomes in the family law system.
15. Systems abuse must be clearly recognised and properly addressed.
16. Structural inequalities, including intersecting inequalities, must be better understood and addressed.
17. Specialisation must be recognised, including the role of specialist women's services.
18. Discussions about the National Plan and Action Plans need to be considered through a social entrapment framework.
19. A social entrapment framework of gendered violence examines three dimensions of barriers to survivors of such violence being able to access the support they need:

- 19.1 *the social isolation, fear and coercion that the predominant aggressor's coercive and controlling behaviour creates in the victim's/survivor's life and how the predominant aggressor's behaviour constrains the primary victim's resistance and ability to escape the abuse*
- 19.2 *the lack of effective systemic safety options; and*
- 19.3 *the exacerbation of these previous two dimensions by structural inequities including poverty, historical trauma, colonisation, disability, racism, sexuality and gender, geographic isolation.*³
20. Adopting such a framework shifts the narrative away from victim-blaming to make visible those who need to be held accountable - individual perpetrators, systems, governments and society. It better recognises the resilience of survivors and the protective actions they take. It highlights the fundamental importance of governments properly investing in each of the pillars of the National Plan – prevention, early support, response and recovery - and the need for structural and systemic transformational change to ensure the safety of women, children and other survivors of gendered violence.
21. There must be specific, timebound and measurable indicators as well as clear identification of which government departments and agencies are responsible for implementation.

Gendered drivers of violence against women and children and LGBTIQ+ populations

22. It is vital that the gendered drivers of violence against women and children are clearly recognised in the next National Plan and there is a clear outline of how the gendered drivers will be addressed, including the work required to challenge and transform societal and cultural systems that enable gendered violence to occur.
23. The Draft National Plan, referring to *Change the Story*, names the drivers as
- *gender inequality,*
 - *condoning of violence against women,*
 - *men's control of decision-making and limits to women's independence in public and private life,*
 - *rigid gender stereotyping and dominant forms of masculinity, and*
 - *male peer relations and cultures of masculinity that emphasise aggression, dominance and control*
24. The gendered framework needs to be strengthened.

For example:

- 24.1 There is inconsistent strength in language about gender inequality. In the opening of the document there is a statement: “A lack of gender equality is **cited** as an underlying determinant of violence against women and children” (emphasis added) (p10) while a few pages later “The

³Tarrant, S., Tolmie, J., & Giudice, G. (2019). [Transforming legal understandings of intimate partner violence](#) (Research report 03/2019). Sydney, NSW: ANROWS, p 17(21); ANROWS (2020) *Supplementary submission to the Joint Select Committee on Australia's Family Law System*

primary driver of violence against women is gender inequality.” (p12) The latter is preferred as it more accurately reflects the situation which is also borne out in research.

24.2 “Partly” should be replaced by “mostly” in the sentence “*Women and men have experienced the pandemic differently, with these differences partly explained by existing gender disparities.*”

24.3 We also note the definition of “gender equality” refers to “*patriarchal systems*”. It would be useful to also include a definition of “*patriarchy*” in the definition section and include this throughout the document.

25. We further note the need for the National Plan to meaningfully acknowledge the shared and overlapping drivers of violence against women and children and violence against LGBTIQ+ populations, as outlined in *Change the Story*. Further, bolder action is required than “*recognis[ing] the increased risk and unique forms of violence experienced by ... LGBTIQ+ communities*” (p 27) and “*Build[ing] the capacity of services to recognise the gendered drivers of violence experienced by LGBTIQ+ communities and the overrepresentation of trans, gender diverse and non-binary people as victim-survivors of family and domestic violence*” (p 36). The National Plan must include specific actions needed to see change that will address the drivers of violence and increase safety for LGBTIQ+ populations.
26. While noting the primary driver of violence against women is gender inequality, the draft National Plan also refers to the intersection with other forms of discrimination and disadvantage. The section on intersectionality needs to be grounded in a theory of oppression. It would be strengthened by drawing upon other resources including Our Watch, *Changing the picture: A national resource to support the prevention of violence against Aboriginal and Torres Strait Islander women and their children*, Our Watch, *Changing the landscape: A national resource to prevent violence against women and girls with disabilities* and the work undertaken by the Harmony Alliance.⁴

Different forms of gender-based violence

27. Coercive control needs to be understood as the overarching framework within which domestic and family violence and abuse occurs rather than an example of a form of domestic and family violence and abuse.
28. Sexual and reproductive coercion, which is currently missing from the National Plan, must also be included.
29. While there is reference to economic abuse, it needs to be more clearly recognised and addressed across all the pillars. Currently the focus on economic abuse is limited to the pillars of response and recovery. There is also a role in prevention and early support, including education work focused on respectful relationships, including respectful financial relationships.
30. The prevalence and impact of technology facilitated abuse means there should be greater attention on this issue in the National Plan.
31. There is cursory reference to particular forms of violence perpetrated against women with disability:

While women with disability face many of the same forms of domestic, family and sexual violence, they also experience and are at more risk of particular forms of violence, such as forced sterilisation,

⁴ Harmony Alliance Migrant and Refugee Women for Change, *Position Statement on Intersectionality*

seclusion and restrictive practices, and experience violence in a range of institutional and service settings such as in residential institutions and aged care facilities. (p 12)

32. There are currently no commitments to address this violence.
33. We share the concerns of Women with Disability Australia that there are significant gaps. This also needs to include group homes, prisons, detention centres and psychiatric wards. We share Women with Disability Australia's further concerns as outlined below.
34. Violence in the workplace must extend beyond sexual harassment to include exploitation in the workplace, noting that marginalised women, including First Nations women, refugee and migrant women and women with disability are often over-represented in insecure and low paid work.
35. State violence must also be included, for example violence perpetrated against women with disability through substituted decision-making and through the removal of children based on unjust assumptions about capacity to care for children.⁵

Structures and systems supportive of the perpetration of gendered violence

36. The National Plan must also recognise and address laws, policies, practices, systems and institutions which have the effect of condoning gendered violence. The failure to take action is experienced by many survivors as governments condoning the perpetration of the violence.
37. For example, as Women's Services Legal Services Australia advocated in their submission to the Review on the direct cross-examination ban - *Family Law Act 1975*:

The Family Law Act currently incentivises violent men to litigate. It does this through the presumption of equal shared parental responsibility and its insidious links to equal time and substantial and significant time. Until the incentives for violent men to litigate are removed and the safety of children and adult survivors are at the centre of legislative and policy reform, children, adult survivors and society will be forced to carry unnecessary social and economic costs.⁶

38. The National Plan must have a greater focus on ensuring the accurate identification of the person most in need of protection, discussed further below. Misidentification is experienced by many victim-survivors as state violence. Misidentification can lead to the criminalisation of women and to removal of children into care.
39. There is passing reference to women's "economic security" following separation and in resolution of family law matters (p35). However, no clear actions are outlined about how to achieve this. We advocate that the decision-making steps for property settlement should have a greater focus on needs rather than parties' contributions, by the court prioritising the "provision of suitable housing for dependent children, followed by consideration of the parties' material and economic security" as proposed by Fehlberg and Sarmas.⁷ There also needs to be action in relation to increasing income

⁵ For example, *Re. A Costs Appellant Carer (a pseudonym) v The Secretary, Department of Communities and Justice* [2021] NSWDC 197

⁶ Women's Legal Services Australia (2021) Submission to the Review of direct cross-examination ban- *Family Law Act 1975*

⁷ Belinda Fehlberg and Lisa Sarmas (2018) 'Australian family property law: 'Just and equitable outcomes?'' 32 *Australian Journal of Family Law* p81.

support and proper supports for women on temporary visas experiencing sexual, domestic and family violence and abuse.

40. Child support policy and practice needs to reflect the reality that financial abuse is a common feature of domestic and family violence and that child support is a key mechanism for ongoing abuse against adult victims-survivors and children. Child Support legislation must be amended to provide for the best interest of the child to be the paramount consideration in child support decisions. The recommendation to trial a State guaranteed child support payment must also be implemented.⁸
41. Further, the National Plan refers to the importance of “*safe and secure housing*”. However, there is insufficient reference to the need to increase safe and affordable housing stock and the significant numbers by which this needs to be increased, despite the Statement from Delegates at the 2021 National Summit in Women's Safety (**Delegates' Statement**) calling for “*investment by all levels of government to deliver an adequate supply of new social and affordable housing to ensure victim-survivors fleeing violence can recover and thrive*”.
42. We support DV NSW recommendation of a minimum of 25,000 new dwellings per year over the term of the National Plan.
43. There must be specific and timebound indicators and measurements as well as accountability mechanisms to ensure actions are achieved.
44. Under the leadership of the Commonwealth Government, we call on all levels of government to be brave and bold in their commitments to reforming laws, policies, and practices and transforming systems and institutions so as to ensure the safety and wellbeing as well as better outcomes for women, children and other survivors.

Systems abuse

Misidentification of the person most in need of protection

45. Misidentification of the person most in need of protection is one of the most pressing issues of systems abuse in Australia. It is poorly addressed in the National Plan.
46. Over the past few decades, we have worked with many women who have been misidentified as the predominant aggressor in circumstances where they are the person most in need of protection.
47. WLS NSW undertook an exploratory study of our work representing women who were defendants in Apprehended Domestic Violence Order (**ADVO**) proceedings in 2010. The study found:
 - 47.1 *Two-thirds of our clients defending ADVOs reported they were victims of violence in their relationships.*
 - 47.2 *Fewer than 40% of these clients had a final ADVO made against them when the case came before the court and these ADVOs were almost all made by consent.*

⁸ House of Representatives Standing Committee on Social Policy and Legal Affairs (2015) Inquiry into the Child Support Program, Recommendation 25

- 47.3 *Many of the women defending ADVOs reported that when police had been called after a violent incident, they felt that their version of events had not been viewed as credible compared with the other party, due to the circumstances of their heightened stress and anxiety.*
- 47.4 *Other women reported that they believed the other party had deliberately initiated ADVO proceedings as a further mechanism of controlling their behaviour, by giving them the ability to threaten them with reports to police in the future.*
- 47.5 *In the majority of cases where women were defending ADVOs, the other party's complaint related to a single incident only. In several of these cases injuries to the other party could be indicative of self-defence, such as scratching or biting on the arm or hand.⁹*
48. This continues to be the experience in our practice over the past decade. We note recent research which also recognises this trend.¹⁰
49. In our decades long experience in working with criminalised women, we find that women's criminalisation often stems from being misidentified as the predominant aggressor. These women have been silenced, firstly by the perpetrator and then by the systems which are meant to protect her.
50. The majority of women in custody have complex histories of sexual and physical violence starting in childhood.¹¹ The rates of previous victimisation are highest for First Nations women, with some studies suggesting that up to 90% of First Nations women in custody are survivors of family violence and other violence.¹²
51. It is disappointing that there is no acknowledgment in the National Plan of criminalised women, particularly when their criminalisation is often related to multiple layers of violence perpetrated against them – by individuals, structural violence and a failure of systems.
52. We refer to the recent report undertaken by the Family Violence Reform Implementation Monitor in Victoria: *Monitoring Victoria's family violence reforms Accurate identification of the predominant aggressor*.¹³ These recommendations are also relevant in NSW. We would welcome incorporation of recommended actions from this report into the National Plan.

⁹ Julia Mansour (2014) *Women Defendants to AVOs: What is their experience of the justice system*, Women's Legal Service NSW, Sydney

¹⁰ Hayley Boxall, Christopher Dowling and Anthony Morgan (2020) "Female perpetrated domestic violence: Prevalence of self-defensive and retaliatory behaviour", *Trends and Issues in Crime and Criminal Justice*, Australian Institute of Criminology No 584; Jane Wangmann, Lesley Laing & Julie Stubbs (2020) "Exploring gender differences in domestic violence reported to the NSW Police Force", *Current Issues in Criminal Justice*; note also Heather Nancarrow, Kate Thomas, Valerie Ringland, & Tanya Modini (2020) *Accurately identifying the "person most in need of protection" in domestic and family violence law* (Research report, 23/2020) ANROWS, Sydney

¹¹ Australia's National Research Organisation for Women's Safety, *Women's imprisonment and domestic, family, and sexual violence: Research synthesis* (ANROWS Insights, 03/2020); M Stathopoulos and A Quadara (2014) *Women as offenders, Women as victims: The role of corrections in supporting women with histories of sexual abuse*, A report for the Women's Advisory Council of Corrective Services NSW

¹² Australian Law Reform Commission (2018) *Pathways to justice: Inquiry into the incarceration rates of Aboriginal and Torres Strait Islander Peoples*

¹³ Family Violence Reform Implementation Monitor (2021) *Monitoring Victoria's family violence reforms Accurate identification of the predominant aggressor*

53. We also refer to the recent report of the Women's Safety and Justice Taskforce: *Hear Her Voice*. This Taskforce was asked to consider the best way to criminalise coercive control in Queensland and recommended a four phased approach.
54. The Taskforce recommended significant cultural reform as part of phase one including the "development of a transformational plan for culture change within the Queensland Police Service" and co-design with First Nations people of a strategy to reduce over representation of First Nations people in prison. This and other recommendations in that report are relevant across Australia and should be incorporated into the National Plan.¹⁴

Incorporation of input from consultation processes

55. The Monash Gender and Family Violence Prevention Centre facilitated important stakeholder consultations on a range of issues relevant to the development of the next National Plan. It is very disappointing that the consultation report has not been published.
56. It is difficult to assess the extent to which stakeholder consultations have been considered and reflected in the National Plan without the publishing of this report. We recommend the immediate publishing of this report.
57. We note the Statement from Delegates at the 2021 National Summit on Women's Safety called for the need to "address the policy and structural blockers to women's economic security and financial security" including "reforms to paid parental leave, the critical role of superannuation, income support, access to childcare and support for older women who are particularly at risk of financial insecurity". The statement also acknowledges the joint role of government, businesses and unions in "develop[ing] universal access to paid family and domestic violence leave". There is a failure to include clear indicators of how this will be achieved.

Safety first in family law

58. There needs to be specific actions and measurements related to safety in family law.
59. The high rates of family violence in matters that proceed to the Federal Circuit and Family Court of Australia and the Family Court of Western Australia are acknowledged on page 21 of the Draft National Plan.
60. Organisations such as ours, Women's Legal Services Australia and other sexual, domestic and family violence experts have long recognised that family violence is under reported in family law matters. This has recently been acknowledged in the Federal Circuit and Family Court of Australia statistics published since the operation of the Lighthouse Project pilot which includes specialist family violence screening and risk assessment, triage and differential case management with high-risk matters being heard in the specialist Evatt List.
61. Reference is made in the Draft National Plan to "the piloting of programs within the courts to recognise and respond to family, domestic and sexual violence like the Lighthouse Project" (p21). But there is no action included such as the National roll out of the Lighthouse Project subject to the outcomes of an evaluation of its effectiveness.

¹⁴ Women's Safety and Justice Taskforce (2021) *Hear her Voice: Report One – Addressing coercive control and domestic and family violence in Queensland* pxxx

62. The response pillar refers to a “*comprehensive and co-ordinated crisis response is one that achieves*” “*safe and expeditious resolution of family law matters facilitated by an accessible and easy-to-navigate family law systems and family law services that ensure victim-survivors can obtain fair outcomes and maintain their future safety and economic security following family separation.*” (p35) Again, there is no detail about how this will be achieved, including access to properly funded specialist gendered and culturally safe legal assistance services to ensure the safety of women and children and ensuring all actors in the family law system are gendered violence, trauma informed, culturally safe, disability aware and LGBTIQ+ aware.
63. On page 37 there is reference to strengthening information sharing to enhance the response to family violence in family law matters. There is a role for information sharing within an ethical framework. However, it is also important it is not seen as a panacea. Information-sharing will not solve systemic problems such as delays or inexperience in responding to family violence.
64. There are many other additional ways to considerably enhance the response to family violence in family law such as full implementation of Women's Legal Services Australia's (**WLSA**) [Five Step Plan for Safety First in Family Law](#).
65. WLSA's Safety First in Family Law Plan includes specific actions under five steps for reform to keep women and children safe:
 - 65.1 Strengthen family violence response in the family law system
 - 65.2 Provide effective legal help for the most disadvantaged
 - 65.3 Ensure family law professionals have real understanding of family violence
 - 65.4 Increase access to safe dispute resolution models
 - 65.5 Overcome the gaps between the family law, family violence and child protection systems.
66. WLSA's Safety First in Family Law Plan must be implemented in full through the National Plan Action Plans.

Foundation Principles

67. The four foundation principles include:
 - 67.1 gender equality,
 - 67.2 the diverse lived-experiences of victim-survivors are informing policies and solutions,
 - 67.3 Closing the Gap,
 - 67.4 and intersectionality
68. These are important foundational principles and should cut across all aspects of the National Plan. However, these principles seem to stand alone and are not successfully integrated across the four National Pillars – Prevention, Early Intervention (early support), Response and Recovery.

National Pillars

69. The Draft National Plan does not lay out a comprehensive and integrated whole-of-government response led by the Commonwealth. All governments have a role to play – the Commonwealth, state and territories and local government. The role of local government is missing from the National Plan.
70. The National Pillars – Prevention, Early Intervention (early support), Response and Recovery are presented as silos with much of the attention focused on Prevention.

Prevention

71. The Draft National Plan rightly points out that systems and structures allow the perpetration of gendered violence and the continuation of gendered violence:

Prevention works to change the underlying social drivers of violence against women and children. It recognises that where there is structural inequality – for example, where systems create barriers to financial independence for women – it sends a message that women are of lower social value and worthy of less respect. (p29)

72. There is insufficient attention to changing laws, policies, practices, systems, structures and institutions which have the effect of perpetuating and / or condoning gendered violence. This should cut across all four National Pillars and is consistent with the four Foundation Principles.
73. Governments have an important role to play in prevention and must show leadership by requiring accountability for sexual harassment in their own workplace as well in other workplaces. Respect@Work recommendations and *Set the Standard: Report on the Independent Review into Commonwealth Parliamentary Workplaces* must be implemented in full through the National Plan. This includes all Australian governments having gender equality strategies and gender-based violence prevention strategies.¹⁵
74. We also support DV NSW recommendation to “fund the federal rollout of Survivor Advocacy and media advocacy programs such as *Voices for Change* as part of primary prevention initiatives through the next National Plan to Reduce Violence against Women and their Children”.

Early support

75. We refer to the commitment in the Draft National Plan to:

Ensure family violence services work holistically with Child Protection Services and other family services to support greater integration of service front-doors. (p34)

76. There needs to be an acknowledgment of the distrust that many victim-survivors have with child protection services, particularly First Nations communities, refugee and migrant communities and people with disability. Child protection services need to continue to build capacity to be strengths focused including focusing on the survivor's protective behaviours in the context of a social entrapment framework. They also need to be gender-based violence informed, trauma informed, culturally safe and disability aware and ensure the perpetrator is visible and accountable through frameworks such as *Safe and Together*. There also need to be other options such as a combination of early legal and social supports provided by non-government organisations. This was a

¹⁵ Australian Human Rights Commission (2020), *Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces*, Recommendations 6-7.

recommendation of the *Family is Culture: Independent Review of Aboriginal Children and Young People in Out-of-home care report*.¹⁶

77. Early support should also include initiatives to help women manage their safety if they remain in a relationship where they are at risk of gendered violence.

Response

78. As awareness of gendered violence continues to increase, there is an increasing demand for services. This is acknowledged in the Draft National Plan "... prevalence may increase in the short to medium term as community awareness grows and women feel supported to help" (p30).
79. All levels of government, with the Commonwealth leading the way, must properly fund all aspects of the National Plan, including response and recovery.
80. A failure to properly resource the specialist sexual, domestic and family violence sector is experienced by many victim-survivors as governments allowing violence to occur and continue.
81. We support the implementation of minimum National Standards for specialist domestic and family violence services.
82. While training is important, much more is required than

Increase and enhance training and awareness for police, lawyers, and the judiciary (p37).

83. Training, of itself, will not change attitudes and culture. It must be part of a broader strategy for cultural reform which requires strong leadership and proper resourcing.
84. While training has an important role to play in cultural reform, close attention needs to be paid to what training is provided, to whom, by whom, how often, in what form, how is it informed by the lived experience of victim-survivors, how it addresses victim-blaming attitudes and conscious and unconscious bias, how it encourages participants to reflect on their own practice and whether the training is independently evaluated to measure changes in attitudes and changes in practice as a result of the training.
85. Training about sexual, domestic and family violence and abuse needs to be developed and delivered with significant input from sexual, domestic and family violence and abuse experts including survivors, cultural safety experts, disability experts, non-binary, trans and gender diverse experts and specialist legal services.
86. There must also be clear accountability mechanisms, including the publishing of annual dip sampling of policing of sexual, domestic and family violence and abuse undertaken by specialist sexual, domestic and family violence and abuse police, including any Police Area Command variation and the measures that will be taken to resolve any concerns, as recommended by the Edwards Coronial Inquest.¹⁷ We further support regular comprehensive independent audits of police response to sexual, domestic and family violence and abuse as recommended by the Victoria Royal Commission into

¹⁶ *Family is Culture: Independent Review of Aboriginal Children and Young People in Out-of-home care report*, 2019, Recommendation 29.

¹⁷ Coroner's Court of NSW (2021) *Inquest into the deaths of John, Jack and Jennifer Edwards*, Recommendation 3.

Family Violence.¹⁸ There must also be “*accountability frameworks to address systematic racism*” as recommended by Aboriginal and Torres Strait Islander Social Justice Commissioner June Oscar AO.¹⁹

87. The Royal Commission, as well as other independent reviews of police, emphasise the vital importance of transparency and accountability in policing of sexual, domestic and family violence and abuse, including transparency of performance measures, including on a state, regional and divisional basis “*to build and maintain public confidence in the police response to family violence*”.²⁰ Transparency and accountability within other agencies and systems, including child protection is also important to help build confidence.

Recovery

88. We welcome the inclusion of the pillar on recovery. It is important to recognise that

Recovery and healing take time and will, in many cases, require lifelong support through dedicated and tailored services and interventions (p38).

89. We also welcome recognition of the “*tremendous strength and resilience*” of survivors (p38).
90. This section appears to suggest that recovery is linear and occurs after “*leav[ing] abusive relationships*”. We do not agree that recovery is linear.
91. Further, a survivor may remain with the person perpetrating the abuse for many complex reasons – because she loves him, because she fears that separation will mean the children may have to spend time alone with their father at significant risk so staying is seen as the safer and more protective option for her children, because she is not financially independent to support herself and her children, because there is nowhere else to go. It is important to recognise the resilience and protective actions of women who remain with a violent partner, and these should be seen and understood within a social entrapment framework.

The National Plan and the sexual, domestic and family violence and abuse service system

92. The National Plan must better recognise the importance of specialisation, including specialist women’s services. Specialist women’s legal services and other non-legal domestic and family violence and sexual violence specialist women’s services have a deep and nuanced understanding of the nature and dynamics of sexual, domestic and family violence and abuse and impacts of trauma, can recognise a perpetrator engaging in “*image management*” and systems abuse and work to change laws, policies and practices to improve safety and outcomes for women and children. Services run by and for women also provide a safe space for women to gather and seek help. Specialist women’s services also seek to address power imbalances and transform structures – such as gender inequality and other intersecting inequalities - which enable gendered violence to occur. Specialist women’s services assist the Government to implement their commitments under the *Convention on the Elimination of Discrimination Against Women*.
93. To ensure the effective implementation of the next National Plan there must be proper funding of the specialist sexual, domestic and family violence sector, including funding for specialist women’s legal

¹⁸ Royal Commission into Family Violence (2016) *Vol III: Report and Recommendations*, Recommendation 44.

¹⁹ Australian Human Rights Commission (2020) *Wiyi Yani U Thangani (Women's Voices): Securing Our Rights, Securing Our Future Report*, p 103 (105)

²⁰ Royal Commission into Family Violence (2016), *Vol III: Report and Recommendations*, p 92 (98)

services, women's services and other specialist community organisations with non-competitive long-term funding, such as 5-year contracts.

94. All systems and services interacting with survivors of sexual, domestic and family violence and abuse must be able to effectively identify, assess and manage family violence risk and be supported to do so through frameworks, such as a Family Violence Multi-Agency Risk Assessment and Management Framework. This requires substantial funding for workforce development and capacity building. We refer to our comments above about training.

The needs and experiences of women and children

95. Noting that laws, policies and systems have long failed and continue to fail First Nations people in Australia we support the development of a specific Aboriginal and Torres Strait Islander Action Plan which is co-designed by First Nations communities with broad representation from across different jurisdictions (of states and territories and metropolitan, rural, regional and remote) of First Nations sexual, domestic and family violence experts. Further, the Action Plan must be supported and endorsed by First Nations communities.
96. There is a lack of nuanced understanding of the needs of refugee and migrant, LGBTQIA+ communities and people with disabilities in the Draft Plan.
97. Any response to sexual, domestic and family violence and abuse must include a strong focus on holding offenders accountable. This requires not only a certainty of consequence, but also a strong culture of specialisation. For example, in order for protection orders to be effective, there needs to be a certainty of consequence for breaches. However, this must be accompanied with sexual, domestic and family violence and abuse specialisation in order to ensure that the person most in need of protection is accurately identified and if they are not, that corrections can be made to the record and the primary aggressor held to account. See Family Violence Reform Implementation Monitor in Victoria report: [Monitoring Victoria's family violence reforms: Accurate identification of the predominant aggressor](#)
98. As discussed throughout this submission, the National Plan must include specific and timebound actions, indicators and accountability measures. Some of these include:
 - 98.1 an Action Plan to increase accurate identification of the person most in need of protection;
 - 98.2 implementation of Women's Legal Services Australia's Safety First in Family Law Plan to ensure a safe and accessible family law system;
 - 98.3 measures to ensure women's and children's economic security and wellbeing, including proper income support and access to child support;
 - 98.4 reforms to migration law that genuinely prioritise safety and provide better outcomes for survivors of sexual, domestic and family violence and abuse as well as access to supports;
 - 98.5 safe and affordable housing in crisis, in transition and long-term including figures on the housing stock provided annually;
 - 98.6 Full implementation of the Respect@Work recommendations and *Set the Standard: Report on the Independent Review into Commonwealth Parliamentary Workplaces*;

98.7 Better recognition that some fathers abuse the mother through the children²¹ as well as recognition of children as victim-survivors in their own right who must have a voice, must be heard and must be properly supported through a holistic, integrated response.

Measuring success

99. We refer to the key elements essential for effective evaluation and monitoring of the implementation of National Plans outlined by UN Women above.
100. Key to measuring success will be the specific, timebound and measurable indicators and targets. It is important that this is undertaken in consultation with sexual, domestic and family violence experts including survivors, cultural safety experts, disability experts, non-binary, trans and gender diverse experts.
101. There must also be a baseline from which to measure success.
102. In addition to data collected every four years, there must be better annual collection of data.
103. We note reference to “*National statistics recorded by police on family, domestic and sexual violence victims and offenders collated by the ABS*” (p47). This data must be supplemented with other data given the under reporting of such violence is well recognised. Further, in our experience, not all violence reported to police is actioned. For example, women continue to regularly contact us about breaches of protection orders and police taking insufficient action on breaches.
104. Services need to be resourced to undertake additional data collection. It is also difficult to capture increased demand if a service is already working to capacity. There needs to be external monitoring to capture unmet demand.
105. We note reference to the Personal Safety Survey indicator “*Estimates and proportion of women that sought advice or support about partner violence over the whole relationship with their current partner and/or most recent violent previous partner*” (p51). Measurements must also include the number of survivors who are able to actually access advice and support and be outcomes based with qualitative measurements.

Independent Domestic Violence Commission

106. We note the criticism that there was insufficient transparency, performance measurement and accountability in the implementation of the first National Plan and related Action Plans.²²
107. We welcome the establishment of an independent Domestic Violence Commission to oversee the implementation of the National Plan and hold government and agencies accountable.
108. It is vital that this Commission be independent from government and properly resourced. We note the importance of the Family Violence Reforms Implementation Monitor in Victoria in ensuring ongoing monitoring and evaluation of the implementation of reforms. The Monitor is also undertaking thematic reports, with themes chosen in consultation with stakeholders and where the Monitor can value add.

²¹ Bancroft, L. & Silverman, J. (2002). *The batterer as parent: Addressing the impact of domestic violence on family dynamics*. Thousand Oaks, CA: Sage.

²² The Auditor-General (2019) [Coordination and Targeting of Domestic Violence Funding and Actions – Department of Social Services](#).

The first thematic report *Monitoring Victoria's family violence reforms: Accurate identification of the predominant aggressor* provides practical solutions to increase the accurate identification of the predominant aggressor and person most in need of protection.

109. We further note the essential need for funded accountability and participatory bodies in each jurisdiction to include NGOs, government and lived expertise representatives, as recommended by DV NSW.