



Women's Legal Services Australia

COVID-19: Supporting the safety and financial recovery of family violence victim-survivors

Submission to the Select Committee inquiry into COVID-19

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Women's Legal Services Australia

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About WLSA

Women's Legal Services Australia (**WLSA**) is a national network of community legal centres specialising in women's legal issues, which work to support, represent and advocate for women to achieve justice in the legal system. We seek to promote a legal system that is safe, supportive, non-discriminatory and responsive to the needs of women. Some of our centres have operated for over 35 years.

Our members provide free and confidential legal information, advice, referral and representation to women across Australia in relation to legal issues arising from relationship breakdown and violence against women. Our legal services are directed to marginalised and disadvantaged women, most of whom have experienced family violence. Therefore, our primary concern when considering any proposed legal amendments is whether they will make the legal system fairer and safer for our clients – marginalised and disadvantaged women.

Our members' principal areas of legal service work are family violence (family violence intervention orders), family law, child protection and crimes compensation. Our members also deliver training programs and educational workshops to share our expertise regarding effective responses to violence and relationship breakdown.

Finally, both WLSA and its individual member services work to contribute to policy and law reform discussions, primarily focused on sexual and family violence, to ensure that the law does not unfairly impact on women experiencing violence and relationship breakdowns.

Acknowledgement

We acknowledge the family violence victims-survivors with whom we work and whose voices and experiences inform our advocacy in the hope for positive change.

Introduction

We thank the Select Committee on COVID-19 for the opportunity to provide comment on the Australian Government's response to the COVID-19 pandemic.

We acknowledge that the gendered economic impact of COVID-19 was recognised by the Prime Minister Scott Morrison in his National Press Club address on 26 May 2020.

Research has clearly demonstrated that domestic and family violence during and post natural disasters increases¹ and that domestic and family violence reported around the world during COVID-19 has increased.²

We acknowledge that the Federal Government has been trying to address the increasing problems of domestic violence which have been exacerbated by the COVID-19 restrictions, through the Federal Government's national awareness raising campaign.³

We welcome the Federal Government announcement of \$63.3 million additional funding for the legal assistance sector. This includes \$49.8 million for legal assistance services, 40% of which must be used in matters relating to domestic violence and \$13.5 million for IT costs to support the sector's transition to delivering assistance virtually and online.⁴

Both Federal and State/Territory Governments need to provide adequate support for victims-survivors of sexual, domestic and family violence during and post COVID-19. There must be adequate funding for services working with victim-survivors, particularly for specialist women's services, including women's health, counselling, support and legal services as well as other specialist services responding to the needs of marginalised people who have experienced sexual, domestic and family violence, including for case management.

Specialist women's and sexual, domestic and family violence services (including case management) need to be adequately resourced to respond to the anticipated surge in help-seeking behaviour post the lifting of COVID-19 restrictions, including from the awareness campaign.

Below are recommendations aimed at dealing with the spike in demand for specialist legal support services for family violence victim survivors in the coming months and years ahead.

¹ Debra Parkinson & Claire Zara, The hidden disaster: domestic violence in the aftermath of natural disaster, *Australian Journal of Emergency Management*, Vol 28(2), 2013 and Hayley Gleeson, A new bushfire crisis is emerging as experts brace for an imminent surge in domestic violence, ABC News, 24 February 2020 accessed at:

<https://www.abc.net.au/news/2020-02-24/domestic-violence-anticipated-spike-bushfires-crisis/11980112>

² Amanda Taub, 'A New Covid-19 Crisis: Domestic Abuse Rises Worldwide', *The New York Times*, 6 April 2020 accessed at: <https://www.nytimes.com/2020/04/06/world/coronavirus-domestic-violence.html>

³ Australian Government Media Release, Campaign to Combat Domestic Violence During COVID-19 Crisis, 3 May 2020 accessed at: <https://www.liberal.org.au/latest-news/2020/05/03/campaign-combat-domestic-violence-during-covid-19-crisis>

⁴ Prime Minister's Media Statement, Update on Coronavirus measures, 6 May 2020 access at: <https://www.pm.gov.au/media/update-coronavirus-measures-050520>

Recommendations

1. Adequate additional funding of specialist women's and sexual, domestic and family violence services to respond to the anticipated surge in help-seeking behaviour post the removal of COVID-19 restrictions, including from the national awareness campaign.
2. Specialist women's legal services and community controlled Aboriginal and Torres Strait Islander legal services be adequately funded to help women safely navigate their way through the family law system
3. Implement and support WLSA's safety first in family law plan:
 - Strengthen family violence response in the family law system
 - Provide effective legal help for the most disadvantaged
 - Ensure family law professionals have real understanding of family violence
 - Increase access to safe dispute resolution models
 - Overcome the gaps between the family law, family violence and child protection systems.
4. In any other similar crisis, there be provision of some face to face contact centres services with careful physical distancing or other relevant safety measures in place.
5. Services deemed to be essential services include sexual and reproductive health services.
6. The Federal Government take urgent action to ensure women and children experiencing violence on temporary visas have income, housing, healthcare and legal support.
7. Promote Women's Legal Service Victoria's 5 steps to consider before accessing superannuation.
8. Funding for working women's centres, including funding for currently unfunded programs.
9. Maintain an increase to the rate of JobSeeker, Youth Allowance and related payments, following the expiry of the Coronavirus Supplement and in line with the recommendations of the report from the Inquiry into Newstart and related payments.

Supporting sexual, domestic and family violence victim-survivors in COVID-19

1. There have been fluctuations in the number of legal services sought during COVID-19. For example, there has been a decrease in demand for duty lawyer services on family violence protection/intervention order list days when women have been encouraged not to attend Court due to COVID-19 and so have had more limited opportunities to access legal advice. However, there have also been increases in inquiries through other doorways relating to family violence.

Women's Legal Services Australia members have all experienced an increase in complexity of matters during COVID-19.

2. We also note the barriers for many victims-survivors in accessing the support they need during the COVID-19 restrictions. There have been few, if any opportunities to safely contact a service when service delivery during COVID-19. Available contact with services has been primarily via telephone. When the victim-survivor and perpetrator are living in the same house and both are at home for longer periods phoning a service has been difficult for women.
3. Research clearly demonstrates the increase in domestic and family violence during and post natural disasters⁵ and the increase in domestic and family violence reported around the world during COVID-19.⁶ We acknowledge that the Federal Government has been trying to address these problems through the national awareness raising campaign during COVID.⁷ The campaign has been referring people to supports such as 1800 RESPECT and MensLine.
4. It is also vital that specialist women's and sexual, domestic and family violence services are adequately funded to respond to the anticipated surge in help-seeking behaviour post the removal of COVID-19 restrictions, including from the awareness campaign. Case management services must be included in this funding.
5. We note the need for adequate and affordable safe housing during and post COVID-19, including temporary accommodation, short-term and crisis accommodation, social housing, community housing, Aboriginal and Torres Strait Islander housing and other safe and affordable housing options.

The Family Law System response to COVID-19

6. Women's Legal Services around Australia have seen an increase in COVID-19 related family law matters where COVID-19 restrictions have been used as a tool to increase the level of control and coercion over the mother. We have been and are concerned for the safety of children and adult victim-survivors.
7. For the past 10 years WLSA has been advocating for Safety First in Family Law.⁸ WLSA's safety first in family law plan was publicly re-launched with the support of Rosie Batty, former Australian of the Year and OAM, last year⁹. The plan, which has been endorsed by over 100 organisations across Australia, includes 5 steps for reform to keep women and children safe:

- Strengthen family violence response in the family law system

⁵ Debra Parkinson & Claire Zara, The hidden disaster: domestic violence in the aftermath of natural disaster, *Australian Journal of Emergency Management*, Vol 28(2), 2013 and Hayley Gleeson, A new bushfire crisis is emerging as experts brace for an imminent surge in domestic violence, ABC News, 24 February 2020 accessed at:

<https://www.abc.net.au/news/2020-02-24/domestic-violence-anticipated-spike-bushfires-crisis/11980112>

See also: <https://www.genderanddisaster.com.au/>

⁶ Amanda Taub, 'A New Covid-19 Crisis: Domestic Abuse Rises Worldwide', *The New York Times*, 6 April 2020 accessed at: <https://www.nytimes.com/2020/04/06/world/coronavirus-domestic-violence.html>

⁷ Australian Government Media Release, Campaign to Combat Domestic Violence During COVID-19 Crisis, 3 May 2020 accessed at: <https://www.liberal.org.au/latest-news/2020/05/03/campaign-combat-domestic-violence-during-covid-19-crisis>

⁸ http://www.wlsa.org.au/campaigns/safety_first_in_family_law

⁹ <https://www.news.com.au/national/politics/politicians-should-embrace-a-five-step-plan-to-combat-family-violence/news-story/d0bf391997e8b867c6455fd2cbfda990>

- Provide effective legal help for the most disadvantaged
 - Ensure family law professionals have real understanding of family violence
 - Increase access to safe dispute resolution models
 - Overcome the gaps between the family law, family violence and child protection systems.
8. Over the past few months WLSA has been working closely with the Family Law Courts to improve the safety of women and children navigating the family law system in Australia.
 9. We welcome the initiative of the Chief Justice of the Family Court of Australia and Chief Judge of the Federal Circuit Court of Australia, the Hon Will Alstergren, which has led to the establishment of a special COVID-19 list where parenting matters related to COVID-19 can be urgently listed and dealt with within 72 hours. This list is for urgent matters, including family violence, that are related to COVID-19. WLSA submits that the effective operation of the COVID-19 family law list depends largely on it being supported by access to legal advice and representation. Funding recently announced for the legal assistance sector needs to be directed towards specialist women's legal services around the country and community controlled Aboriginal and Torres Strait Islander legal services. These legal support services are crucial to enable women (and their children) to navigate their way through the family law system safely.
 10. We note that in December 2019 the Federal Government announced that the Family Law Courts would receive \$13.5 million over 3 years to trial risk screening, triage and high risk list at Brisbane, Parramatta and Adelaide. The planning of the pilots, now known as the Lighthouse Project, is well underway.

Contact Centres as essential services

11. Contact centres are a place that provide supervised contact, for example, when a Family Court orders a party have supervised contact with a child. Contact centres can also provide a safe place for the handover of children, for example by one parent to another parent. This is particularly important in cases where family violence is a factor.
12. We have been hearing anecdotally that during COVID-19 many contact centres have not been providing services such as supervising face-to-face contact ordered by a Court or being open for the purposes of being a safe place for the handover of children. It is particularly important that in matters involving family violence such services continue to be provided during COVID-19 or other similar crisis.

Sexual and reproductive health care as essential services

13. Women's Legal Service NSW has been concerned by reports of limited access to sexual and reproductive health care during COVID-19, particularly in border towns.
14. It is important in any similar crisis to ensure that women and others can continue to access sexual and reproductive health care as an essential service.
15. This is particularly important for women and others who are experiencing reproductive coercion.

Women and children on temporary visas

16. Women and children experiencing sexual, domestic and family violence on temporary visas are in particular need of support. Depending on their visa type, some women may be eligible for Special Benefit and Medicare, but this is only a small group of women out of all the women on temporary visas experiencing violence.
17. Besides this support, women who are experiencing sexual, domestic and family violence and their children are relying on food vouchers and living in refuges for lengthy periods of time. The option of living in a refuge is not available to all who may need this option. Many remain with the perpetrator because there is no other option. Proper supports for women and children experiencing sexual, domestic and family violence on temporary visas are required – including income, housing, healthcare and legal support.
18. The temporary visa status of women experiencing domestic violence has been a key issue of concern raised in the last two NSW Domestic Violence Death Review Team Reports. In 2015-17, the Domestic Violence Death Review Team report recommended the Commonwealth Government work with State and Territory Governments and other relevant stakeholders to ensure women and children on temporary visas experiencing violence have access to medical care, crisis accommodation and ongoing safe housing, income and legal support.¹⁰ The current NSW Domestic Violence Death Review Team report says there has been little if any action on this recommendation and again recommended action on domestic and family violence and vulnerable immigration status.¹¹
19. During COVID-19 the increased risks to safety and need for women and children on temporary visas experiencing violence to be able to access safe housing, income, medical and legal support has again been highlighted with limited action.
20. We are deeply saddened by the recent domestic violence homicide of Ms Sidhu in Quakers Hill. Ms Sidhu was on a student visa. It should not take the preventable deaths of women to galvanise the Government to take action.
21. On 11 April 2020 the Commonwealth Government announced \$7 million funding for Red Cross to provide emergency relief for people who are on temporary visas and in severe financial hardship over the next 6 months.¹² However, these are only one-off payments for people who cannot afford medicine or food.
22. We note some state/territory government have also taken action on this issue, including Tasmania, Victoria, South Australia, Queensland, the Northern Territory and the ACT.
23. We implore State, Territory and Commonwealth Governments to take urgent action now to protect and support women and their children on temporary visas experiencing violence, including through medical, housing, income and legal support.

¹⁰ NSW Government, *NSW Domestic Violence Death Review Team Report 2015-2017*, Recommendations 20.1- 20.5.

¹¹ NSW Government, *NSW Domestic Violence Death Review Team Report 2017-2019*, Recommendation 17 and p 100, 181-182

¹² Minister for the Department of Social Services Media Release, 'Urgent support for 300 charities and community organisations', 11 April 2020 access at: <https://ministers.dss.gov.au/media-releases/5726>

Gender impact of early access to superannuation and COVID-19

24. We refer to the Federal Government's scheme allowing early access to superannuation in certain circumstances because of COVID-19. This includes up to \$10,000 in the 2019-20 financial and up to \$10,000 in the 2020-21 financial year.
25. In its final report, the Royal Commission into Family Violence in Victoria (2014) recognised that addressing the financial recovery of women who have experienced family violence, is an important factor in ensuring the recovery from family violence in the short, medium and long term.
26. In 2018, Women's Legal Service Victoria published a report, *Small Claims, Large Battles*,¹³ which demonstrated that for financially disadvantaged women, superannuation is a significant asset. Fair access to superannuation entitlements after relationship breakdown can lead to better retirement outcomes for women financially impacted by family violence and economic abuse.
27. Whether people access their superannuation early is dependent on individual circumstances. It is vital, however, that people are aware of all other supports available and that superannuation is accessed as a last resort.
28. We are concerned that due to the gender pay gap and interruptions to working due to family and carer responsibilities that women already have much lower superannuation compared to men. We are further concerned by any pressure exerted on victims-survivors to withdraw their superannuation.
29. WLSA recommends the broader distribution of Women's Legal Service Victoria's 5 step plan in making a decision to access superannuation to protect the longer term impact on women's retirement outcomes.¹⁴ These steps are;
 - 29.1 Step One: Assess your situation and how long you can last financially
 - 29.2 Step Two: Work out what financial assistance you may be able to access
 - 29.3 Step Three: Work out what other financial assistance might be available to pay your bills
 - 29.4 Step Four: Assess the long-term financial impact of accessing super too early
 - 29.5 Step Five: As a last resort, apply to access superannuation early due to COVID-19

Gendered impacts of COVID-19 in the workplace

30. We note the gendered impacts of COVID-19 on employment.
31. Women's Legal Service NSW provides legal advice and representation to women primarily in response to sexual harassment and discrimination on the basis of pregnancy and carer

¹³<https://www.womenslegal.org.au/files/file/WLSV%20Small%20Claims%2C%20Large%20Battles%20Research%20Report%202018.pdf>

¹⁴ Women's Legal Service Victoria, Five Steps to take before you access your superannuation early, April 2020 accessed at <https://womenslegal.org.au/files/file/Coronavirus%20Superannuation%20Brochure%20-%20FINAL.pdf>

responsibility. Women's Legal Service NSW Working Women's Legal Service is an unfunded service that only exists because a volunteer solicitor provides this service 2 days a week.

32. During COVID-19 this service has assisted women who are pregnant who have been told they could no longer work due to employer fears about COVID. This service has also assisted women respond to discrimination matters on the basis of carer responsibilities.
33. WLSA is also concerned by the impacts on casual and part-time workers who are predominantly women.
34. Adequate funding for working women's centres is required, including funding for currently unfunded programs.

Maintain an increase to rate of JobSeeker, Youth Allowance and related payments

35. Prior to the pandemic, women were in receipt of unemployment payments for longer periods than men, and made up the significant majority of recipients of part-rate payments, showing that social security is an important safety net for women.¹⁵
36. The increase to the rate of JobSeeker, Youth Allowance and related payments must be maintained following the expiry of the Coronavirus Supplement and in line with the recommendations of the report from the Inquiry into Newstart and related payments.

¹⁵ Equality Rights Alliance, (2019). *National Plan on Gender Equality: Economic Wellbeing*, ACT: ERA, available from: <http://www.equalityrightsalliance.org.au/wp-content/uploads/2019/12/19703-ERA-Economic-Wellbeing-web.pdf>, 7 May 2020.